

S.S. I-864 missing/blank page 2	AOS
S.S. I-864 missing/blank page 3	AOS
S.S. I-864 missing/blank page 4	AOS
S.S. I-864 missing/blank page 5	AOS
S.S. I-864 missing/blank page 8	AOS
S.S. I-864 was not signed by S.S.	AOS
S.S. I-864 signed more than one year before filing I-485	AOS
S.S. Federal Tax Return for prior tax year	AOS
S.S. tax transcript for prior tax year	AOS

S.S. 4868 for prior tax year	AOS
S.S. 4868 submitted after six-month extension period expired	AOS
S.S. Federal Tax Return	AOS
S.S. self-employed, must submit tax transcript or Form 1040 with schedules	AOS
S.S. W-2's submitted for prior tax year	AOS
S.S. 1099's submitted for prior tax year	AOS
S.S. must submit all supporting tax docs. (W-2s, 1099s)	AOS

S.S. submitted Form 4852 or 4598 submitted for prior tax year	AOS
S.S. submit proof of lawful residence	AOS
S.S. I-864: household size of 0 or 1	AOS
S.S. I-864 does not meet or exceed/no proof of current income	AOS

S.S. I-864 does not meet or exceed. Submit proof of assets or J.S.	AOS
S.S. I-864 does not meet or exceed poverty guidelines. Submit proof of assets or J.S.	AOS
S.S. Assets submitted but not enough, Need Net Value of Assets.	AOS

S.S. HHM failed to submit I-864A for a household member listed on I-864	AOS
S.S. HHM page 1 of I-864 is blank/missing	AOS
S.S. HHM page 2 of I-864 is blank/missing	AOS
S.S. HHM page 3 of I-864 is blank/missing	AOS
S.S. failed to sign I-864A	AOS
S.S. HHM failed to sign I-864A	AOS

S.S. HHM provided different address than pet. Submit evidence of same address or dependent of S.S.	AOS
S.S. HHM submit evidence of authorization to work in U.S.	AOS
S.S. HHM federal tax for prior tax year	AOS

S.S.HHM tax transcript for prior tax year	AOS
S.S. HHM 4868 for prior tax year	AOS
S.S. HHM 4868 submitted after six-month extension period expired	AOS
S.S. HHM must submit Federal Income Tax Return for recent tax year.	AOS
S.S. HHM self-employed, must submit tax transcript or Form 1040 with schedules	AOS
J.S. HHM W-2's submitted for prior tax year	AOS

S.S. HHM 1099's submitted for prior tax year	AOS
S.S.HHM must submit all supporting tax docs. (W-2s, 1099s)	AOS
S.S. HHM submitted Form 4852 or 4598 for prior tax year	AOS

S.S. HHM current income

AOS

S.S. I-864 Income does not meet or exceed. Submit proof of assets or J.S.

AOS

S.S. HHM Doesn't meet or exceed poverty guidelines. Submit proof of assets or J.S.	AOS
S.S. HHM Assets submitted but not enough. Need Net value of assets	AOS
Pet. Page 1 of I-864EZ is blank/missing	AOS
Pet. page 2 of I-864EZ is blank/missing	AOS
Pet. page 3 of I-864EZ is blank/missing	AOS

Pet. cannot submit I-864EZ; submit I-864	AOS
A sponsor cannot submit I-864EZ, submit I-864	AOS
Derivative applicant on I-130 cannot use I-864EZ, submit I-864.	AOS
Pet. I864EZ submitted federal tax's for prior tax year.	AOS
Pet. I864EZ submitted IRS transcript for prior tax year.	AOS
Pet. I864EZ submitted 4868 for prior tax year.	AOS

Pet. I864EZ submitted federal tax's six month's after signing.	AOS
Pet. I864EZ must submit Federal Income Tax return for recent tax year.	AOS
Pet. I864EZ needs supporting Docs; submit W-2's or 1099-Rs for recent tax year.	AOS
Pet. I-864 EZ submitted W-2's for a prior tax year.	AOS
Pet. Page 5 of I-864EZ is blank or missing	AOS
Pet. failed to sign I-864EZ.	AOS

Pet. I-864 EZ: household size of 0 or 1	AOS

<p>Pet. I-864 EZ does not meet or exceed 100%. Submit I-864 to satisfy require.</p>	<p>AOS</p>
<p>Part 2 of I-864W blank.</p>	<p>AOS</p>
<p>Submit SSA earnings statement for yourself, spouse or parent.</p>	<p>AOS</p>
<p>Do not have 40 quarters, submit I-864.</p>	<p>AOS</p>

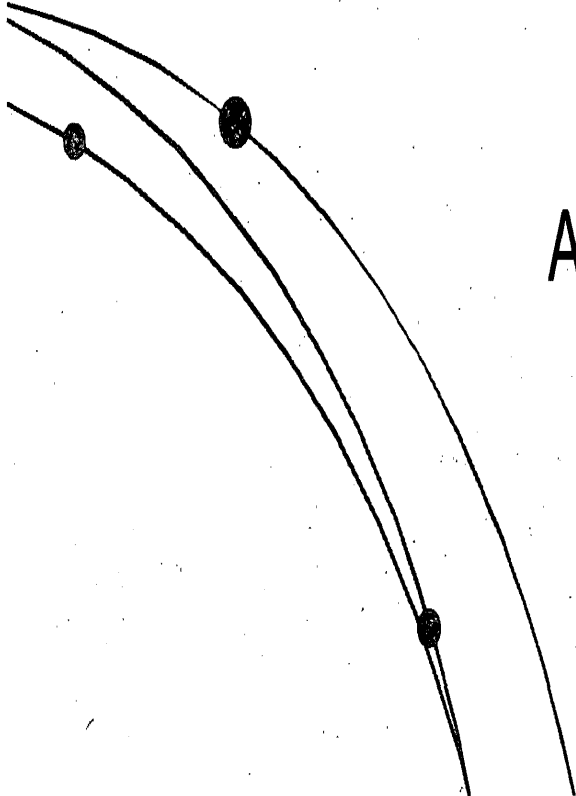
Evidence of relationship to use spouse's or parent's work history	AOS
Not eligible to use I-864W, submit I-864.	AOS
SSA not a parent, submit I-864.	AOS
Not qualified to use I-864W; submit I-864.	AOS
Not qualified to use I-864W; submit I-864.	AOS
Proof of USC for parent	AOS

Proof of USC and child at same address	AOS
final adoption decree	AOS
proof of USC for parent	AOS
Can't use W not eligible, submit I-864	AOS
Proof of I-130 or I-360	AOS

Death cert for USC	AOS
I-360 for battered spouse or child	AOS



Form I-864
Affidavit of Support



What is the I-864?

- The I-864 in all its various forms is used to establish that the applicant of the I-485 will not become a public charge.
- On July 21, 2006, changes were made to the I-864 to make it easier for applicants and their sponsors to meet the requirements.
- I-864's are needed for all family-based I-485's.

I-864 Forms

- I-864 – Affidavit of Support
- I-864A – Contract between Sponsor and Household Member
- I-864 EZ – Affidavit of Support
- I-864 W – Intending Immigrant's Affidavit of Support Exemption
- I-864 P – Poverty Guidelines

Who needs an I-864?

- All family based I-485 applications require an I-864.
- The principal applicant needs to submit an I-864.
- There must be a separate Form I-864 (and any Form(s) I-864A), with original signature, for each principal visa beneficiary

NBC

- The National Benefits Center has been vetting the I-864 as part of the process of preparing the I-485 for adjudication.
- If the vetting process indicates that the I-864 was sufficient when reviewed, the adjudicator may rely on that determination...
 - Unless it is determined, on the basis of specific reasons, that a request for evidence is appropriate...

In the Simplest Terms...

- The petitioning relative files an I-864 to establish they have the income and/or assets to keep the applicant of the I-485 from becoming a public charge.
- If the petitioning relative does not meet the requirements on their own, they can add the income and assets of any qualifying household members.
- If they still cannot meet the threshold, they can get a joint sponsor who can meet the threshold to sponsor the applicant.
- If through all of this, the threshold set by the poverty Guidelines is not met, the I-485 will be denied on public charge inadmissibility grounds.

Who is the Sponsor?

- The petitioning relative
- An individual – not an entity
- US citizen or Permanent resident (including conditional residents)
- At least 18 years of age
- Domiciled in the U.S., the District of Columbia, or any territory or possession of the U.S.
- Able to demonstrate the means to maintain an income of at least 125% of the Federal Poverty Guidelines (100% for active military members)

Household Members

- The sponsor may use the income of any member of the household who is at least 18 years old to help meet the threshold.
- The sponsor and the household member must complete an I-864A, which must include a copy of the household member's most recent tax return, and sufficient documentation of all income and assets (If using assets to qualify) listed on the I-864A.

Sponsorship Requirements

- Household members
- May combine income with sponsor if:
 - related by birth, marriage or adoption & reside in the same household as the sponsor or were legally claimed as dependents on the sponsor's income tax return.
- Must be 18 years of age
- They do NOT have to be USC or LPR
- Must execute I-864A

Sponsor's Spouse

- A sponsor's spouse that qualifies as a household member and wishes to have his/her income included generally needs to complete an I-864A.
- If the spouse does not wish to be included, the sponsor's income and assets, on their own, need to meet the requirements.

Spouse is intending immigrant...

- If the spouse is the intending immigrant, they cannot agree to support themselves and so should not file an I-864A...

HOWEVER...

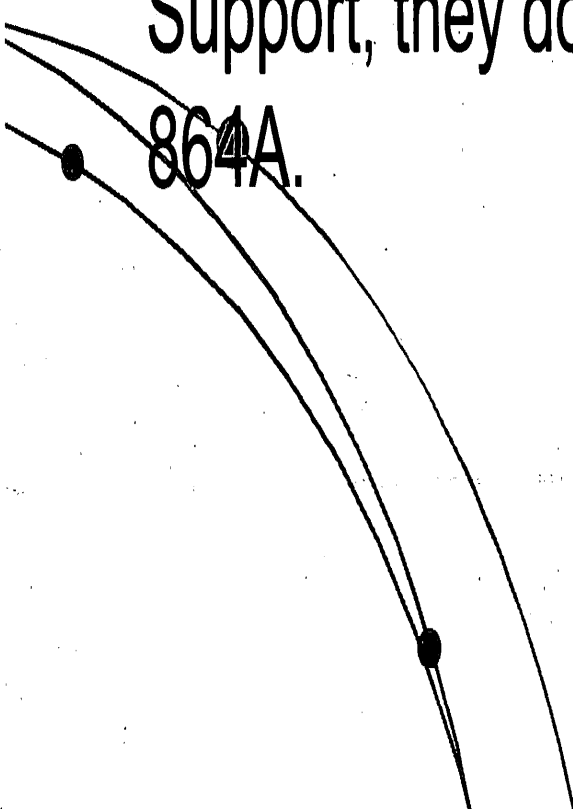
- If there are children listed in the affidavit of support and the sponsor intends to rely on the spouse's income to show the ability to support the accompanying family members, then the spouse must complete the I-864A.

Use of the Intending Immigrant's Income

If the sponsor cannot meet the requirements on their own, they can count the intending immigrant's income if:

1. The intending immigrant is the sponsor's spouse or has the same residence as the sponsor and
2. The evidence indicates that the income of the intending immigrant is from a lawful source that will continue after the applicant becomes a permanent resident.
 - Prospective employment does not count.

Use of the Intending Immigrant's Income

- If there is an accompanying spouse or child on the I-864, then the sponsoring intended immigrant needs to submit an I-864A.
 - If they are the only ones on the Affidavit of Support, they do not need to complete an I-864A.
- 

Substitute Sponsor

- If the visa petitioner dies prior to the adjudication of the petition, there is no further recourse. (Exception – Surviving Spouses and children of deceased U.S. Citizens and other qualifying relatives – See June 15, 2009 Memo and 204(I) Memo).
- If the visa petitioner dies after filing the visa petition, there is discretion to permit the beneficiary to immigrate, if they have an eligible substitute sponsor (See 204(I) guidelines).
 - Must be the sponsored alien's spouse, parent, mother-in-law, father-in-law, sibling, child (if over 18), son, daughter, son-in-law, daughter-in-law, sister-in-law, brother-in-law, grandparent, grandchild or legal guardian.

Joint Sponsor

- If the petitioner cannot meet the 125% level, they can obtain a joint sponsor.
- A joint sponsor must demonstrate income or assets that independently meet the requirements to support the sponsored immigrant(s).
- Combining the incomes of the sponsor, sponsored immigrant and joint sponsor is not sufficient to meet the threshold.
- Regulations allow, but do not require 2 joint sponsors per family unit, but only one joint sponsor per individual.

Adjudicating the I-864

- First, consider the sponsor's income for the year the form was signed.
 - If the income is at least 125% (or 100% - Active Military) of the Federal Poverty Guidelines from the year in which the form was signed, the I-864 is sufficient.
- If the application was filed in a year different from the year adjudicated, the adjudicator should look at the year of filing to determine the sufficiency of the form. USCIS will generally infer that the sponsor's income has remained and will remain sufficient at the time of adjudication.

What specific reasons?

- There are two situations in which an RFE may be necessary:
 - The most recent tax return, the anticipated household income for the year, and the evidence for the income ALL show an income of less than 125% (or 100% - Active Military) of the Federal Poverty Guidelines of that year, and a joint sponsor has not filed a sufficient I-864; or
 - At least 1 year has elapsed since the I-864 was filed and the facts of the case, supported by evidence in the record, provide a specific reason (other than passage of time) to believe that the sponsor's income is not sufficient.

RFE...

- If you are issuing an RFE for those instances, RFE only for the most recent tax year's information... not information from the tax year in which the I-864 was filed.
- In this case, the sufficiency of the I-864 is based on the Federal Poverty Guidelines in effect when the RFE was sent to the applicant.

Use of Means-Tested Benefits

- If the sponsor or any member of the sponsor's household has used means-tested benefits in the last three years, it does not disqualify the sponsor.
- This question is used to ensure that these benefits are not counted as income in the Affidavit of Support.

Means-Tested Benefits

- Federal Means-Tested benefits include:
 - SSI (supplemental security income)
 - TANF (temporary assistance for needy families)
 - Food stamps
 - Medicaid
 - State Child Health Insurance Programs (SCHIP)
 - State and local means-tested benefits vary by jurisdiction.
- Earned benefits may be included as income. They include:
 - Social Security retirement
 - Unemployment Compensation
 - Workman's Compensation

Documentation

- Each sponsor must submit a transcript or a copy of their most recent U.S. Federal Individual Tax Return, including all Schedules filed with the IRS that is most recent as of the date the Form I-864 was signed.

- If a request for evidence is issued requesting a tax return, the sponsor must submit the most recent tax return as of time of RFE issuance

Job Letters/Proof of Income

- The adjudicator should request additional evidence (i.e., employment letter(s), pay stub(s), or other financial data) if there is a specific reason (Other than the passage of time) to question the veracity of the income stated on Form I-864 or the accompanying documents
- A decision not to RFE for the W-2, 1099, or a IRS transcript will be proper if the officer concludes that the evidence of record, taken as a whole, establishes that the information on the tax return is true and correct

Sufficiency of the Form I-864

- As a general rule, Officers shall determine the sufficiency of a Form I-864 based upon whether evidence in the file establishes that the sponsor has the means to maintain an annual income at the applicable threshold set forth in the Form I-864P, Poverty Guidelines, from the calendar year in which the Form I-864 was filed

Sufficiency of the Form I-864

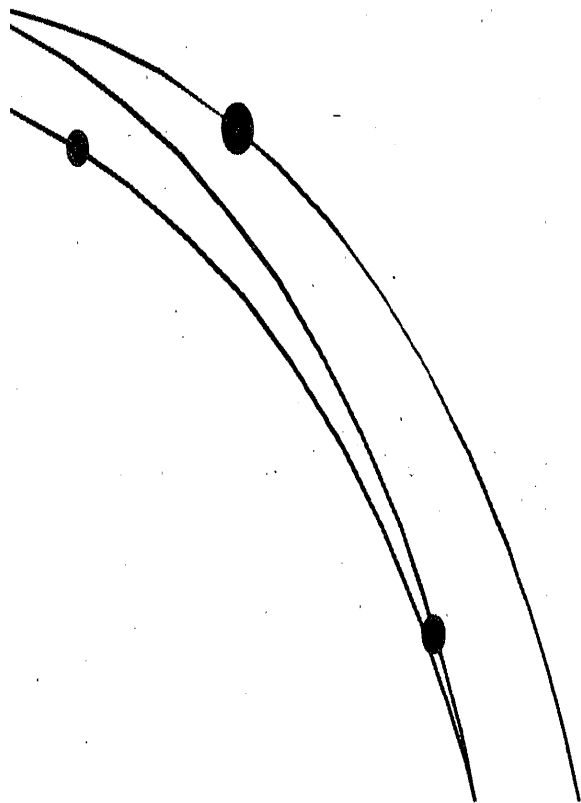
- If the information on the tax return establishes that the sponsor's current income meets the threshold set forth in the Form I-864P, Poverty Guidelines, then the Form I-864 is deemed sufficient;
- If the officer determines that the sponsor does not meet the threshold an RFE is required, requesting current year income information (Tax return) and the sufficiency of the Form I-864 is determined based on the threshold set forth in the Form I-864P from current year

Sufficiency of the Form I-864

- The Form I-864 will be deemed sufficient if:
- Sponsor's total income (Line 22 on the IRS Form 1040, Line 15 on the IRS Form 1040A, or adjusted gross income for those who filed IRS Form 1040EZ (Line 4), meets the Poverty Guidelines Threshold for the sponsor's household size

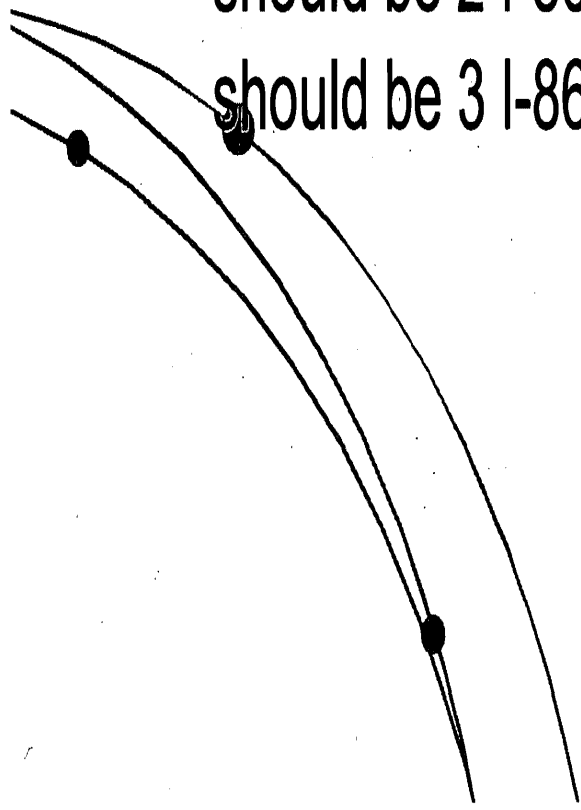
How to use the Federal Poverty Guidelines

- New Federal Poverty Guidelines are published by HHS every year.
- To assist sponsors, USCIS publishes the governing guidelines on Form I-864P.



Review of the I-864

- Part 1 – Verify that the sponsor has checked the correct box(es).
 - I-864EZ – boxes a, b, c checked “Yes”.
 - I-864 – box a checked. if box “d” is checked, there should be 2 I-864’s in the file; if “e” is checked, there should be 3 I-864’s in the file.



Review of the I-864

- Part 2-4 of I-864

OR

- Part 2-3 of I-864 EZ

- Verify that these sections have been completed correctly. Compare it with the documentation submitted.

- If the sponsor is using I-864, only “accompanying” family members should be listed in the chart in Part 3.

Review of the I-864

Part 5 of I-864 OR Part 4 of I-864 EZ

- Sponsor's Household Size

- This is used to determine the correct Federal Poverty Guideline.

- This includes:

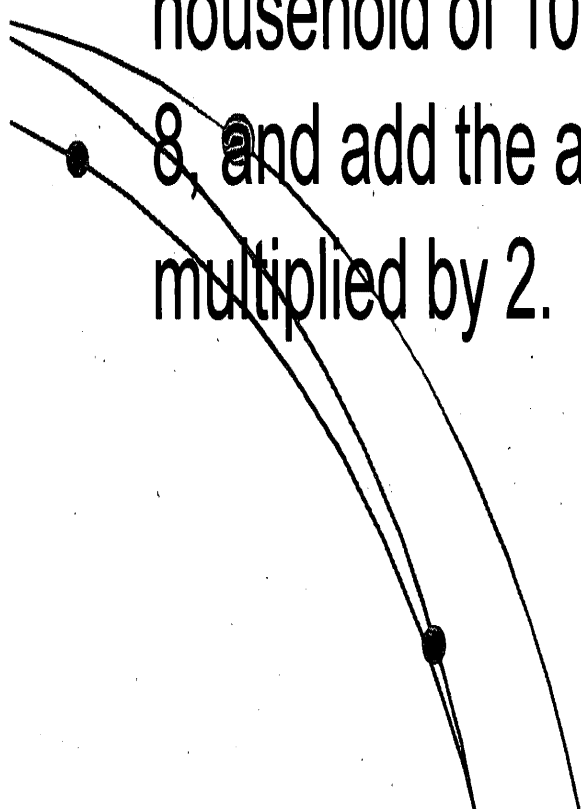
- The Sponsor;
- The person(s) being sponsored on the I-864 (will always be 1 if using the I-864 EZ);
- All the sponsor's children, except those at least 18 years old, or are emancipated, or are not claimed as dependents on the sponsor's most recent tax return;
- Other person's claimed as dependents on the tax return;
- And the number of siblings, parents and/or adult children who have the same principal residence as the sponsor and have combined their income with the sponsor's income by filing an I-864A.

- Note – Do not count anyone more than once.

Review of the I-864

- Part 6 of I-864 OR Part 5 of I-864 EZ
- Sponsor's Income and Employment
 - Either the sponsor, the substitute sponsor or the joint sponsor must generally demonstrate the ability to maintain an annual household income at least 125% above the Federal Poverty Guideline.
 - An active U.S. military member not in training only needs to demonstrate the means to maintain an annual income of at least 100% of the poverty guideline if filing for a spouse or child.

I-864P

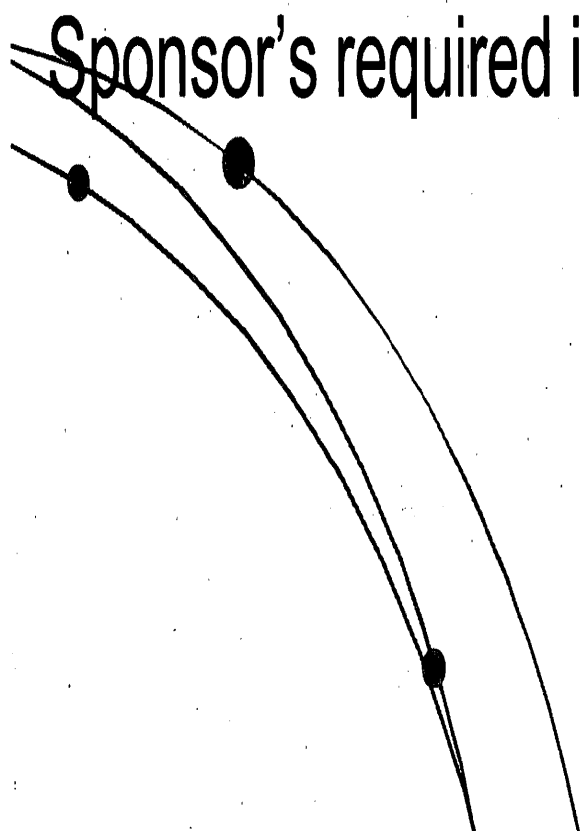
- Based on household sizes of 2 to 8. A dollar amount is provided to add for each additional household member or dependent.
 - For example, to determine the requirement for a household of 10, take the poverty guideline for 8, and add the additional dollar amount multiplied by 2.
- 

Household size of 10

Amount for household size of 8 \$40,487

Add dollar amount (\$4,075 X 2) \$ 8,150

Sponsor's required income \$ 48,637



Determining Ability to Provide Support

● I-864EZ

- The sponsor must only use their salary or pension as shown in the most recent tax return.
- If the sponsor relies on other types of income or assets to qualify, they must use an I-864.
- If the sponsor is using any I-864A's, they must use an I-864.
- Can only be used by the petitioner who filed the I-130.
- Cannot be used by joint sponsor

Determining Ability to Provide Support

● I-864

- The sponsor may rely on their own income or assets if either or both are sufficient.
- If they are not, the sponsor may use the income and/or assets of another qualifying household member.
- If the sponsor is using any I-864A's, they must be signed by the household member and the sponsor.

Combined Household Income

- Generally, if the household income meets the Poverty Guidelines threshold, CIS concludes that the I-864 is sufficient.
- 8 CFR 213a.2(c)(2) permits CIS to conclude that a Form I-864 is not sufficient, even if the household income meets the poverty guidelines.
 - This is only if the evidence of record makes it reasonable to infer that the sponsor will not be able to maintain the household income at the necessary threshold (e.g. Job is seasonal or temporary or change in situation – loss of job, etc.).

Compare Total Household Income with Poverty Guideline

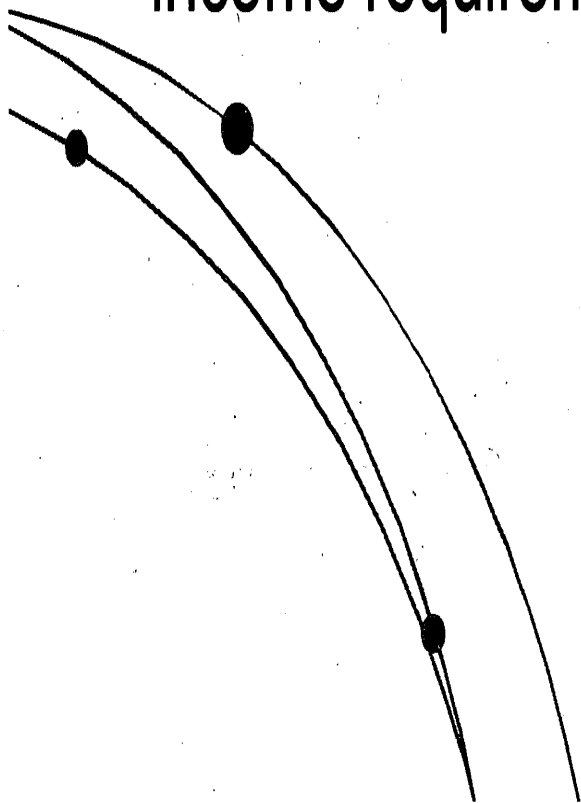
- If the sponsor's household income is greater than or equal to the Poverty Guideline, the sponsor does not need to show evidence of assets and does not require a joint sponsor.
- In this case, move to Part 8 of the I-864 or Part 6 of the I-864EZ.
- If, on the I-864EZ form, the income does not meet or exceed the threshold, an RFE should be sent requesting an I-864 from the sponsor or a sufficient I-864 from a joint sponsor.
- If the income on the I-864 does not meet or exceed the threshold, look at the assets in Part 7 of the form.

I-864 Part 7 - Assets

- The assets must be able to be readily converted to cash within 1 year.
- Evidence of assets – should establish the location, ownership and value of each listed assets, including any liens or liabilities for each.
 - Bank Statements covering the last 12 months, or a statement from a bank, including deposit/withdrawal history for the last 12 months and the current balance;
 - Evidence of ownership and value of stocks, bonds and certificates of deposit, and dates acquired;
 - Evidence of ownership and value of personal property and dates acquired; and
 - Evidence of ownership and value of any real estate and dates acquired.

Amount of Assets Required

- In order to qualify using assets, the total net value of all assets must generally equal at least 5 times the difference between the sponsor's total household income and the minimum income requirements for the current year.



Sponsor's Assets and Liabilities

\$40,487 (125% income requirement for 8)

+ \$ 4,075 (additional dollar amount for another person

\$44,562 (125% income requirement for 9)

- \$30,000 (sponsor's established income level)

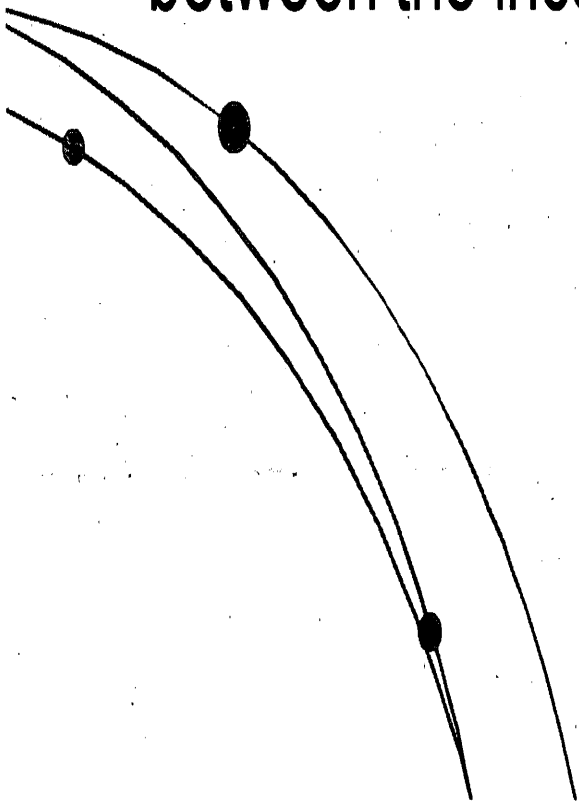
\$14,562 (income deficiency)



\$ 72,810 (assets of this amount must be established)

Exception to x5 Rule

- If the applicant intends to immigrate as the spouse or child of a U.S. citizen, the assets requirement will be met if the assets equal 3 times, rather than 5 times the difference between the income and the threshold.



Use of the Intending Immigrant's Assets

- If the sponsor does not meet the income requirements on their own, they may include the net value of the intending immigrant's assets.
- If the assets of the intending immigrant are being used, the intending immigrant does not need to file a form I-864A, even if there is an accompanying spouse or child.

Annotations on the I-864

● I-864 –

- Mark whether the sponsor is the petitioner, the joint sponsor, or a substitute sponsor;
- Mark whether the I-864 meets or does not meet the requirements.
- Sign, Date and annotate “CSC” in the appropriate locations.

● ● I-864EZ –

- Mark whether the I-864 meets or does not meet the requirements.
- Sign, Date and annotate “CSC” in the appropriate locations.

I-864W

- In certain circumstances the intending immigrant is exempt the requirement of the I-864. In this instance, the intending immigrant can file an I-864W Exemption form, along with supporting documentation.
- For the purposes of adjudication of family-based I-485's at the CSC, the only exemption that may qualify is if the intending immigrant has earned or can be credited with 40 quarters of employment under the Social Security Act or qualifies under the Child Citizenship Act of 2000 (See CCA handout).
- The intending immigrant should attach their SSA earnings statements to the I-864W as evidence.

Denial

- If the form I-864 or I-864EZ is insufficient and procedures for requesting additional evidence have been exhausted, the entire I-485 should be denied as the applicant is inadmissible on public charge grounds in addition to any other reasons the application for adjustment may be denied.

Termination of Sponsor's Obligation

- The obligations of the sponsor to the intending immigrant on the I-864, I-864A, and I-864EZ terminate when the sponsored alien:
 - Becomes Naturalized;
 - Is credited with at least 40 credit hours of work with Social Security;
 - Loses or abandons his or her lawful permanent resident status; or
 - Dies.
- Termination of marriage or adoption of a child does not terminate the obligations of the sponsor.

Adjudicating the 1-864

The officer is responsible for reviewing all initial evidence to determine if it meets the standard for acceptability and that each requirement as it

Introduction relates to the initial evidence has been met. This section will take you through the process of determining if the 1-864, Affidavit of Support, meets the acceptability requirements set forth in Section 213A.

Properly Filed I-864, Affidavit of Support

A sponsor and/or joint sponsor must provide Form I-864/Form I-864A to the applicant of the 1-485. The applicant must submit the I-864/I-864A with original signatures and notary information for the principal sponsored immigrant. A foreign notary may not witness signatures on the I-864/I-864A. Accompanying spouse and children also need to submit I-864s. However, they can submit photocopies of the principal's 1-864. The original signature and notary seal are not required.

Record of Proceeding

The Service has provided guidance on the order in which it would like to have aliens package the 1-864 and supporting documentation. The documentation and ROP for the 1-864 is as follows (from top to bottom):

- applicant's 1-864 with original notarized signature (foreign notary cannot be used) -
- proof of citizenship or lawful permanent residence status (if applicable) -
- copies of the sponsor's Federal tax returns for the 3 most recent tax years -
- evidence of the sponsor's employment (pay stubs, letter from employer indicating type of work performed, salary/wages, date employment began) -
- evidence of the sponsor's assets (if used to qualify) -
- any forms 1-864A, submitted by household members with original notarized signature -
- household members' Federal tax returns for 3 most recent tax years -
- evidence of household members' employment -
- evidence of household members' assets (if used to qualify) -
- a photocopy of Form 1-864, without supporting documentation, for each accompanying spouse or child. Documentation for any joint sponsor(s) should follow subsequently in the same order as provided above for the principal sponsor.

The sponsor must submit a photocopy of the principal's 1-864 for each accompanying spouse or child. However, to avoid unnecessary paperwork for the sponsor, the sponsored immigrant and the Government, the sponsor needs to submit only one copy of the required

Record of Proceeding for Accompanying Family Members

supporting documentation even if there are accompanying family members. *In those cases where there are accompanying family members, the adjudicating officer must write the A-number of the principal applicant in the "agency use" block of the Form 1-864 for each family member to permit retrieval of the documentary evidence from the principal applicant's A-file, should it be necessary. Note that a separate and complete 1-864 and supporting documentation is required for immediate relatives.*

Eligibility to Sponsor

The determination of the individual sponsor's ability to serve as a sponsor is based upon his or her ability to maintain an annual income at or above 125 % of the Federal poverty line (100% if the sponsor is on active duty in the U.S. Armed Forces and is petitioning for his/her spouse and/or children). See the chart below for the minimum income requirements to qualify as a sponsor:

\sop \ 1-485 Application to Register Permanent Residence or Adjust Status \ APPENDIX D: Section 212(a) Inadmissibility Overview \ Adjudicating the 1-864 Previous Document Next Document



U.S. Department of Justice
Immigration and Naturalization Service

70/23.1

425 I Street NW
Washington, DC 20536

March 7, 2000

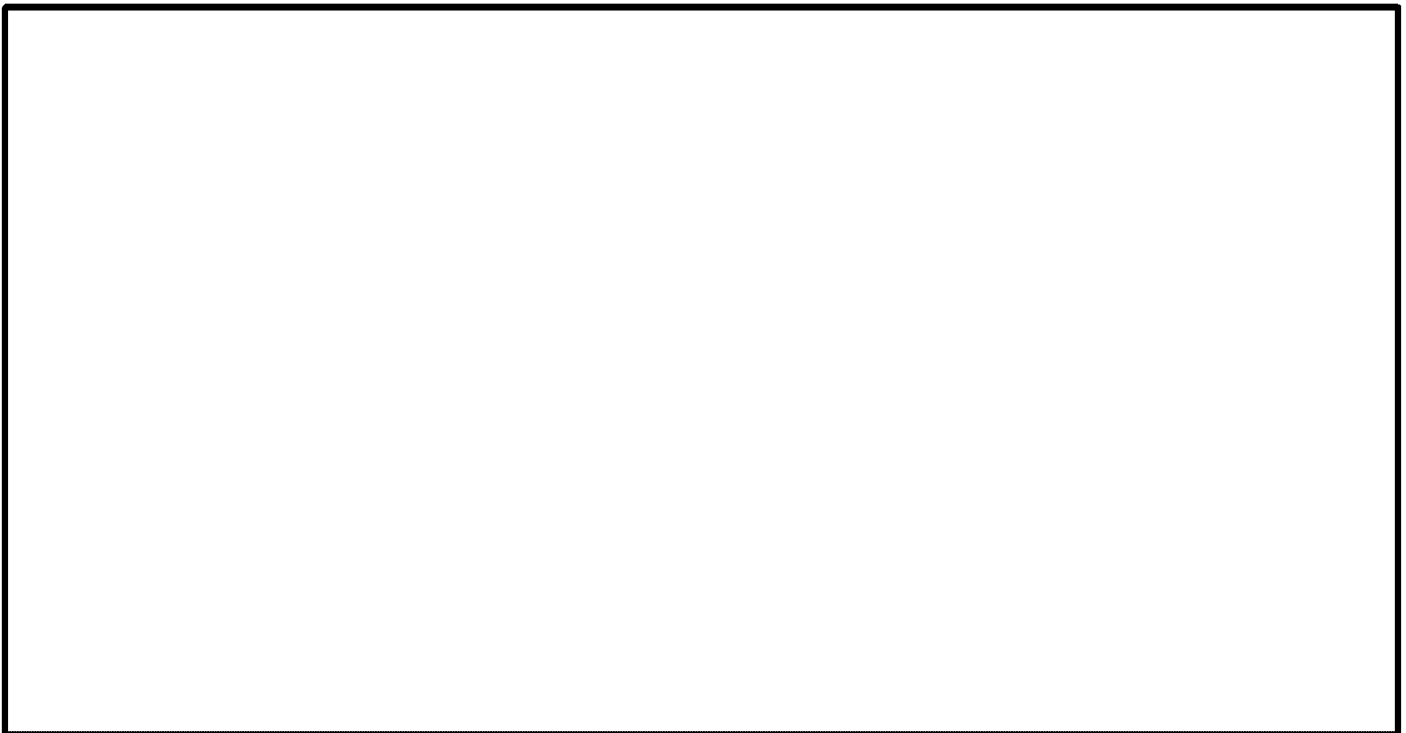
AMENDED VERSION

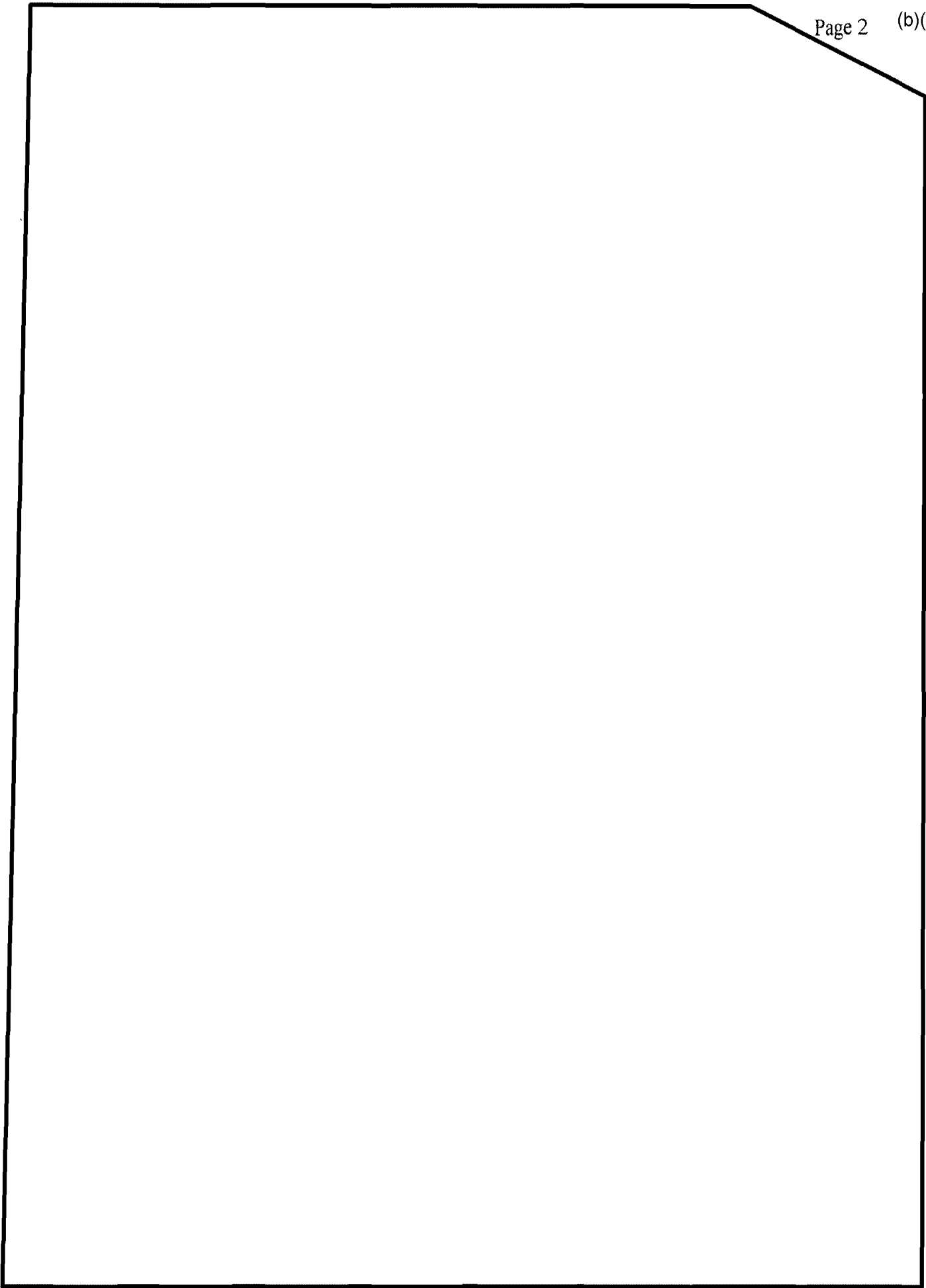
MEMORANDUM FOR: ALL REGIONAL DIRECTORS
ALL DISTRICT DIRECTORS, INCLUDING OVERSEAS
ALL OFFICERS IN CHARGE, INCLUDING OVERSEAS
ALL SERVICE CENTER DIRECTORS
TRAINING FACILITIES: GLYNCO AND ARTESIA

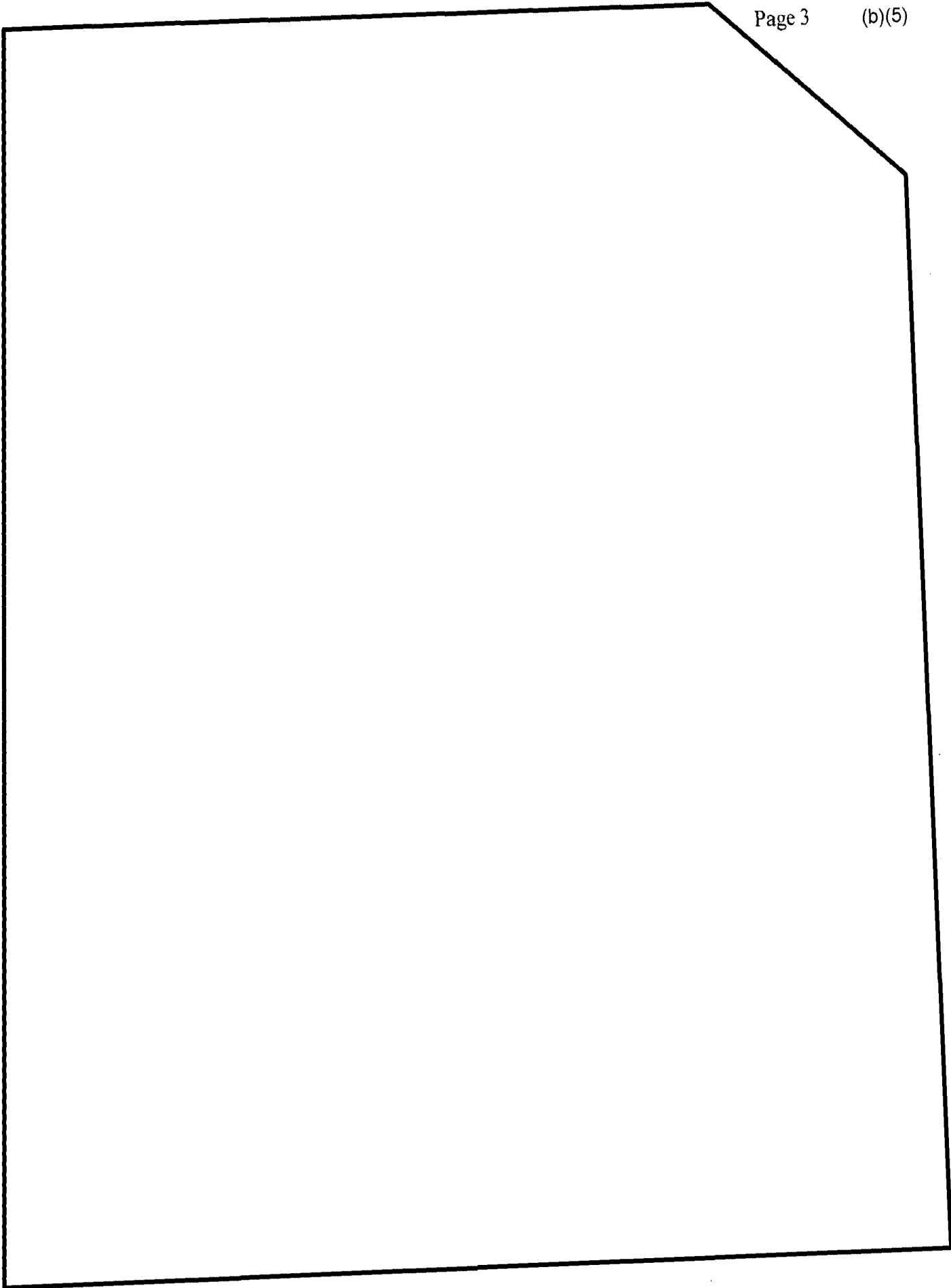
FROM: Michael D. Cronin /S/
Acting Associate Commissioner
Office of Programs

(b)(5)

SUBJECT: Clarification of Service policy concerning I-864 affidavit of support







(b)(5)

(b)(5)



U.S. Citizenship and Immigration Services

National Benefits Center

I-864, Affidavit of Support

July 2012

Why is an Affidavit of Support Required?

- Every legal immigrant to the U.S. must establish that he or she will not become a "public charge."
- The immigrant must establish that he or she has adequate means of financial support to avoid resorting to public assistance for support.



Why is an Affidavit of Support Required? (cont..)

- Section 212(a)(4) of the INA - an individual seeking admission to the United States or seeking to adjust status to that of an LPR is inadmissible if the individual, "at the time of application for admission or adjustment of status, is likely at any time to become a public charge."



Why is an Affidavit of Support Required? (cont..)

- Although there is a waiver available for other grounds of excludability (even criminal grounds), there is no waiver for an immigrant who is excludable based on public charge grounds.



Who is required to file a Form I-864, Affidavit of Support?

- All immediate relatives
 - Spouses, children, parents;
 - K non-immigrants adjusting to LPR status
 - orphans (unless the orphan would become a citizen upon adjustment of status pursuant to sect. **320** of the Act):
- All family-based preference immigrants;



Immigrants exempt from filing Form I-864 (Must submit I-864W)

Any intending immigrant who:

- Is classified as the child of a U.S. citizen, if the child's adjustment of status application is approved before the child's 18th birthday, and if the approval will make the child a citizen under section 320 of the Act (i.e., the Child Citizenship Act of 2000).



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Immigrants exempt from filing Form I-864 (Must submit I-864W)

- Has already earned, or can be credited with 40 quarters of coverage pursuant to the Social Security Administration's regulations.



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Immigrants exempt from filing Form I-864

- Diversity immigrants.
- Special immigrants (e.g. Cuban Adjustments)
- Employment based immigrants (other than those for whom a relative either filed the Form I-140 or owns 5% or more of the firm that filed the Form I-140).
- Refugees and asylees adjusting status.
- Registrants under section 249 of the Act.



Form I-864, Affidavit of Support Under Section 213A of the Act

Purpose:

- This form is required for most family-based immigrants and some employment-based immigrants to show that they have adequate means of financial support and that they are not likely to become a public charge.
- Completed by the Petitioner/Sponsor, Joint Sponsor, or the Substitute Sponsor.
- Used as a contract between a sponsor and the U.S. Government.



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Form I-864 (cont..)

General Sponsor Requirements:

- Must be a citizen or national of the United States or an alien who is lawfully admitted to the United States for permanent residence
- Must be at least 18 years old
- Must be domiciled in the United States, or its territories or possessions.
- Cannot be a corporation, organization, or other entity.



Form I-864 (cont..)

Petitioning Sponsor:

- Must be the petitioner who filed a Form I-130 for a family member, Form I-129F for a fiancé(e), or Form I-600 or I-600A for an orphan.
- Must sign and complete Form I-864, even if a joint sponsor also submits an I-864.



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Form I-864 (cont..)

Joint Sponsor:

- An individual who is willing to be held jointly liable with the petitioner for the support of the intending immigrant.
- Does not have to be related to the petitioning sponsor or the intending immigrant.
- May not combine income with the petitioner or a second joint sponsor to meet income requirements for any sponsored individual.
- A second joint sponsor may be used to meet the income requirements if there is more than one family member.



Why do some files have a Joint Sponsor?

- If the petitioner or substitute sponsor cannot demonstrate the ability to maintain an income of at least 125% (or 100% when applicable) of the Federal Poverty Guidelines, the intending immigrant may meet the Affidavit of Support requirement by obtaining a joint sponsor who is willing to accept joint responsibility with the principal sponsor as to the obligation to provide support to the sponsored alien and to reimburse agencies who provide means-tested benefits to the sponsored alien during the period that the Affidavit is enforceable.



- The use of a joint sponsor does not eliminate the requirement that there be a signed Form I-864 from the petitioner or substitute sponsor with his or her most recent Federal tax return (or proof that there was no obligation to file).
- The petitioner or substitute sponsor, as well as the joint sponsor, has full financial responsibility for immigrant(s) they sponsor.
- If two joint sponsors are used, each joint sponsor is responsible for supporting only the intending immigrant(s) listed on that joint sponsor's Form I-864.



Form I-864 (cont..)

When is a Joint Sponsor not needed?

- If the petitioning or substitute sponsor meets the income requirements based on his or her own income, there can be no joint sponsor.
 - Do not stamp the I-864 from the joint sponsor



Example 1 of Joint Sponsorship

- John is a USC who just graduated college and started his first job. He met Jane in college and they got married. John is now petitioning for Jane. John did not file an income tax return last year as he was a college student and did not earn an income. After graduation, he was offered a job. His current annual income is just below the current federal poverty guide lines for his household size and domicile. John's friend agrees to be a joint sponsor and submits a completed Form I-864, federal income tax return, W-2's, and his birth certificate from Texas. John's friend's income meets the current federal poverty guide lines.



Example 2 of Joint Sponsorship

- Let's take the previous example and expand the family size to include 2 dependent children that are immigrating with their mother Jane. John's friend who agreed to be a joint sponsor can only meet the poverty guidelines for Jane and one child. John can add another Joint Sponsor to sponsor the other child only.



Example 2 of Joint Sponsor (cont..)

- The Joint Sponsors do not combine their incomes with the sponsor, nor do they combine their incomes.
- Each intending immigrant has only 1 Joint Sponsor, yet the household now has 2 joint sponsors.



Form I-864 (cont..)

Substitute Sponsor

- The death of the qualifying relative does not relieve the alien of the need to have a valid and enforceable Form I-864, Affidavit of Support. If the alien is required to have a Form I-864, a substitute sponsor will need to submit a Form I-864.



Form I-864 (cont..)

Substitute Sponsor (Cont.)

- The substitute sponsor must be the sponsored alien's:
 - Spouse
 - Parent
 - Son
 - Daughter
 - Sibling
 - Child (if at least 18 years of age)
 - Grandparent
 - Legal Guardian
 - Father-in-law
 - Mother-in-law
 - Son-in-law
 - Daughter-in-law
 - Sister-in-law
 - Brother-in-law
 - Grandchild



Form I-864A, Contract Between Sponsor and Household Member

Purpose:

- Used when sponsor's income and assets do not meet the income requirements and the qualifying household member chooses to combine their income and assets with the sponsor's to meet requirements.
- A separate I-864A must be used for each household member.



Form I-864A (cont..)

Who may be a Household Member?

- A relative who has the same principal residence as the sponsor and is related to the sponsor as a spouse, adult child, parent, or sibling;
- A relative or other person whom the sponsor has lawfully claimed as a dependent on the sponsor's most recent Federal income tax return even if that person does not live at the same residence as the sponsor;



Form I-864A (cont..)

Who may be a Household Member? (cont..)

- The intending immigrant, in certain circumstances.
 1. The intending immigrant has the same principal residence as the sponsor and the intending immigrant can establish that his or her income will continue from the same source, even after acquisition of permanent residence.
 2. The intending immigrant is the sponsor's spouse and the intending immigrant can show that his or her income will continue from the same source after acquisition of permanent residence.



Form I-864A (cont..)

Use of Spouse's Income:

- A sponsor's spouse who qualifies as a household member and wishes to include his/her income to meet income requirements generally must file Form I-864A.
- If the spouse is not willing to let the sponsor rely on the spouse's income, the sponsor must provide evidence of his/her own income and which portion of any assets used to qualify can be attributed to him or her.



Form I-864A (cont..)

Use of Intending Immigrant's Income:

- Form I-864A is not required unless there are accompanying children listed in the Affidavit of Support.
- Income from an intending immigrant's unauthorized employment may not be considered in determining whether the sponsor's anticipated household income meets the applicable Poverty Guidelines threshold.



Form I-864A (cont..)

Use of Intending Immigrant's Assets:

- The intending immigrant does not need to complete Form I-864A if he or she is using his or her assets to qualify even if he or she has an accompanying spouse and/or children.



Form I-864EZ, Affidavit of Support Under Section 213A of the Act

Purpose: A Shorter version of Form I-864

Who may use Form I-864EZ?

Use Form I-864EZ if all following conditions apply:

1. Sponsor must be the person who filed the Form I-130 for the sponsored relative.
2. The relative being sponsored is the only person listed on the I-130 petition.
3. The income used to qualify is based entirely on salary or pension and is shown on W-2 or 1099.



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Form I-864EZ (cont..)

Restrictions for use of Form I-864EZ:

- Employment based applications MAY NOT use I-864EZ;
- No Joint Sponsor is allowed;
- No Substitute Sponsor's are allowed;
- Multiple beneficiaries are not allowed.



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Form I-864P

Poverty Guidelines

- Health and Human Services publishes new Poverty Guidelines in the Federal Register each year. These guidelines become effective for USCIS purposes on the first day of the second full month following their release.
- USCIS publishes the governing guideline for the location and size of each household on Form I-864P, Poverty Guidelines.



Form I-864P (cont..)

- Lists the Poverty Guidelines
 - For the 48 Contiguous States, D.C., Puerto Rico, U.S. Virgin Islands and Guam
 - Alaska
 - Hawaii



I-864P (cont.)

OMB No. 1615-0116; Expires 10/31/2012

I-864P, 2012 HHS Poverty Guidelines for Affidavit of Support

Department of Homeland Security
U.S. Citizenship and Immigration Services

2012 HHS Poverty Guidelines*

Minimum Income Requirements for Use in Completing Form I-864

For the 48 Contiguous States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Guam, and the Commonwealth of the Northern Mariana Islands:

<u>Sponsor's Household Size</u>	<u>100% of HHS Poverty Guidelines*</u>	<u>125% of HHS Poverty Guidelines*</u>
	<i>For sponsors on active duty in the U.S. Armed Forces who are petitioning for their spouse or child</i>	<i>For all other sponsors</i>
2	\$15,130	\$18,912
3	\$19,090	\$23,862
4	\$23,050	\$28,812
5	\$27,010	\$33,762
6	\$30,970	\$38,712
7	\$34,930	\$43,662
8	\$38,890	\$48,612
	Add \$3,960 for each additional person.	Add \$4,950 for each additional person.



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I-864P (cont.)

For Alaska:			For Hawaii:		
Sponsor's Household Size	100% of HHS Poverty Guidelines*	125% of HHS Poverty Guidelines*	Sponsor's Household Size	100% of HHS Poverty Guidelines*	125% of HHS Poverty Guidelines*
	<i>For sponsors on active duty in the U.S. Armed Forces who are petitioning for their spouse or child</i>	<i>For all other sponsors</i>		<i>For sponsors on active duty in the U.S. Armed Forces who are petitioning for their spouse or child</i>	<i>For all other sponsors</i>
2	\$18,920	\$23,650	2	\$17,410	\$21,762
3	\$23,870	\$29,837	3	\$21,960	\$27,450
4	\$28,820	\$36,025	4	\$26,510	\$33,137
5	\$33,770	\$42,212	5	\$31,060	\$38,825
6	\$38,720	\$48,400	6	\$35,610	\$44,512
7	\$43,670	\$54,587	7	\$40,160	\$50,200
8	\$48,620	\$60,775	8	\$44,710	\$55,887
	Add \$4,950 for each additional person.	Add \$6,187 for each additional person.		Add \$4,550 for each additional person.	Add \$5,687 for each additional person.



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I-864P (cont.)

Means - Tested Public Benefits

Federal Means-Tested Public Benefits. To date, Federal agencies administering benefit programs have determined that Federal means-tested public benefits include Food Stamps, Medicaid, Supplemental Security Income (SSI), Temporary Assistance for Needy Families (TANF), and the State Child Health Insurance Program (SCHIP).

State Means-Tested Public Benefits. Each State will determine which, if any, of its public benefits are means-tested. If a State determines that it has programs which meet this definition, it is encouraged to provide notice to the public on which programs are included. Check with the State public assistance office to determine which, if any, State assistance programs have been determined to be State means-tested public benefits.

Programs Not Included: The following Federal and State programs are not included as means-tested benefits: emergency Medicaid; short-term, non-cash emergency relief; services provided under the National School Lunch and Child Nutrition Acts; immunizations and testing and treatment for communicable diseases; student assistance under the Higher Education Act and the Public Health Service Act; certain forms of foster-care or adoption assistance under the Social Security Act; Head Start Programs; means-tested programs under the Elementary and Secondary Education Act, and Job Training Partnership Act programs.

* These poverty guidelines remain in effect for use with Form I-864, Affidavit of Support, from March 1, 2012 until new guidelines go into effect in 2013.



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Form I-864W, Intending Immigrant's Affidavit of Support Exemption

Who may file Form I-864W:

- An intending immigrant who is a child who will become a USC immediately under the Child Citizenship Act of 2000 (CCA).
- An intending immigrant filing for an immigrant visa as a self-petitioning widow(er) using Form I-360.
- An intending Immigrant who has earned or can be credited with 40 quarters of coverage under the Social Security Act.



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Form I-864W (cont..)

Methods to Acquire 40 qualifying quarters:

- Working in the United States for 40 quarters in which you received the minimum income established by the Social Security Administration; or
- By being credited under section 213(a)(3)(B) of the Immigration and Nationality Act with quarters worked by your spouse during the marriage or a parent during the time you were under 18 years of age; or
- A combination of the above.



Form I-864W (cont..)

Income requirements for QC

- The only way that you earn credits is through working for wages in a job that is covered by Social Security or having net income from self-employment.
- Income not included:
 - Unearned income such as pensions, interest or dividends from your savings and investments.
- If you are claiming credit for quarters worked by a spouse or parent, you may not count any quarter in which the spouse or parent was receiving means tested public benefits.



Form I-864W (cont..)

Qualifying Quarters Defined:

- The term “quarter”, and the term “calendar quarter”, mean a period of three calendar months ending on March 31, June 30, September 30, or December 31.
- The amount of earnings required for a quarter of coverage in 2012 is \$1,130.
- No matter how high your earnings may be, you can not earn more than 4 QC's a year.



Form I-864W (cont..)

Qualifying Quarters:

- The legal term is “Quarter of Coverage”
- AKA: “Social Security Credit”, “Credit”, or “QC”.
- A QC is the basic unit for determining whether a worker is insured under the Social Security program.
- You qualify for Social Security benefits by earning Social Security credits when you work in a job and pay Social Security taxes.



Form I-864W (cont..)

Qualifying Quarters: (cont..)

- For any qualifying quarter to be creditable for any period, the alien must not have received any Federal means-tested public benefit during that quarter.
 - Federal means tested benefits include: SSI (Supplemental Security income), TANF (Temporary Assistance for Needy Families), food stamps, Medicaid, and State Child Health Insurance Programs (SCHIP).
 - State and local means tested benefits vary by jurisdiction.



Form I-864W (cont..)

Social Security Online

www.socialsecurity.gov

Automatic Increases

[Home](#)

[Questions?](#)

[Contact Us](#)

[Office of the Chief Actuary](#)



Quarter of Coverage

Amount of earnings needed to earn one quarter of coverage

<u>Year</u>	<u>Earnings</u>	<u>Year</u>	<u>Earnings</u>	<u>Year</u>	<u>Earnings</u>
1978	\$250	1993	\$590	2008	\$1,050
1979	260	1994	620	2009	1,090
1980	290	1995	630	2010	1,120
1981	310	1996	640	2011	1,120
1982	340	1997	670	2012	1,130
1983	370	1998	700		
1984	390	1999	740		
1985	410	2000	780		
1986	440	2001	830		
1987	460	2002	870		
1988	470	2003	890		
1989	500	2004	900		
1990	520	2005	920		
1991	540	2006	970		
1992	570	2007	1,000		



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Important Information

Where do I find the Applications?

- <http://www.uscis.gov/files/form/I-864.pdf>
- <http://www.uscis.gov/files/form/I-864A.pdf>
- <http://www.uscis.gov/files/form/I-864EZ.pdf>
- <http://www.uscis.gov/files/form/I-864W.pdf>
- <http://www.uscis.gov/files/form/I-864P.pdf>

Where do I find Laws and Regulations?

- USCIS Connect > USCIS Working Resources
- Adjudicator Toolbox



Sufficiency of Form I-864

- USCIS shall as a general rule determine the sufficiency of a Form I-864 based on the sponsor's reasonably anticipated household income for the year in which the sponsor signed the Form I-864.



Sufficiency of Form I-864 (cont..)

- If the NBC vetting process indicates that the Form I-864 was sufficient when reviewed, an adjudicator may generally rely on that determination, unless it is determined, on the basis of specific reasons, that a request for evidence is appropriate.



Sufficiency of the I-864 (cont..)

Requests for Evidence:

- USCIS may encounter a case in which the sponsor neglected to file evidence corroborating the sponsor's claims about his or her employment and anticipated income for the year in which the sponsor signed the Form I-864.
- Strictly speaking, failure to submit this evidence would be a sufficient reason to issue a request for evidence and to deny the Form I-485 if the requested evidence is not submitted.



Sufficiency of Form I-864 (cont..)

Requests for Evidence: (cont..)

- Before issuing a request for evidence, however, USCIS should consider whether other evidence in the record supports the conclusion that the sponsor's claims on the Form I-864 about the sponsor's current employment and anticipated income are true.
- Remember, the sponsor's statements about his or her employment and anticipated income are made under penalty of perjury. Thus, these statements on the Form I-864 are themselves evidence.



Sufficiency of Form I-864 (cont..)

Requests for Evidence: (cont..)

- Other evidence in the record may already tend to corroborate those statements. For example, the sponsor's claims about his or her anticipated income for 2011 may well be consistent with the income tax return for 2010.
- But if the other evidence tends to support the conclusion that the sponsor's claims are true, USCIS may decide, as a matter of discretion, that a request for evidence is not necessary.



Sufficiency of I-864 (cont..)

Requests for Evidence: (cont..)

- USCIS may also decide that a request for evidence is not necessary in a case in which the sponsor filed a photocopy, instead of a transcript, but forgot to submit Internal Revenue Service Forms W-2 or 1099.
- A decision not to request additional evidence will be proper if USCIS concludes that the evidence of record, taken as a whole, makes it reasonable to infer that the information on the tax return is true.



Example of Discretion & Common Sense

The petitioner/sponsor submits a signed I-864 for a household size of 2 with current income of \$21,450 dated and receipted on April 25, 2012. The petitioner also submitted a Form 1040 for 2011 filed as single with line 22 showing income of \$19,700. Do we need to send RFE for W-2?



W-2's/1099's, Discretion, & Common Sense

- A decision not to request additional evidence will be proper if USCIS concludes that the evidence of record, taken as a whole, makes it reasonable to infer that the information on the tax return is true.



Another Example of Discretion & Common Sense

The petitioner/sponsor submits a signed I-864 for a household size of 3 with current income of \$24,450 dated and receipted on April 25, 2012. The petitioner also submitted a 1040 for 2011 filed as married filing joint with line 22 showing income of \$22,700. (FYI: 2012 Poverty guidelines for Household size of 3 is \$23,862). The spouse is the intending immigrant. The spouse's occupation on the federal income tax return is listed as housewife and the G-325 indicates the spouse's occupation is a stay at home mom. The federal income tax return also shows a qualifying child tax credit. Do we need to send RFE for W-2?



Reviewing Form I-864

Part 1

Basis for filing Affidavit of Support:

1. Verify name is completed
(if box 1.a. is checked, the name must match the petitioner on the I-130 or I-129f.)
2. Verify sponsor has checked the correct box in Part 1.
(if box 1.d. or e. is checked, and the petitioner's name appears on the I-864 – make corrections)



Reviewing Form I-864 (cont..)

Part 1. Basis for filing Affidavit of Support.

- I, John Doe,
 am the sponsor submitting this affidavit of support because (Check only one box):
- a. I am the petitioner. I filed or am filing for the immigration of my relative.
 - b. I filed an alien worker petition on behalf of the intending immigrant, who is related to me as my _____
 - c. I have an ownership interest of at least 5 percent in _____, which filed an alien worker petition on behalf of the intending immigrant, who is related to me as my _____
 - d. I am the only joint sponsor.
 - e. I am the first second of two joint sponsors. (Check appropriate box.)
 - f. The original petitioner is deceased. I am the substitute sponsor. I am the intending immigrant's _____

**For Government
Use Only**

This I-864 is from:

- the Petitioner
- a Joint Sponsor # _____

the Substitute Sponsor

5% Owner

This I-864:

- does not meet the requirements of section 213A.



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Reviewing Form I-864 (cont..)

Part 2

Information on the principal immigrant:

1. Verify the intending immigrant's name and address is completed.
2. Compare the information provided with information from other documents included in the application.



Reviewing Form I-864 (cont..)

Part 3

Information on the immigrant (s):

1. Be sure that the first and last name of each accompanying family member is listed.
2. Family members “following to join” should not be listed in Part 3 (i.e., intending to immigrate more than 6 months after principal intending immigrant).



Reviewing Form I-864 (cont..)

- The total amount entered on Line 10 must be included in the household size computation in Part 5.

Part 3. Information on the immigrant(s) you are sponsoring.

8. I am sponsoring the principal immigrant named in Part 2 above.
 Yes No (Applicable only in cases with two joint sponsors)
9. I am sponsoring the following family members immigrating at the same time or within six months of the principal immigrant named in Part 2 above. Do not include any relative listed on a separate visa petition.

Name	Relationship to Sponsored Immigrant	Date of Birth (mm/dd/yyyy)	A-Number (if any)	U.S. Social Security Number (if any)
a.				
b.				
c.				
d.				
e.				

10. Enter the total number of immigrants you are sponsoring on this form from Part 3, Items 8 and 9.

Form I-864 (Rev. 10/18/07)Y



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Reviewing Form I-864 (cont..)

Part 4

Information on the Sponsor:

1. Verify the sponsor's name and address is completed. It should be the same name entered in Part 1.
2. Compare the information provided with information from other documents included in the application.



Reviewing Form I-864 (cont..)

- Check address with any household member's I-864A.

Part 4. Information on the Sponsor.		
11. Name	Last Name	
	First Name	Middle Name
12. Mailing Address	Street Number and Name <i>(Include Apartment Number)</i>	
	City	State or Province
	Country	Zip/Postal Code
13. Place of Residence <i>(if different from mailing address)</i>	Street Number and Name <i>(Include Apartment Number)</i>	
	City	State or Province
	Country	Zip/Postal Code



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Reviewing Form I-864 (cont..)

- Documentation should be provided to support claim of status. CLAIMS and CIS can be used to verify.
- Claims of Military Service must be supported with documentation (copy of ID, LES, etc.)

14. Telephone Number <i>(Include Area Code or Country and City Codes)</i>		
15. Country of Domicile		
16. Date of Birth <i>(mm/dd/yyyy)</i>		
17. Place of Birth <i>(City)</i>	State or Province	Country
18. U.S. Social Security Number <i>(Required)</i>		
19. Citizenship/Residency <input type="checkbox"/> I am a U.S. citizen. <input type="checkbox"/> I am a U.S. national (for joint sponsors only). <input type="checkbox"/> I am a lawful permanent resident. My alien registration number is A- _____ If you checked box (b), (c), (d), (e) or (f) in line 1 on Page 1, you must include proof of your citizen, national, or permanent resident status.		
20. Military Service <i>(To be completed by petitioner sponsors only.)</i>		
I am currently on active duty in the U.S. armed services. <input type="checkbox"/> Yes <input type="checkbox"/> No National Benefits Center		



U.S. Citizenship and Immigration Services

Reviewing Form I-864 (cont..)

Part 5. Sponsor's Household Size:

1. The sponsor's total household size is used to determine the correct Federal Poverty Guideline.

Part 5. Sponsor's household size.		For Government Use Only
21. Your Household Size - DO NOT COUNT ANYONE TWICE		
<i>Persons you are sponsoring in this affidavit:</i>		
a. Enter the number you entered on line 10:	<input type="text"/> <input type="text"/>	
<i>Persons NOT sponsored in this affidavit:</i>		
b. Yourself:	<input type="text" value="1"/>	
c. If you are currently married, enter "1" for your spouse.	<input type="text"/>	
d. If you have dependent children, enter the number here.	<input type="text"/> <input type="text"/>	
e. If you have any other dependents, enter the number here.	<input type="text"/> <input type="text"/>	
f. If you have sponsored any other persons on an I-864 or I-864 EZ who are now lawful permanent residents, enter the number here.	<input type="text"/> <input type="text"/>	
g. OPTIONAL: If you have <u>siblings, parents, or adult children</u> with the same principal residence who are combining their income with yours by submitting Form I-864A, enter the number here.	<input type="text"/> <input type="text"/>	
h. Add together lines and enter the number here. Household Size:		<input type="text"/> <input type="text"/>



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Determining Household Size

- The petitioner/sponsor's household size includes:
 - The petitioner/sponsor
 - All persons being sponsored on this affidavit of support.
 - The sponsor's spouse
 - All of the sponsor's dependent children under age of 21
 - Any other dependents listed on your most recent federal income tax return



Determining Household Size? (cont..)

- The petitioner/sponsor's household size includes:
(cont..)
 - Any immigrants previously sponsored with a Form I-864 or I-864EZ whom the petitioner/sponsor is obligated to support
 - Household members with same principal residence who are combining their income with yours by submitting an I-864A.

Note: When calculating household size, do not count any person more than once.



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Income Requirements (cont..)

- Miscellaneous Income which may include:
 - Alimony
 - Child support
 - Dividend or interest income
 - Income from any other source



Documentation of Income

- Job Letters and Proof of Income:
 - May be used to demonstrate that the sponsor was not obligated to file a Federal income tax return for the most recent tax year, or
 - May be used to establish that the sponsor's current income is sufficient to meet the poverty threshold even if the tax return without any other documentation might warrant a finding that it is not sufficient.



Documentation of Income (cont..)

Employment Letters:

- If submitted, letters from current employers should show:
 - dates of employment,
 - the nature of the job,
 - wages or salary earned,
 - number of hours/weeks worked,
 - and prospects for future employment and advancement. It should be sufficient for the employer to say that the employment is of indefinite duration or words of similar effect. Promises of future employment are not required.



Documentation of Income (cont..)

Employment Letters: (cont..)

- This is probably another BIG RFE situation.
- A good portion of the employment letters we receive to show current income, are incomplete and missing the most basic of information....dates of employment, salary/wages earned, and hours per week if wages are stated.



Acceptable Job Letter?



October 27, 2008

To Whom It May Concern:

Julio SSN [redacted] has been employed at [redacted] in [redacted], Nebraska since 01/29/07.

He is currently employed in the Personnel Department making an annual salary of \$47,730.00.

He is considered a valuable employee.

Sincerely,

Mary
Human Resources Manager

MC/bh

National Benefits Center

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Foreign Income

- Foreign income tax returns are not acceptable.
- If the sponsor did not file a tax return, the sponsor must prove that he or she was not required to file.
- If a sponsor should have filed, the sponsor must file retroactively and provide proof of filing.



Foreign Income (cont..)

- Note that U.S. citizens generally have an obligation to file a tax return on non-U.S. earnings even if there was no tax liability.
- How to Identify Foreign Earned Income
 - The petitioner/sponsor shows a negative income on line 22 of IRS Form 1040,
 - The petitioner/sponsor shows Form 2555 on line 21 of IRS Form 1040, and
 - The petitioner/sponsor attached a copy of Form 2555, Foreign Earned Income.



Foreign Income

- The amount is reported on Form 1040, line 21 as a negative entry.

Income	7	Wages, salaries, tips, etc. Attach Form(s) W-2	7	100000
	8a	Taxable interest. Attach Schedule B if required	8a	
Attach Form(s) W-2 here. Also attach Forms W-2G and 1099-R if tax was withheld.	b	Tax-exempt interest. Do not include on line 8a	8b	
	9a	Ordinary dividends. Attach Schedule R if required	9a	
If you did not get a W-2, see page 22.	b	Qualified dividends (see page 22)	9b	
	10	Taxable refunds, credits, or offsets of state and local income taxes (see page 23)	10	
Enclose, but do not attach, any payment. Also, please use Form 1040-V.	11	Alimony received	11	
	12	Business income or (loss). Attach Schedule C or C-EZ	12	
	13	Capital gain or (loss). Attach Schedule D if required. If not required, check here <input type="checkbox"/>	13	
	14	Other gains or (losses). Attach Form 4797	14	
	15a	IRA distributions	15a	6000
		b Taxable amount (see page 24)	15b	5000
	16a	Pensions and annuities	16a	10000
		b Taxable amount (see page 25)	16b	5000
	17	Rental real estate, royalties, partnerships, S corporations, trusts, etc. Attach Schedule E	17	
	18	Farm income or (loss). Attach Schedule F	18	
	19	Unemployment compensation in excess of \$2,400 per recipient (see page 27)	19	
	20a	Social security benefits	20a	11000
		b Taxable amount (see page 27)	20b	9350
	21	Other income. List type and amount (see page 28) <u>Form 2555</u>	21	(17500)
	22	Add the amounts in the far right column for lines 7 through 21. This is your total income ▶	22	31850



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Reviewing Form I-864 (cont..)

• Federal Income tax return Information.

25. Federal income tax return information.

- I have filed a Federal tax return for each of the three most recent tax years. I have attached the required photocopy or transcript of my Federal tax return for only the most recent tax year.

My total income (adjusted gross income on IRS Form 1040EZ) as reported on my Federal tax returns for the most recent three years was:

Tax Year		Total Income
<u>2009</u>	(most recent)	\$ <u> </u>
<u>2008</u>	(2nd most recent)	\$ <u> </u>
<u>2007</u>	(3rd most recent)	\$ <u> </u>

- (Optional) I have attached photocopies or transcripts of my Federal tax returns for my second and third most recent tax years.



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Documentation of Income (cont..)

Federal Income Tax Returns

1040	Department of the Treasury—Internal Revenue Service (99)		2011
	U.S. Individual Income Tax Return		
For the year Jan. 1–Dec. 31, 2011, or other tax year beginning			, 2011, ending
Your first name and initial		Last name	
If a joint return, spouse's first name and initial		Last name	

1040A	Department of the Treasury—Internal Revenue Service (99)		2011
	U.S. Individual Income Tax Return		
Your first name and initial		Last name	
If a joint return, spouse's first name and initial		Last name	

Department of the Treasury—Internal Revenue Service		
1040EZ	Income Tax Return for Single and Joint Filers With No Dependents (99)	2011
Your first name and initial	Last name	
If a joint return, spouse's first name and initial	Last name	



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Federal Income Tax Returns

Requirement for submitting Income Tax Return

- Each sponsor must submit either an IRS Tax Return Transcript or a copy of his or her most recent US. Federal individual income tax return (Form 1040, 1040A or 1040EZ), including all Schedules filed with the IRS.
- If the sponsor submits a copy of the tax return, he or she must also include all the supplements and attachments that were sent to the IRS with the tax return .
- Corporate/Partnership returns or foreign income tax returns are not acceptable.



Federal Income Tax Returns (cont..)

Who is not obligated to submit a Federal Income Tax Return?

- Individuals with stated income which is less than the Federal Filing requirement for their filing status.
- Individuals who claim on their Form I-864 or with a separate written statement that their income was too low to file.

Note: Residence outside the U.S. does not exempt U.S. citizens or lawful permanent residents from filing a Federal income tax return.



Federal Income Tax Returns (cont..)

- Be aware of the income threshold for the requirement of filing a tax return so that an RFE for evidence of the law is not necessary.
- If a sponsor has a filing requirement, the sponsor must file all late returns with the IRS and provide proof of filing.
- If the sponsor requested an extension, the sponsor should provide proof of filing for the extension (Form 4868).



2011 Federal Filing Requirements

<http://www.irs.gov/pub/irs-pdf/i1040.pdf>

Chart A—For Most People

IF your filing status is . . .	AND at the end of 2011 you were* . . .	THEN file a return if your gross income** was at least . . .
Single (see the instructions for line 1)	under 65 65 or older	\$9,500 10,950
Married filing jointly*** (see the instructions for line 2)	under 65 (both spouses) 65 or older (one spouse) 65 or older (both spouses)	\$19,000 20,150 21,300
Married filing separately (see the instructions for line 3)	any age	\$3,700
Head of household (see the instructions for line 4)	under 65 65 or older	\$12,200 13,650
Qualifying widow(er) with dependent child (see the instructions for line 5)	under 65 65 or older	\$15,300 16,450

*If you were born on January 1, 1947, you are considered to be age 65 at the end of 2011.

**Gross income means all income you received in the form of money, goods, property, and services that is not exempt from tax, including any income from sources outside the United States or from the sale of your main home (even if you can exclude part or all of it). Do not include any social security benefits unless (a) you are married filing a separate return and you lived with your spouse at any time in 2011 or (b) one-half of your social security benefits plus your other gross income and any tax-exempt interest is more than \$25,000 (\$32,000 if married filing jointly). If (a) or (b) applies, see the instructions for lines 20a and 20b to figure the taxable part of social security benefits you must include in gross income. Gross income includes gains, but not losses, reported on Form 8949. Gross income from a business means, for example, the amount on Schedule C, line 7, or Schedule F, line 9. But, in figuring gross income, do not reduce your income by any losses, including any loss on Schedule C, line 7, or Schedule F, line 9.

***If you did not live with your spouse at the end of 2011 (or on the date your spouse died) and your gross income was at least \$3,700, you must file a return regardless of your age.



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Federal Income Tax Returns (cont..)

Which Tax Return do I use?

- The most recent income tax return or IRS transcript must be submitted with the I-485 Application.
- The most recent tax year is determined by the date the Form I-864 is signed (or the date a RFE is sent) relative to the tax filing due date (usually April 15) .



Which Tax Return do I use? (cont..)

Example 1:

- Form I-864 signed on 25 March, 2012
 - Tax due date for 2011 returns is April 17, 2012
 - The most recent tax return is 2010

f. I authorize the Social Security Administration to release information about me in its records to the Department of State and U.S. Citizenship and Immigration Services.

g. Any and all other evidence submitted is true and correct.

31.

John Doe

(Sponsor's Signature)

03/25/2012

(Date-- mm/dd/yyyy)



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Which Tax Return do I use? (cont..)

Example 2:

- Form I-864 signed on 25 April, 2012
 - Tax due date for 2011 returns is April 17, 2012
 - The most recent tax return is 2011

f. I authorize the Social Security Administration to release information about me in its records to the Department of State and U.S. Citizenship and Immigration Services.

g. Any and all other evidence submitted is true and correct.

31. John Doe

(Sponsor's Signature)

04/25/2012

(Date-- mm/dd/yyyy)



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Which Tax Return do I use? (cont..)

Example 3:

- Form I-864 signed on 25 March, 2012
- An RFE is sent on 10 May, 2012
 - Tax due date for 2011 returns is April 17, 2012
 - The most recent tax return is 2011



Do I need a current federal income tax return?

- Where to look, what to look for, and when to ask for more information regarding employment.



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Example 1: Retired Individual

Part 6. Sponsor's income and employment.

22. I am currently:

a. Employed as a/an _____

Name of Employer #1 (if applicable) _____

Name of Employer #2 (if applicable) _____

b. Self-employed as a/an _____

c. Retired from XYZ Company since 02/01/2006
(Company Name) (Date)

d. Unemployed since _____
(Date)

23. My current individual annual income is: \$ 0.00
(See Step-by-Step Instructions)



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Answer:

- No, Petitioner/Sponsor does not need a current federal income tax return.
- Petitioner/Sponsor did not earn any money to claim. (May have nontaxable pensions or Social Security income)
- Should have a Joint Sponsor with a completed Form I-864; or
- A household member with a completed Form I-864A.



Example 2: Sponsor is unemployed

Part 6. Sponsor's income and employment.

22. I am currently:

- a. Employed as a/an _____
Name of Employer #1 (if applicable) _____
Name of Employer #2 (if applicable) _____
- b. Self-employed as a/an _____
- c. Retired from _____ since _____
(Company Name) (Date)
- d. Unemployed since _____
(Date) 11/20/2007

23. My current individual annual income is:

\$ 0.00

(See Step-by-Step Instructions)



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Answer:

- No, The petitioner/sponsor does not need a current federal income tax return.
- Petitioner/Sponsor did not earn any money to claim on federal income tax return.
- Should have a Joint Sponsor with a completed Form I-864; or
- A household member with a completed Form I-864A.



Example 3: Sponsor is a student

Part 6. Sponsor's income and employment.

22. I am currently:

a. Employed as a/an student

Name of Employer #1 (if applicable) _____

Name of Employer #2 (if applicable) _____

b. Self-employed as a/an _____

c. Retired from _____ since _____
(Company Name) (Date)

d. Unemployed since _____
(Date)

23. My current individual annual income is: \$ 0.00
(See Step-by-Step Instructions)



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Answer:

- No, since no income was earned, the petitioner/sponsor will not have a current federal income tax return.
- Should have a Joint Sponsor with a completed Form I-864; or
- A household member with a completed Form I-864A.



Example 4: Single status on tax return

25. Federal income tax return information.

- I have filed a Federal tax return for each of the three most recent tax years. I have attached the required photocopy or transcript of my Federal tax return for only the most recent tax year.

My total income (adjusted gross income on IRS Form 1040EZ) as reported on my Federal tax returns for the most recent three years was:

Tax Year		Total Income
2011	<i>(most recent)</i>	\$ 7,500.00
2010	<i>(2nd most recent)</i>	\$ 8,500.00
2009	<i>(3rd most recent)</i>	\$ 8,000.00

- (Optional)* I have attached photocopies or transcripts of my Federal tax returns for my second and third most recent tax years.



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Answer:

- No, the petitioner/sponsor did not earn enough income to file a federal income tax return.
- Should have a Joint Sponsor with a completed Form I-864; or
- A household member with a completed Form I-864A.



Petitioner/sponsor statements on Form I-864 or in response to RFE:

- The petitioner/sponsor is stating they earned sufficient income to meet or exceed poverty guide lines but was not required to file federal income taxes because they did not live in the U.S. nor worked in the U.S. while income was earned.



Your response should be...

- The petitioner/sponsor must provide a statement of explanation as to why he/she was not required to file federal income taxes, including a copy of the provisions of any statute, treaty, or regulation that supports the claim that he/she had no duty to file an income tax return with respect to that income.
- U.S. citizens, nationals and LPRs generally must file a U.S. tax return on non-U.S. earnings even if there was no tax liability.
- A joint sponsor will not overcome the petitioner/sponsor's duty to file an income tax return.



When is the petitioner/sponsor not required to send a letter stating why they are not required to file federal income tax returns?

- The petitioner/sponsor has stated on the I-864 they did not earn income and signed the affidavit under penalty of perjury that the information is true and correct.



30. I, _____,

(Print Sponsor's Name)

certify under penalty of perjury under the laws of the United States that:

- a. I know the contents of this affidavit of support that I signed.
- b. All the factual statements in this affidavit of support are true and correct.
- c. I have read and I understand each of the obligations described in Part 8, and I agree, freely and without any mental reservation or purpose of evasion, to accept each of those obligations in order to make it possible for the immigrants indicated in Part 3 to become permanent residents of the United States;
- d. I agree to submit to the personal jurisdiction of any Federal or State court that has subject matter jurisdiction of a lawsuit against me to enforce my obligations under this Form I-864;
- e. Each of the Federal income tax returns submitted in support of this affidavit are true copies, or are unaltered tax transcripts, of the tax returns I filed with the U.S. Internal Revenue Service; and

Sign on following page.

- f. I authorize the Social Security Administration to release information about me in its records to the Department of State and U.S. Citizenship and Immigration Services.
- g. Any and all other evidence submitted is true and correct.

31. _____

(Sponsor's Signature)

(Date-- mm/dd/yyyy)



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Federal Income Tax Forms

Where to find the income:

Form I-864 instructions page 8:

- For purposes of this affidavit, the line for gross (total) income on IRS Forms 1040 and 1040A will be considered when determining income. For persons filing IRS Form 1040 EZ, the line for adjusted gross income will be considered.



Federal Income Tax Forms

- Form 1040 - Total Income, Line 22

E P	1040	Department of the Treasury—Internal Revenue Service (99)	2011	OMB No. 1545-0074
		U.S. Individual Income Tax Return		
For the year Jan. 1–Dec. 31, 2011, or other tax year beginning _____, 2011, ending _____, 20__				
Your first name and initial		Last name		
If a joint return, spouse's first name and initial		Last name		

Income

Attach Form(s) W-2 here. Also attach Forms W-2G and 1099-R if tax was withheld.

If you did not get a W-2, see page 22.

Enclose, but do not attach, any payment. Also, please use Form 1040-V.

7	Wages, salaries, tips, etc. Attach Form(s) W-2	7	
8a	Taxable interest. Attach Schedule B if required	8a	
b	Tax-exempt interest. Do not include on line 8a	8b	
9a	Ordinary dividends. Attach Schedule B if required	9a	
b	Qualified dividends (see page 22)	9b	
10	Taxable refunds, credits, or offsets of state and local income taxes (see page 23)	10	
11	Alimony received	11	
12	Business income or (loss). Attach Schedule C or C-EZ	12	
13	Capital gain or (loss). Attach Schedule D if required. If not required, check here <input type="checkbox"/>	13	
14	Other gains or (losses). Attach Form 4797	14	
15a	IRA distributions	15a	
b	Taxable amount (see page 24)	15b	
16a	Pensions and annuities	16a	
b	Taxable amount (see page 25)	16b	
17	Rental real estate, royalties, partnerships, S corporations, trusts, etc. Attach Schedule E	17	
18	Farm income or (loss). Attach Schedule F	18	
19	Unemployment compensation in excess of \$2,400 per recipient (see page 27)	19	
20a	Social security benefits	20a	
b	Taxable amount (see page 27)	20b	
21	Other income. List type and amount (see page 20)	21	
22	Add the amounts in the far right column for lines 7 through 21. This is your total income	22	

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Federal Income Tax Forms

- Form 1040A - Total Income, Line 15

Form 1040A		Department of the Treasury—Internal Revenue Service		2011		IRS Use Only—0
U.S. Individual Income Tax Return (99)						
Your first name and initial			Last name			
If a joint return, spouse's first name and initial			Last name			

Income

Attach Form(s) W-2 here. Also attach Form(s) 1099-R if tax was withheld.

If you did not get a W-2, see page 24.

Enclose, but do not attach, any payment. Also, please use Form 1040-V.



7	Wages, salaries, tips, etc. Attach Form(s) W-2.		7	
8a	Taxable interest. Attach Schedule B if required.		8a	
b	Tax-exempt interest. Do not include on line 8a.	8b		
9a	Ordinary dividends. Attach Schedule B if required.		9a	
b	Qualified dividends (see page 25).	9b		
10	Capital gain distributions (see page 25).		10	
11a	IRA distributions.	11a	11b Taxable amount (see page 25).	11b
12a	Pensions and annuities.	12a	12b Taxable amount (see page 26).	12b
13	Unemployment compensation in excess of \$2,400 per recipient and Alaska Permanent Fund dividends (see page 28).		13	
14a	Social security benefits.	14a	14b Taxable amount (see page 28).	14b
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15	Add lines 7 through 14b (far right column). This is your total income. ▶		15	

Federal Income Tax Forms

- Form 1040-EZ - Adjusted Gross Income, Line 4

Department of the Treasury—Internal Revenue Service		
Form 1040EZ	Income Tax Return for Single and Joint Filers With No Dependents (99)	2011
		OMB No. 1545-0074
Your first name and initial	Last name	Your social security number
If a joint return, spouse's first name and initial	Last name	Spouse's social security number
Home address (number and street). If you have a P.O. box, see instructions.		Apt. no.
City, town or post office, state, and ZIP code. If you have a foreign address, also complete spaces below (see instructions).		▲ Make sure the SSN(s) above are correct. Presidential Election Campaign Check here if you, or your spouse if filing jointly, want \$3 to go to this fund. Checking a box below will not change your tax or refund. <input type="checkbox"/> You <input type="checkbox"/> Spouse
Foreign country name	Foreign province/county	
Income	1 Wages, salaries, and tips. This should be shown in box 1 of your Form(s) W-2. Attach your Form(s) W-2. 1	
Attach Form(s) W-2 here.	2 Taxable interest. If the total is over \$1,500, you cannot use Form 1040EZ. 2	
Enclose, but do not attach, any payment.	3 Unemployment compensation and Alaska Permanent Fund dividends (see instructions). 3	
	4 Add lines 1, 2, and 3. This is your adjusted gross income. 4	



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Other Income Tax Forms

- Puerto Rico, Form 482 (Long Form)
Adjusted Gross Income, Line 5

Formulario 482 Rev. 5 dic 11

FORMA LARGA												<input type="radio"/> PLANILLA CON CHEQUE (FAVOR DE FLIAR CHEQUE EN ESTE LUGAR)																	
Liquidador						Revisor						2011						GOBIERNO DE PUERTO RICO DEPARTAMENTO DE HACIENDA						2011					
PLANILLA DE CONTRIBUCION SOBRE INGRESOS DE INDIVIDUOS												AÑO CONTRIBUTIVO 2011 O AÑO COMENZADO EL																	
_____ de _____ de _____ Y TERMINADO EL _____ de _____ de _____																													
Nombre del Contribuyente				Inicial		Apellido Paterno				Apellido Materno				Número de Seguro Social Contribuyente															

N) Ganancia neta de capital a largo plazo en Fondos de Inversión (Someta Anejo Q1)	(16)		00
O) Participación distribible en beneficios de sociedades, sociedades especiales y corporaciones de individuos (Someta Anejo R)	(17)		00
P) Pensión recibida por divorcio o separación (Núm. seguro social del que paga: _____) (18)	(19)		00
3. Total de Ingresos (Sume líneas 1B, 1C y 2A a la 2P)	(20)		00
4. Pensión Pagada por Divorcio o Separación (Núm. seg. soc. del que la recibe: _____) (21) (Núm. sentencia _____) (22)	(23)		00
5. Ingreso Bruto Ajustado (Línea 3 menos línea 4)	(25)		00



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Formulario 482 (Rev. 5 dic 11)

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Other Income Tax Forms

- Puerto Rico, Form 481 (Short Form)
Adjusted Gross Income, Line 4

Formulario 481 Rev. 27 oct 11

FORMA CORTA		<input type="checkbox"/> PLANILLA CON CHEQUE (FAVOR DE FIJAR CHEQUE EN ESTE LUGAR)		Número de Serie									
Liquidador	Revisor	2011	GOBIERNO DE PUERTO RICO DEPARTAMENTO DE HACIENDA	2011									
		PLANILLA DE CONTRIBUCION SOBRE INGRESOS DE INDIVIDUOS		<input type="checkbox"/> PLANILLA ENMIENDADA									
R	G	RO	V1	V2	P1	P2	N	D1	D2	E	A	M	
		AÑO CONTRIBUTIVO 2011 O AÑO COMENZADO EL		de ____ de ____ Y TERMINADO EL ____ de ____ de ____		<input type="checkbox"/> FALLECIDO DURANTE EL AÑO: ____ / ____ / ____ Día Mes Año				<input type="checkbox"/> CONTRIBUYENTE <input type="checkbox"/> CONYUGE		Sello de Recibido	
Nombre del Contribuyente		Inicial	Apellido Paterno		Apellido Materno		Número de Seguro Social Contribuyente						

2. Salarios del Gobierno Federal (Véanse instrucciones)	(12)	00	(14)	00
3. Ingresos de anualidades y pensiones (Anejo H Individuo, Parte I, línea 12)	(15)		(16)	00
4. Ingreso Bruto Ajustado (Sume el total de las líneas 1B, 2B y 3B)	(16)		(17)	00



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Formulario 481 (Form 481)

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Schedules used with Form 1040

- Schedule C or C-EZ (Sole Proprietorship)
- Schedule D (Capital gains and Losses)
- Schedule E (Rental/Royalty Income)
- Schedule F (Farm Income)



Schedules used with Form 1040 (cont..)

Schedule C:

- Used to report self employment income
- Sponsor's often attempt to use line 7 (gross income) to meet the income requirements.

Department of the Treasury Internal Revenue Service (99)		▶ For information on Schedule C and its instructions, go to www.irs.gov/schedulec ▶ Attach to Form 1040, 1040NR, or 1041; partnerships generally must file Form 1065.		Attachment Sequence No. 09	
Name of proprietor				Social security number (SSN)	
A Principal business or profession, including product or service (see instructions)				B Enter code from instructions ▶	
C Business name. If no separate business name, leave blank.				D Employer ID number (EIN), (see instr.) 	
E Business address (including suite or room no.) ▶ City, town or post office, state, and ZIP code					
F Accounting method: (1) <input type="checkbox"/> Cash (2) <input type="checkbox"/> Accrual (3) <input type="checkbox"/> Other (specify) ▶					
G Did you "materially participate" in the operation of this business during 2011? If "No," see instructions for limit on losses . . . <input type="checkbox"/> Yes <input type="checkbox"/> No					
H If you started or acquired this business during 2011, check here ▶ <input type="checkbox"/>					
I Did you make any payments in 2011 that would require you to file Form(s) 1099? (see instructions) <input type="checkbox"/> Yes <input type="checkbox"/> No					
J If "Yes," did you or will you file all required Forms 1099? <input type="checkbox"/> Yes <input type="checkbox"/> No					

Part I Income

1a	Merchant card and third party payments. For 2011, enter -0-	1a			
b	Gross receipts or sales not entered on line 1a (see instructions)	1b			
c	Income reported to you on Form W-2 if the "Statutory Employee" box on that form was checked. Caution. See instr. before completing this line	1c			
d	Total gross receipts. Add lines 1a through 1c	1d			
2	Returns and allowances plus any other adjustments (see instructions)	2			
3	Subtract line 2 from line 1d	3			
4	Cost of goods sold (from line 42)	4			
5	Gross profit. Subtract line 4 from line 3	5			
6	Other income, including federal and state gasoline or fuel tax credit or refund (see instructions)	6			
7	Gross Income. Add lines 5 and 6	7			



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Schedules used with Form 1040 (cont.)

Schedule C (cont.)

Discretionary item:

- Depreciation expense (line 13) may be used to 'add back' to total income when determining if the sponsor meets the income requirements.

Part II Expenses. Enter expenses for business use of your home only on line 30.			
8 Advertising	8		
9 Car and truck expenses (see page C-4)	9		
10 Commissions and fees	10		
11 Contract labor (see page C-4)	11		
12 Depreciation	12		
13 Depreciation and section 179 expense deduction (not included in Part II) (see page C-5)	13		
14 Employee benefit programs (other than on line 16)	14		
15 Insurance (other than health)	15		
16 Interest:			
a Mortgage (paid to banks, etc.)	16a		
b Other	16b		
17 Legal and professional services	17		
18 Office expense	18		
19 Pension and profit-sharing plans	19		
20 Rent or lease (see page C-6):			
a Vehicles, machinery, and equipment	20a		
b Other business property	20b		
21 Repairs and maintenance	21		
22 Supplies (not included in Part II)	22		
23 Taxes and licenses	23		
24 Travel, meals, and entertainment:			
a Travel	24a		
b Deductible meals and entertainment (see page C-6)	24b		
25 Utilities	25		
26 Wages (less employment credits)	26		
27 Other expenses (from line 48 on page 2)	27		



Schedules used with Form 1040

Schedule C (cont.)

• Schedule C income from line 31 carries to Form 1040, line 12 and is part of the total income

28	Total expenses before expenses for business use of home. Add lines 8 through 27 ▶	28	
29	Temporary profit or (loss). Subtract line 28 from line 7	29	
30	Expenses for business use of your home. Attach Form 8829	30	
31	Net profit or (loss). Subtract line 30 from line 28. <ul style="list-style-type: none"> • If a profit, enter on both Form 1040, line 12, and Schedule SE, line 2, or on Form 1040NR, line 13 (if you checked the box on line 1, see page C-7). Estates and trusts, enter on Form 1041, line 3. • If a loss, you must go to line 32. 	31	
32	If you have a loss, check the box that describes your investment in this activity (see page C-7). <ul style="list-style-type: none"> • If you checked 32a, enter the loss on both Form 1040, line 12, and Schedule SE, line 2, or on Form 1040NR, line 13 (if you checked the box on line 1, see the line 31 instructions on page C-7). Estates and trusts, enter on Form 1041, line 3. • If you checked 32b, you must attach Form 9189. Your loss may be limited. 		32a <input type="checkbox"/> All investment is at risk. 32b <input type="checkbox"/> Some investment is not at risk.

For Paperwork Reduction Act Notice, see page C-9 of the instructions. Cat. No. 11334P **Schedule C (Form 1040) 2009**



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Schedules used with Form 1040 (cont..)

- Schedule D (Capital Gains)
 - Used to report gains or losses from Capital gains transaction.
 - May be used to support an income trend.

SCHEDULE D (Form 1040) Department of the Treasury Internal Revenue Service (99)	Capital Gains and Losses ▶ Attach to Form 1040 or Form 1040NR. ▶ See Instructions for Schedule D (Form 1040). ▶ Use Form 8949 to list your transactions for lines 1, 2, 3, 8, 9, and 10.	OMB No. 1545-0074 2011 Attachment Sequence No. 12
Name(s) shown on return		Your social security number
Part I Short-Term Capital Gains and Losses—Assets Held One Year or Less		



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Schedules used with Form 1040 (cont..)

Schedule E

- Used to report Income/Loss from Rentals or Royalties
- Sponsor's often attempt to use line 3 or 4 to meet the income requirements.
- Net Schedule E income from line 31 carries to Form 1040, line 17 and is part of the total income.

Type of Property:		Properties		
		A	B	C
1 Single Family Residence	3 Vacation/Short-Term Rental			
2 Multi-Family Residence	4 Commercial			
	5 Land			
	6 Royalties			
	7 Self-Rental			
	8 Other (describe)			
Income:				
3a Merchant card and third party payments. For 2011, enter -0-	3a			
b Payments not reported to you on line 3a	3b			
4 Total not including amounts on line 3a that are not income (see instructions)	4			



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Schedules used with Form 1040 (cont..)

Schedule E (cont.)

Discretionary item:

Depreciation expense (line 18) may be used to 'add back' to total income when determining if the sponsor meets the income requirements.

Expenses:							
5	Advertising	5					
6	Auto and travel (see instructions)	6					
7	Cleaning and maintenance	7					
8	Commissions.	8					
9	Insurance	9					
10	Legal and other professional fees	10					
11	Management fees	11					
12	Mortgage interest paid to banks, etc. (see instructions)	12					
13	Other interest.	13					
14	Repairs.	14					
15	Supplies	15					
16	Taxes	16					
17	Utilities.	17					
18	Depreciation expense or depletion	18					
19	Other (list) ▶	19					
20	Total expenses. Add lines 5 through 19	20					



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Schedules used with Form 1040

- Schedule F
 - Used to report Farm income
 - Net Schedule F income from line 34 carries to Form 1040, line 18 and is part of the total income.
 - Sponsor's often attempt to use gross income on line 9 of Schedule F to meet the income requirements.

Discretionary item:

- Depreciation expense (line 14) may be used to 'add back' to total income when determining if the sponsor meets the income requirements.



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Schedules used with Form 1040 (cont..)

SCHEDULE F (Form 1040) Department of the Treasury Internal Revenue Service (99)	Profit or Loss From Farming ▶ Attach to Form 1040, Form 1040NR, Form 1041, Form 1065, or Form 1065-B. ▶ See Instructions for Schedule F (Form 1040).	OMB No. 1545-0074 <div style="font-size: 2em; font-weight: bold; text-align: center;">2011</div> Attachment Sequence No. 14
Name of proprietor		Social security number (SSN)

Part I Farm Income—Cash Method. Complete Parts I and II (Accrual method, Complete Parts II and III, and Part I, line 9.)

1a Specified sales of livestock and other resale items (see instructions)	1a			
b Sales of livestock and other resale items not reported on line 1a	1b			
c Total of lines 1a and 1b (see instructions)	1c			
d Cost or other basis of livestock or other items reported on line 1c	1d			
e Subtract line 1d from line 1c				1e
2a Specified sales of products you raised (see instructions)				2a
b Sales of products you raised not reported on line 2a				2b
3a Cooperative distributions (Form(s) 1099-PATR)	3a		3b Taxable amount	3b
4a Agricultural program payments (see instructions)	4a		4b Taxable amount	4b
5a Commodity Credit Corporation (CCC) loans reported under election				5a
b CCC loans forfeited	5b		5c Taxable amount	5c
6 Crop insurance proceeds and federal crop disaster payments (see instructions)				
a Amount received in 2011	6a		6b Taxable amount	6b
c If election to defer to 2012 is attached, check here <input type="checkbox"/>			6d Amount deferred from 2010	6d
7a Specified custom hire (machine work) income (see instructions)				7a
b Custom hire income not reported on line 7a				7b
8a Specified other income (see instructions)				8a
b Other income not reported on line 8a (see instructions)				8b
9 Gross income. Add amounts in the right column (lines 1e, 2a, 2b, 3b, 4b, 5a, 5c, 6b, 6d, 7a, 7b, 8a, and 8b). If you use the accrual method, enter the amount from Part III, line 50 (see instructions) ▶				9



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Schedules used with Form 1040 (cont.)

Discretionary item:

Depreciation expense (line 14) may be used to 'add back' to total income

Part II Farm Expenses—Cash and Accrual Method. Do not include personal or living expenses (see instructions).			
10	Car and truck expenses (see instructions). Also attach Form 4562	10	
11	Chemicals	11	
12	Conservation expenses (see instructions)	12	
13	Custom hire (machine work)	13	
14	Depreciation and section 179 expense (see instructions)	14	
15	Employee benefit programs other than on line 23	15	
23	Pension and profit-sharing plans	23	
24	Rent or lease (see instructions):		
	a Vehicles, machinery, equipment	24a	
	b Other (land, animals, etc.)	24b	
25	Repairs and maintenance	25	
26	Seeds and plants	26	
27	Storage and warehousing	27	
28	Supplies	28	
29	Taxes	29	



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Should I use the schedules in my determination of sufficiency?

- No by themselves – any profits or losses are automatically carried to the front page of the 1040 which are calculated to determine the amount on line 22 – Total income.
- Discretionary decisions may be used for certain items found on supporting schedules



IRS Tax Return Transcript

- An IRS Tax Return Transcript may be submitted instead of a copy of the income tax return.
- Do not mistake a Tax Return Transcript for a Wage and Earnings Statement.



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Form W-2 Wage and Tax Statement

- Provides Form W-2, 1099 information submitted to the IRS but does not contain tax return information.

 Internal Revenue Service
United States Department of the Treasury

This Product Contains Sensitive Taxpayer Data

Wage and Income Transcript W-2 **SAMPLE**

Request Date: 05-25-2007

Response Date: 05-25-2007

Employee Number: TW9JB

Tracking Number: 100015364659

SSN Provided: 123-45-6789

Tax Period Requested: December, 2006

Form W-2 Wage and Tax Statement

Employer:

Employer Identification Number (EIN): 130000000

UNITED PARCEL SERVICE INC

55 GLENLAKE PKWY NE

ATLANTA, GA 30328-0000

Employee:

Employee's Social Security Number: 123-45-6789

Ted Taxpayer

123 Main Street

CRAB ORCHARD, WV 25827-0000



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Active Duty Military

- When reviewing the federal income tax return and you notice the military petitioner/sponsor states their current salary is one number and their tax return reflects a significantly lower amount. What should I do?
- Look for the W-2.



22222		Void <input type="checkbox"/>		a Employee's social security number		For Official Use Only ▶ OMB No. 1545-0008	
b Employer identification number (EIN)				1 Wages, tips, other compensation		2 Federal income tax withheld	
c Employer's name, address, and ZIP code				3 Social security wages		4 Social security tax withheld	
				5 Medicare wages and tips		6 Medicare tax withheld	
				7 Social security tips		8 Allocated tips	
d Control number				9 Advance EIC payment		10 Dependent care benefits	
e Employee's first name and initial		Last name		Buff.		11 Nonqualified plans	
1 Employee's address and ZIP code				12a See instructions for box 12		12b	
				13 Statutory employee <input type="checkbox"/> Retirement plan <input type="checkbox"/> Third-party sick pay <input type="checkbox"/>		12c	
				14 Other		12d	
15 State Employer's state ID number		16 State wages, tips, etc.		17 State income tax		18 Local wages, tips, etc.	
						19 Local income tax	
						20 Locality name	

Form W-2 Wage and Tax Statement 2008 Department of the Treasury—Internal Revenue Service
 For Privacy Act and Paperwork Reduction Act Notice, see back of Copy B.
Copy A For Social Security Administration — Send this entire page with Form W-3 to the Social Security Administration; photocopies are not acceptable. Cat. No. 10134D
Do Not Cut, Fold, or Staple Forms on This Page — Do Not Cut, Fold, or Staple Forms on This Page

See box 12...is there a letter and a number in this box?



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What does Code Q in box 12 on a W-2 represent?

- **Code Q—Nontaxable combat pay.** If you are a military employer, report any nontaxable combat pay in box 12.
- This can be found in the W-2 and W-3 Instructions at:
http://www.irs.gov/pub/irs-pdf/iw2w3_08.pdf



Is there any where else I can look?

- Did the petitioner/sponsor submit a copy of their most recent LES (Leave and Earnings Statement)?
- Notice the top right corner of the statement is Period Covered...this is a monthly statement.
- Now look under entitlements:
 - Base Pay
 - BAS
 - BAH
 - This total is how much the active duty military petitioner/sponsor is paid monthly.
 - This amount is not reflected on W-2's because BAH & BAS are generally tax-exempt.



MILITARY LES STATEMENT

DEFENSE FINANCE AND ACCOUNTING SERVICE MILITARY LEAVE AND EARNINGS STATEMENT																
ID	NAME (Last, Firt, MI)	SOC. SEC. NO.	GRADE	PAY DATE	YRS SVC	ETS	BRANCH	ADSN/DSSN	PERIOD COVERED							
			E5	04/21/11	04	100210	AF		131 JUL 08							
ENTITLEMENTS			DEDUCTIONS			ALLOTMENTS			SUMMARY							
Type	Amount	Type	Amount	Type	Amount	← Acc Fund										
A	BASE PAY	2247.30	FEDERAL TAXES	58.40	DISCRETIONARY ALT	1621.00	← Tot Em			4266.78						
B	BA3	394.43	FICA-SOC SECURITY	139.33	TRICARE DENTAL	11.54	← Tot Ded			1570.22						
C	BA4	1724.00	FICA-MEDICARE	32.69			← Tot Alt			1532.58						
D			SGLI	27.00			← Net Amt			1163.00						
E			AFRH	.50			← Cr Fund			.00						
F			FAMILY SGLI	4.60			← EOM Pay			1163.00						
G			TSP	112.87												
H			MID-MONTH-PAY	1104.47												
I																
J																
K																
L																
M																
N																
O																
TOTAL		4868.73		1570.22		1532.58										
LEAVO	BF Bx	Emd	Used	Cr Bal	ETS Bal	Lv Loss	Lv Paid	Unl Loss	RED TAXES	Wage Period	Wage YTD	LvS	Ex	Acct Tax	Tax YTD	
	35.5	35.0	31	38.5	85.5	.0	.0	.0	2134.90	13582.36	M	02		.00	255.61	
FICA TAXES	Wage Period	Soc Wage YTD	Soc Tax YTD	Med Wage YTD	Med Tax YTD	STATE TAXES	St	Wage Period	Wage YTD	M/S	Ex				Tax YTD	
	7247.30	14402.30	892.94	16402.50	238.83		AK	.00	.00	N	.00				.00	
PAY DATA	BAQ Type	BAQ Depn	VHA Zip	Rent Amt	Share	Star	JFTR	Depns	2D JFTR	BAS Type	Charity YTD	TPC	PACIDN			
	WDEP	SPOUSE	08641	.00	1	R		.0			.00					
THRIFT SAVINGS PLAN (TSP)	Base Pay Rate	Base Pay Current	Spec Pay Rate	Spec Pay Current	Inc Pay Current	Inc Pay Current	Bonus Pay Rate	Bonus Pay Current								
	5	.00	.0	.00	.0	.00	.0	.00								
	TSP YTD Deductions				Deferred		Exempt									
	770.14				770.14		.00									
REMARKS:													YTD ENTITLE	2778.11	YTD DEDUCT	2142.91
<p>IF TSP ELECTION AMT EXCEEDS NET AMT DUE, TSP WILL NOT BE DEDUCTED.</p> <p>-LEAVE CARRYOVER DECREASED TO 75 DAYS FOR FY08. NO ACTION REQUIRED BY MEMBERS. DFAS WILL BEGIN RESTORING AFTER 1 OCT 08.</p> <p>-MYPAY HAS ALLOWED MBRs TO ELECT A HARD-COPY LES VIA US MAIL. AF POLICY IS TO PROVIDE AN ELECTRONIC LES. EFF 1 OCT (SEP LES). AF WILL NO LONGER PRINT LES STATEMENTS IF AVAILABLE ON MYPAY. THANK YOU FOR YOUR SUPPORT.</p> <p>-IF YOUR SPOUSE WANTS INFO ABOUT THE MILITARY LIFESTYLE WE WITE HIM/HER TO JOIN US FOR THE NEXT HEART LINK SPOUSES ORIENTATION. LUNCH AND CHLD CARE ARE PROVIDED. CALL YOUR</p>													<p>BASE AFMAN & FAMILY READNESS CTR FOR DETAILS.</p> <p>-IF YOU GAMBLE WITH SAFETY...YOU BET YOUR LIFE.</p> <p>-ELECTIONS ARE CONCHO! UPDATE YOUR ADDRESS TO GET AN ABSENTEE BALLOT. REQUEST YOUR BALLOT FOR THE PRESIDENTIAL AND STATE ELECTIONS. SEE YOUR VOTING ASST. OFFICER OR WWW.FVAP.GOV.</p> <p>TSP 060701(135) RATE CHG SGLI 060701(160) CHANGE GRADE 060701(164) BAH BASED ON WDEP, ZIP 03641 BANK ██████████ ACCT # ██████████</p>			



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Reviewing Form I-864 (cont..)

Part 7

Use of assets to supplement income:

- If a sponsor cannot meet the Poverty Guideline requirement based upon total household income, he or she may show evidence of assets owned by the sponsor, and/or members of the sponsor's household, that are available to support the sponsored immigrant(s) and can be readily converted into cash within 1 year.



Reviewing Form I-864 (cont..)

Part 7. Use of assets to supplement income. (Optional)

If your income, or the total income for you and your household, from line 24c exceeds the Federal Poverty Guidelines for your household size, YOU ARE NOT REQUIRED to complete this Part. Skip to Part 8.

26. Your assets (Optional)

a. Enter the balance of all savings and checking accounts. \$ _____

b. Enter the net cash value of real-estate holdings. (Net means current assessed value minus mortgage debt.) \$ _____

c. Enter the net cash value of all stocks, bonds, certificates of deposit, and any other assets not already included in lines 26 (a) or (b). \$ _____

d. Add together lines 26 a, b and c and enter the number here. TOTAL: \$ _____

27. Your household member's assets from Form I-864A. (Optional)

Assets from Form I-864A, line 12d for

\$ _____

(Name of Relative)



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Reviewing Form I-864 (cont..)

28. Assets of the principal sponsored immigrant. (Optional)

The principal sponsored immigrant is the person listed in line 2.

a. Enter the balance of the sponsored immigrant's savings and checking accounts. \$ _____

b. Enter the net cash value of all the sponsored immigrant's real estate holdings. (Net means investment value minus mortgage debt.) \$ _____

c. Enter the current cash value of the sponsored immigrant's stocks, bonds, certificates of deposit, and other assets not included on line a or b. \$ _____

d. Add together lines 28a, b, and c, and enter the number here. \$ _____

29. Total value of assets.

Add together lines 26d, 27 and 28d and enter the number here.

TOTAL: \$ _____



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Reviewing Form I-864 (cont..)

Evidence of assets:

- Evidence of the sponsor's assets should be submitted along with the Form I-864.
- Evidence should establish the location, ownership, and value of each listed asset, including any liens or liabilities for each listed asset.



Evidence of Assets (cont..)

Evidence of assets:

- To qualify as “significant assets” the combined cash value of all the assets (the total value of the assets less any offsetting liabilities).
- You may not include the net value an automobile unless you show that you have more than one automobile, and at least one automobile is not included as an asset.



Reviewing Form I-864 (cont..)

Evidence of assets:

- Evidence of assets includes, but is not limited to:
 - Bank statements covering the last 12 months, or a statement from an officer of the bank or other financial institution.
 - Evidence of ownership and value of stocks, bonds, and certificates of deposit, and dates acquired;
 - Evidence of ownership and value of other personal property and dates
 - acquired; and
 - Evidence of ownership and value of any real estate and dates acquired.



Reviewing Form I-864 (cont..)

Amount of assets required:

- In order to qualify using assets, the total net value of all assets must generally equal at least five times the difference between the sponsor's total household income and the minimum income requirement for the current year.
- If you are a U.S. citizen and you are sponsoring your spouse or minor child, the total value of your assets must only be equal to at least three times the difference.



Income Requirements (cont..)

Amount of assets required:

- If the intending immigrant is an alien orphan who will be adopted in the United States after the alien orphan acquires permanent residence, and who will, as a result, acquire citizenship under section 320 of the Act, the total value of your assets need only equal the difference.



Example 1:

USC sponsor of a parent with a household size of 4:

125 % of 2012 Poverty Guidelines	\$28,812	
Sponsor's income	<u>\$22,500</u>	
Difference	\$ 6,312	
Multiply by 5		<u>X</u>
<u>5</u>		
Minimum Required Net Value of Assets	<u>\$31,560</u>	



Example 2:

USC sponsor of a spouse with a household size of 4:

125 % of 2012 Poverty Guidelines	\$28,812
Sponsor's income	<u>\$22,500</u>
Difference	\$ 6,312
Multiply by 3	<u>x 3</u>
Minimum Required Net Value of Assets	<u>\$18,936</u>



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Example 3:

The intending immigrant is an orphan who will be adopted in the U.S. ... (household size of 4):

125 % of 2012 Poverty Guidelines	\$28,812
Sponsor's income	<u>\$22,500</u>
Minimum Required Net Value of Assets	\$
6,312	



Good sites for Fair Market Value of vehicles

- <http://www.kbb.com/>
- <http://www.edmunds.com/used-cars/>



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Common Problems with Assets

- History of Bank statements is less than 12 months
- Letter from bank is generic and does not reference the average annual balance
- Huge balance in account with the amount being:
 - A recent transaction
 - From a line of credit

