



**U.S. Citizenship
and Immigration
Services**

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Interoffice Memorandum

To: REGIONAL DIRECTORS
SERVICE CENTER DIRECTORS
DISTRICT DIRECTORS
NATIONAL BENEFITS CENTER DIRECTOR

From: Michael Aytes /s/
Acting Director for Domestic Operations

Date: June 27, 2006

RE: Consolidation of Policy Regarding USCIS Form I-864, Affidavit of Support
(AFM Update AD06-20)

1. Purpose

This memorandum revises Chapter 20.5 of the Adjudicator's Field Manual (AFM) to conform this chapter to the final rule relating to the use of Affidavits of Support (Forms I-864) under section 213A of the Immigration and Nationality Act (INA), 8 U.S.C. 1183a, as amended. The final rule was published on June 21, 2006 in the *Federal Register* at 71 FR 35732.

This memorandum also (1) clarifies that an Affidavit of Support must be sufficient both at the time the adjustment of status application is filed and at the time the adjustment application is adjudicated, and (2) reiterates that, subject to limited exceptions, an Affidavit of Support is sufficient at the time of the adjudication if it was sufficient at the time it was filed with the Form I-485, Application to Register Permanent Residence or to Adjust Status.

Both the final rule and this memorandum are effective July 21, 2006.

2. Background

On October 19, 1997, USCIS published an interim rule implementing section 213A of the Immigration and Nationality Act. Since that date, the former Immigration and Naturalization Service (INS) and USCIS have issued a May 18, 1998 Federal Register notice (at 63 FR 27193) and several policy memoranda regarding section 213A of the Act, including

- *Clarification of Service policy concerning I-864 affidavit of support* (March 7, 2000);

- *Effect of enactment of the Child Citizenship act of 2000 on the affidavit of support requirement under INA 212(a)(4) and 213A* (May 17, 2001);
- *Whether an affidavit of support is required if the alien already has, or can be credited with, 40 qualifying quarters of coverage* (May 17, 2001);
- *Policy Change - Public Law 107-150, the Family Sponsor Immigration Act of 2002: Use of Substitute Sponsor if Visa Petitioner Has Died* (June 15, 2002);
- *Affidavit of support, employment letters, and ability to pay determinations* (May 14, 2004); and
- *USCIS policy regarding Form I-864, Affidavit of Support* (November 23, 2005).

On June 21, 2006, USCIS published a final rule in the Federal Register adopting the October 19, 1997 interim rule, with appropriate changes, as a final rule. Effective July 21, 2006, this rule incorporated many of the policies stated in the memos listed above and, in addition, made changes not covered in the memos, such as:

- Eliminating the requirement that sponsors submit as initial evidence pay stub(s) covering the most recent six months and an employer letter.
- Introducing the new EZ Affidavit of Support (Form I-864EZ), a short form Affidavit of Support for certain petitioning sponsors who rely only upon their own employment to meet the affidavit of support requirements.
- Establishing the new Intending Immigrant's I-864 Exemption (Form I-864W), a form specifically designed to standardize the process for determining that a particular immigrant is not required to have an affidavit of support filed on his or her behalf.
- Allowing two joint sponsors per family unit intending to immigrate based upon the same petition. If two joint sponsors are used, each joint sponsor is responsible only for the intending immigrant(s) listed on that joint sponsor's Form I-864, Affidavit of Support.
- Providing a more flexible definition of "household size."
 - Allows, but does not require, sponsors to include as part of household size any relatives in the household who are not dependents if they complete a Contract Between Sponsor and Household Member (Form I-864A) promising to make their income and/or assets available to the sponsor and intending immigrants.
 - Eliminates the requirement that household members must have lived in the sponsor's household for at least six months in order to sign a Form I-864A.
- Reducing the net value of assets that must be shown in order to cover any shortfall in the sponsor's household income when the intending immigrant is seeking to immigrate as:
 - The spouse or child of a U.S. citizen; or
 - An alien orphan who will be admitted as an IR-4 immigrant.
- Clarifying that all income and assets used to meet the Affidavit of Support requirement must come from a lawful source.

For a complete listing and discussion of the changes, see the attached final rule.

3. Field Guidance

USCIS shall follow 8 CFR 213a and Chapter 20.5 of the AFM. Any prior policy memorandum provision that is not consistent with the regulations or Chapter 20.5, as amended by this memorandum, is rescinded.

4. Contact Information

Questions regarding this memorandum and USCIS policy regarding Form I-864, Affidavit of Support, may be directed by email through appropriate supervisory channels to Jonathan Mills, USCIS Office of Regulations and Product Management (RPM).

5. AFM Update

1. Chapter 20.5 of the *AFM* is revised to read:

20.5 Enforceable Affidavits of Support.

(a) Background. Section 213A of the Act and 8 CFR 213a require most family-based and certain employment-based intending immigrants who, on or after December 19, 1997, seek to enter the United States as immigrants or who apply for adjustment of status to establish that they are not inadmissible under section 212(a)(4) of the Act by having a sponsor sign a legally enforceable Affidavit of Support on behalf of the affected intending immigrant(s).

The Affidavit is submitted on Form I-864, or, for those sponsors who are eligible to use it, on Form I-864EZ. The new Form I-864, Form I-864A, and Form I-864EZ, and I-864W are all dated January 15, 2006. The Forms are available at www.uscis.gov. To help ensure an orderly transition from the old Form I-864 and I-864A to the new forms, USCIS should continue to accept old versions of Form I-864 and Form I-864A until October 19, 2006, a grace period of 90 days from the effective date of the final rule.

Unless otherwise noted, references to Form I-864, Affidavit of Support, include Form I-864EZ, a short form Affidavit of Support to be used by certain petitioning sponsors who rely only upon their own employment to meet the affidavit of support requirements. Regulations governing the use of Form I-864 are located in 8 CFR 213a.

(b) Persons Required to Have Sponsorship. The following intending immigrants are required to have Form I-864 filed on their behalf:

- Immediate relatives, including K nonimmigrants adjusting to LPR status and orphans (unless the orphan would become a citizen upon adjustment of status pursuant to section 320 of the Act);
- Family based immigrants;

- Employment based immigrants if the petitioning employer is a relative of the alien, and is a U.S. citizen or Lawful Permanent Resident; and
- Employment based immigrants if a relative of the alien has a significant ownership interest (5% or more) in the for-profit petitioning entity, and is a U.S. citizen or a Lawful Permanent Resident.

Note: For employment based cases, an Affidavit of Support is required only if the intending immigrant will work for a relative who is eligible to file a Form I-130 on behalf of the intending. Therefore, for purposes of the Affidavit of Support, a relative is defined as (1) a U.S. citizen or LPR who is the intending immigrant's spouse, parent, child, adult son or daughter, or (2) a U.S. citizen who is the intending immigrant's brother or sister.

Note: An applicant for adjustment of status who filed his or her Form I-485 prior to December 19, 1997, is exempt from the Affidavit of Support requirement even if the interview is conducted and/or the application is adjudicated after that date. [See Section 531(b) of Pub. L. 104-208 and 8 CFR 213a.2(a)(2)(i) (adjustment applicants) and 213a.2(a)(2)(ii)(B) (applicants for admission).]

Some editions of the Form I-864 and Form I-864A include a jurat to be completed by a notary or by a consular or immigration officer to show that the person signed or acknowledged the signing of the Form I-864 or I-864A under oath. The Form I-864 and Form I-864A, however, provide that they are signed "under penalty of perjury." Thus, 28 U.S.C. 1746 (which deals with the legal effect of unsworn statements) makes it unnecessary for Form I-864 and Form I-864A to be signed in the presence of or certified by a notary public or an Immigration or Consular Officer. Note that the jurat has been removed from the January 15, 2006 edition of the Forms I-864 and I-864A. Form I-86EZ is a newer form, and therefore never had the jurat.

Accompanying spouses and children also need to submit Form I-864s. Each spouse or child must submit a photocopy of the principal's I-864, but they do not need to submit a photocopy of the supporting documentation. A spouse or child is considered to be "accompanying" a principal immigrant if they apply for an immigrant visa or adjustment of status either at the same time as the principal immigrant or within 6 months after the date the principal immigrant acquires LPR status.

Following-to-join spouses and children (those who apply for an immigrant visa or adjustment of status 6 months or more after the principal immigrant) require a new Form I-864 at the time they immigrate or adjust status.

(c) Applicants Exempt from Sponsorship. The following intending immigrants do not need to file Form I-864 when applying for adjustment of status:

- Any intending immigrant who falls within an immigrant classification listed in section 20.5(b) above but
 - Has already earned, or can be credited with 40 quarters of coverage pursuant to the Social Security Administration's regulations; or
 - 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).
- Diversity immigrants.
- Special immigrants.
- 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).
- Self-petitioning immigrants (including self-petitioning widow(ers) and battered spouses and children).
- Refugees and asylees adjusting status.
- Registrants under section 249 of the INA.
- Any other intending immigrant not falling within a class of admission listed in section 20.5(b) above.

(d) Sponsor Requirements.

(1) General. A sponsor who completes Form I-864 must be all of the following:

- The petitioning relative or the relative who has a significant ownership interest in the petitioning entity;
- An individual (a sponsor cannot be a corporation, organization, or other entity);
- A citizen of the United States or a permanent resident (including conditional residents);
- At least 18 years of age;
- Domiciled in the United States, the District of Columbia, or any territory or possession of the United States (see section (d)(2) below).
- Able to demonstrate the means to maintain an income of at least 125% of the Federal Poverty Guidelines for the sponsor's household size, including the immigrants being sponsored or previously sponsored. A sponsor on active duty in the U.S. Armed Forces, other than active duty for training, who is petitioning for a spouse or child must only demonstrate the means to maintain an income equal to at least 100% of the Federal Poverty Guidelines. Assets of the sponsor, the intending immigrant, or both may be used to demonstrate this requirement.

Note: A non-citizen U.S. national may sign a Form I-864 only as a joint sponsor.

(2) Domicile. Domicile means the place where a sponsor has his or her principal residence, as defined in section 101(a)(33) of the Act, with the intention to maintain that residence for the foreseeable future. A United States citizen living abroad whose employment meets the requirements of section 319(b)(1) of the Act is considered to be domiciled in the United States. For purposes of the ability to sign a Form I-864, an LPR living abroad is considered to have a domicile in the United States during a temporary period of residence abroad if he/she has obtained preservation of residence benefits under 316(b) or 317 of the INA. There may be other situations in which a U.S. citizen or LPR can establish that his or her domicile is still in the United States, despite the fact that the citizen or LPR is currently living outside the United States. *Critical issue:* proof that the residence abroad is intended to be only temporary and that sponsor, during the temporary absence, has maintained an intent to keep his or her domicile in the United States, despite the temporary sojourn abroad.

If the sponsor is not domiciled in the United States, the sponsor can still sign and submit a Form I-864 so long as the sponsor satisfies the Department of State officer, immigration officer, or immigration judge, by a preponderance of the evidence, that the sponsor will establish a domicile in the United States on or before the date of the principal intending immigrant's admission or adjustment of status. The intending immigrant will be inadmissible under section 212(a)(4) of the Act, and the intending immigrant's application for admission or adjustment of status must be denied, if the sponsor has not, in fact, established a domicile in the United States on or before the date of the decision on the principal application for admission at a U.S. port of entry on an immigrant visa or adjustment of status.

In the case of a sponsor who comes to the United States intending to establish his or her principal residence in the United States at the same time as the principal intending immigrant's arrival and application for admission at a port-of-entry, the sponsor shall be deemed to have established a domicile in the United States for purposes of this paragraph. If, however, the sponsor is an LPR, and the sponsor's own application for admission is denied, so that the sponsor leaves the United States either under a removal order or as a result of the sponsor's withdrawal of the sponsor's application for admission, the sponsor will not be deemed to have established a domicile in the United States. Thus, the Form I-864 will not be valid and the sponsored immigrant will be inadmissible on public charge grounds.

(3) Use of Spouse's Income. A sponsor's spouse who qualifies as a household member and wishes to have his or her income included as a household member generally needs to complete a Form I-864A. However, if the spouse is not willing to let the sponsor rely on the spouse's income, that is acceptable. In this situation, the

sponsor needs to show his or her own income and which portion of any assets used to qualify can be attributed to him or her.

In some situations, the sponsor's spouse qualifies as a household member and is also the intending immigrant being sponsored. Since a sponsored immigrant cannot agree to support himself or herself, he or she should not complete a Form I-864A. If children are also listed on the Affidavit of Support, and the sponsor intends to rely on the spouse's income to show the ability to support these accompanying family members, then the spouse must complete Form I-864A in order for the sponsor to be able to rely on the spouse's income.

(4) Use of Intending Immigrant's Income. If the sponsor does not meet the income requirement on the basis of his or her own income and/or assets, the sponsor may also count the intending immigrant's income if (1)(a) the intending immigrant is either the sponsor's spouse or (b) has the same principal residence as the sponsor, and (2) the preponderance of the evidence shows that the intending immigrant's income results from the intending immigrant's lawful employment in the United States or from some other lawful source that will continue to be available to the intending immigrant after he or she acquires permanent resident status. The prospect of employment in the United States that has not yet actually begun does not count toward meeting this requirement.

Note: The revised definition of "household income" retains the requirement that, unless the intending immigrant is the sponsor's spouse, the intending immigrant must have the same principal residence as the sponsor in order for the sponsor to rely on the sponsored immigrant's income. It is no longer required, however, that the intending immigrant must have had the same principal residence as the sponsor for at least 6 months.

Note: The interim rule did not directly address the ability of a sponsor to rely on an intending immigrant's income from unauthorized employment in meeting the Poverty Guidelines threshold for the sponsor's household income. In response to a specific comment relating to the issue of the sponsor's reliance on an intending immigrant's income, the revised definition of "household income" now makes it clear that 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. The basis for this clarification is the clear public policy, as stated in INA §§ 245(c)(2) and 274A, 8 U.S.C. §§ 1255(c)(2) and 1324a, against unauthorized employment. Unauthorized employment, admittedly, is not always a bar to adjustment of status. Nevertheless, sections 212(a)(4)(C) and 213A clearly assume that it is primarily the sponsor himself or herself who must meet the income threshold for the Form I-864. This principle is gravely undermined by permitting the sponsor to rely on the intending immigrant's income, if it is derived from unlawful employment.

If there is an accompanying spouse and/or child listed on the Affidavit of Support, then the sponsored intending immigrant must also complete a Form I-864A. If, however, the sponsored intending immigrant is the only person included on the Affidavit of Support, then he or she does not need to complete a Form I-864A.

(5) Use of Intending Immigrant's Assets. If the sponsor does not meet the income requirement using his or her own income and/or assets, the sponsor may include the net value (the total value of the assets less any offsetting liabilities) of the intending immigrant's assets. The instructions to Part 6 of Form I-864 indicate that 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. Instead, the intending immigrant only needs to provide documentation showing the net value of all assets.

The required total net value of assets depends upon the basis upon which the sponsored alien intends to immigrate. For more information, see section (j)(7)(B) below.

(6) Substitute Sponsorship.

(A) For the primary intending immigrant, and accompanying family members.

If the visa petitioner dies **before** USCIS approves the visa petition, the statute does not permit anyone else to file the Form I-864.

If the visa petitioner dies **after** USCIS approves the visa petition, however, P.L. 107-150 provides discretion to permit the beneficiary to immigrate.

Under this provision, it is appropriate for USCIS to reinstate approval of the visa petition if the request to reinstate approval is supported by a properly completed Form I-864 signed by an eligible substitute sponsor (and by a joint sponsor, if necessary). The substitute sponsor must be the sponsored alien's: spouse, parent, mother-in-law, father-in-law, sibling, child (if at least 18 years of age), son, daughter, son-in-law, daughter-in-law, sister-in-law, brother-in-law, grandparent, grandchild or legal guardian. For more information regarding P.L. 107-150, see section 21.2(g)(1)(C) of this Field Manual.

Note that the final Affidavit of Support rule includes a special accommodation for the spouse of a citizen, if the citizen spouse has died. If, at the time of the citizen spouse's death, the alien spouse qualifies as a surviving "widow(er)" under section 201(b)(2)(A)(i) of the Act, then 8 CFR 204.1(i)(1)(iv) "converts" the citizen spouse's Form I-130 so that it will be deemed to be a widow(er)'s Form I-360. If the Form I-130 was approved before the citizen spouse died, it will be deemed to be an approved Form I-360. If it was still pending, it can be approved as a Form

I-360. In either case, the alien spouse will no longer need to have a Form I-864, since he or she will be adjusting status as a widow(er).

If the citizen spouse and alien spouse had not been married for at least two years when the citizen spouse died, then this "conversion" option is not available and the alien spouse remains subject to the Affidavit of Support requirements. As with any other Form I-130, if USCIS approved the Form I-130 before the citizen spouse's death, USCIS has discretion to reinstate the approval if there is a qualified substitute sponsor.

(B) For a family member who is following to join the principal sponsored immigrant.

In those cases where the petitioner has died after the principal sponsored alien has obtained permanent resident status but before a dependent following to join under section 203(d) has obtained permanent resident status, another person may file a Form I-864 on behalf of the following-to-join dependent, if that person meets all requirements and files a Form I-864 on behalf of the following-to-join dependent. Under the interim rule (8 CFR 213.2(f)), this sponsor is not required to be someone who would qualify as a substitute sponsor. The sponsor could even be the principal sponsored alien, who, by the time the following-to-join dependent immigrates, would be an alien lawfully admitted for permanent residence.

(7) Joint Sponsor.

(A) Joint Sponsor Needed. 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 and several liability 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 joint sponsor must demonstrate income or assets that independently meet the requirements to support the sponsored immigrant(s). It is not sufficient for the combination of incomes of the primary sponsor, sponsored immigrant and joint sponsor to meet the threshold.

The regulations at 8 CFR 213a.2(c)(2)(iii)(C) allow, but do not require, two joint sponsors per family unit intending to immigrate based upon the same family petition. No individual may have more than one joint sponsor, but it is not necessary for all family members to have the same joint sponsor.

Each joint sponsor must execute a Form I-864 that is submitted in addition to the Form I-864 submitted by the petitioner or substitute sponsor. A joint sponsor does not have to be related to the petitioning or substitute sponsor, or the sponsored alien. However, a joint sponsor must otherwise meet the same requirements as a petitioning or substitute sponsor.

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.

(B) 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. If any additional Form I-864s from joint sponsors are included in the record, they should be removed from the file and returned to the intending immigrant. It is very important to remove all unneeded Form I-864s from the file so there is no confusion about who is legally responsible for the immigrant and any deeming or enforcement actions.

(e) Sufficiency of Form I-864.

- (1) In general.** When determining the sufficiency of a Form I-864, USCIS shall first consider the sponsor's anticipated income for the year the sponsor signed Form I-864. Thus, during the initial evidence review, 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.

IMPORTANT: If the income is at least 125% (or 100% as applicable) of the governing Poverty Guideline in the Form I-864P, Poverty Guidelines, from the year in which the Form I-864 was filed, the Form I-864 is sufficient.

IMPORTANT: An Affidavit of Support must be sufficient both at the time the adjustment of status application is filed and at the time the adjustment application is adjudicated. USCIS has determined that an Affidavit of Support is generally sufficient at the time of the adjudication if it was sufficient at the time it was filed with the Form I-485. That is, if the Form I-864 was sufficient when the sponsored immigrant filed the Form I-864 with the adjustment application, USCIS will generally infer from that finding that the alien is not inadmissible under section 212(a)(4) as of the date of adjudication. *In particular*, if the sponsor's Federal income tax return shows an income that was at least 125% (or 100% as

applicable) of the governing Poverty Guideline for the year the Form I-864 was filed with the sponsored immigrant's adjustment application, USCIS will generally infer that the sponsor's income has remained and will remain sufficient at the time of adjudication.

Therefore, if the Form I-864 was sufficient at the time it was filed with the Form I-485, USCIS should not request any further documentation (e.g., more recent evidence of employment or income) unless more than one year has elapsed since the Form I-864 was submitted and there is a specific reason (other than the passage of time) to question whether the evidence of income is no longer reliable.

Recent practice has been for the Form I-864 to be vetted at the National Benefit Center as part of the process of preparing the Form I-485 for adjudication. 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, as outlined in paragraph 20.5(e)(2).

(2) Requesting updated information. There are two limited, specific situations in which the general rule stated in section 20.5(e)(1) will not apply:

- The first exception applies if both of the following criteria are met:
 - The most recent income tax return, the anticipated household income listed for the year the sponsor signed the Form I-864, and the evidence for the income for the year of filing all show an income that is less than 125% (or 100% as applicable) of the governing Poverty Guideline for the year the Form I-864 was filed, and
 - A joint sponsor has not filed a sufficient Form I-864.
- The second exception applies if at least one year has elapsed since the Form I-864 was submitted, and the facts in the case, as supported by the evidence in the record, provide a specific reason (other than simply the passage of time) to believe that the sponsor's income is no longer sufficient.

If USCIS determines that either of these situations exists, USCIS should issue a request for evidence. However, the request for evidence should only be for the current year's income information, not for additional evidence concerning the year in which the Form I-864 was filed. For example, if the Form I-864 was filed in 2004 with a tax return from 2003 and employment information for 2004, a request for evidence issued after April 15 of any given year would request the tax return for the immediately preceding year (e.g., a 2005 return, if requested in 2006), and employment information for the current year. In this situation, the sufficiency of the

Form I-864 is determined based upon the additional evidence as it relates to the applicable threshold set forth in the Form I-864P in effect when the USCIS issues the request for evidence, rather than the Form I-864P that was in effect when the Form I-864 was signed. USCIS may direct the Form I-485 applicant to submit the additional evidence either by mail or by appearing for a rescheduled interview.

IMPORTANT: USCIS may encounter a case in which the sponsor (i.e., a petitioning sponsor, substitute sponsor, or joint 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. 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.

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 2006 may well be consistent with the income tax return for 2005. A request for additional evidence may be appropriate if the evidence of record supports a specific reason (other than the passage of time) to believe the sponsor's claims to be false. 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.

Note: For most Form I-485s filed before November 23, 2005, the sponsor should have filed the three most recent income tax returns. USCIS may encounter a case in which the sponsor has included the most recent income tax return but not one or both of the two earlier returns. Given the change of policy reflected in the final rule, USCIS is no longer required to request the missing earlier return(s).

Note: 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 the 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.

(3) No Local Policy Permitted Regarding When Form I-864 Shall be Filed. In the past, USCIS permitted each local office to establish its own policy on whether to require submission of Form I-864 at the time of filing for adjustment or at the time of the adjustment interview. Local offices may no longer do so. Under a policy change that took effect November 23, 2005, USCIS requires all applicants to submit Form

I-864 with their adjustment application. If the case was filed prior to November 23, 2005 at an office that required submission at the time of the adjustment interview, USCIS should allow the applicant to submit Form I-864 and the required supporting documentation at the interview.

(f) Sponsor Use of Benefits. Question 4B of the September 26, 2000 version of the Form I-864 asks if the sponsor or any member of his or her household has used means-tested benefits during the past 3 years. Do not disqualify a sponsor based on a positive response to this question. The reason for this question is to ensure that the value of any such means-tested public benefits is not considered as income on the Affidavit of Support. Federal means-tested benefits currently 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. Earned benefits such as Social Security retirement, Unemployment Compensation, and Workman's Compensation may be included as income.

(g) U.S. Citizen Children. Any U.S. citizen children of the intending immigrant should not be listed in part 3 of the Form I-864. The Affidavit of Support places no obligation on a sponsor or joint sponsor to support any U.S. citizen children of the sponsored immigrant. Such U.S. citizen children should only be included in household size if they are actually resident in the sponsor's or joint sponsor's household or listed as dependents on the sponsor's most recent tax return.

(h) Withdrawal of an affidavit of support or Form I-864A. A person who has signed a Form I-864, I-864EZ or I-864A may withdraw the Form. If the person does so, USCIS will adjudicate the application for adjustment of status as if the withdrawn Form I-864, I-864A or I-864EZ had never been filed. In an adjustment of status case, a withdrawal of the Form I-864, I-864EZ or I-864A is not effective unless it is in writing and USCIS actually receives the withdrawal before the final decision on the adjustment application. In an immigrant visa case, once a consular officer has issued an immigrant visa, no Form I-864, I-864EZ or I-864A may be withdrawn unless the visa petitioner also withdraws the visa petition.

(i) Documentation.

(1) Federal Tax Returns. Each sponsor must submit either a 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 copies of any and all IRS Forms W-2 and 1099 that reflect income used to qualify. The second note under paragraph 20.5(e)(2) provides guidance regarding what to do if a W-2 or 1099 is missing. Note, however, that it is not necessary to submit the Forms W-2 or 1099 if a transcript, rather than a copy, of the tax return is submitted. State or foreign income tax returns are not acceptable; if submitted, they must be returned to the intending immigrant.

The sponsor must submit with the Form I-864 the sponsor's U.S. Federal income tax return for the most recent tax year (that is, the completed tax year immediately preceding the date the sponsor signs the Form I-864). USCIS may generally expect a sponsor, after April 15 of any given year (or April 16 or 17, in a year in which April 15 is on a Saturday or Sunday), to have completed his or her tax return for the previous year. If the sponsor requested an extension, the sponsor should provide proof of filing for the extension. 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. 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.

EXAMPLE 1: Sponsor signs the Form I-864 on March 1, 2006. The US Federal income tax return for 2005 is not due until April 17, 2006. Therefore, the sponsor must submit his or her 2004 U.S. Federal income tax return.

EXAMPLE 2: Sponsor signs the Form I-864 on May 5, 2006. The sponsor must submit his or her 2005 U.S. Federal income tax return.

EXAMPLE 3: Sponsor signs the Form I-864 on May 5, 2006. However, the sponsor also filed with IRS a Form 4868, obtaining an extension of the 2005 income tax filing deadline. The sponsor must submit his or her 2004 U.S. Federal income tax return.

Note: Typical proof that a sponsor was not required to file a tax return for a particular year would consist of a written statement from the sponsor, signed under penalty of perjury, attesting to the amount of his or her income for the relevant year and to the fact that a tax return was not required by law. USCIS adjudicators handling Form I-864 issues should be aware of the income threshold for the requirement of filing a tax return for the last several years, so that an RFE for evidence of the law is not necessary. In particular, the Instruction booklets for each year's Forms 1040, 1040A, and 1040EZ specify the income threshold below which a person is not required to file a return.

Note: IRS permits and encourages electronic filing of Forms 1040, 1040A and 1040EZ. An electronically filed tax return may also be signed electronically. When a person signs and files the tax return electronically, a "hard copy" of the original tax return will not exist. In this situation, it is acceptable for the person to submit a plain copy printout, showing the tax return as it would have looked, had it been filed on paper, together with the IRS-issued "declaration control number." By signing the Form I-864 or I-864A "under penalty of perjury," the person certifies that the copy is a copy of what was submitted to IRS. As with paper-filed returns, it is also acceptable for the person to submit an IRS transcript of the electronically filed return.

A sponsor may submit an IRS-issued transcript instead of a photocopy of the sponsor's tax return. A sponsor may obtain a transcript by filing IRS Form 4506-T with the IRS. Currently, the IRS does not charge a fee for transcripts. Tax transcripts provide proof that the returns were filed with IRS, are easier to read, take up less room in the file, and are easily obtained. If a sponsor submits a transcript rather than a photocopy of the tax return, it is not necessary for the sponsor to include copies of any Forms W-2 or 1099.

(2) Job Letters and Proof of Income. Pay stub(s) showing income for the most recent 6 months and letters from all current employers are no longer required as initial evidence. The applicant, however, may submit either or both of these items (1) in response to a request for additional evidence (RFE), or (2) with a Form I-864 if the applicant believes doing so would help establish that the sponsor meets the governing income/assets threshold. 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.

(3) Household Members. The sponsor may use the income of any member of his or her own household who is at least 18 years old to help meet the household income requirement. The sponsor and household member must complete Form I-864A, which must include a copy or transcript of the household member's most recent tax return and sufficient documentation of all income and assets he or she lists on the Form I-864A. USCIS shall use the same standards for documentary evidence of income and assets listed on a Form I-864A as are used for documentary evidence of income and assets listed on Form I-864.

(j) Use of Poverty Guidelines. HHS 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. For example, in 2006, new Poverty Guidelines were published in the Federal Register on January 22 and therefore became effective for USCIS purposes on March 1, 2006. To assist sponsors and intending immigrants, USCIS publishes the governing guideline for the location and size of each household on Form I-864P, Poverty Guidelines. The Poverty Guidelines for each year remain in effect during the next year until the effective date of the new guidelines.

Note: The correct Form I-864P should already be included in the record, since 8 CFR 213a.2(a)(1)(ii) requires the Form I-485 or immigrant applicant to include the current Form I-864P when the applicant submits the application. If the Form I-864P is missing, that fact alone would not warrant a request for evidence, since the USCIS office should maintain past versions of the Form I-864P. When copying a Form I-864P for addition to

the record, please be sure to copy the Form I-864P that was in effect when the Form I-485 was filed, rather than any later version.

Note: If, as specified in paragraph 20.5(e)(2) of this chapter, it is necessary to request additional evidence, the sufficiency of the Form I-864 is determined according to the Poverty Guidelines in effect when the request for evidence is made. Therefore, a copy of the current Form I-864P should be included in the record of proceeding and sent with the request for evidence.

(k) USCIS Review. The following items must be considered by USCIS when reviewing a Form I-864 or Form I-864EZ:

(1) Part 1: Verify That Sponsor Has Checked the Correct Box(es). If Form I-864EZ is being used, then "Yes" must be checked on boxes a, b, and c. If Form I-864 is being used and box "d" has been checked indicating a single joint sponsor, USCIS should ensure that there are two Form I-864s: one from the petitioner and one from the joint sponsor. If Form I-864 is being used and box "e" has been checked indicating two joint sponsors, USCIS should ensure that there are three Form I-864s: one from the petitioner, one from the first joint sponsor, and one from the second joint sponsor.

(2) Parts 2-4 of Form I-864 or Parts 2-3 of Form I-864EZ: Verify These Have Been Completed Correctly. Compare the information provided with information from other documents included in the application and/or verifying data with the sponsored immigrant at the time of the interview.

If the sponsor is using Form I-864, only "accompanying" family members should be listed in the chart in Part 3. Be sure that the first and last name of each accompanying family member is listed. Family members "following to join" (i.e., intending to immigrate more than 6 months after principal intending immigrant) should not be listed in Part 3.

(3) Part 5 of Form I-864 or Part 4 of Form I-864EZ: Sponsor's Household Size.

The sponsor's total household size is used to determine the correct Federal Poverty Guideline. For purposes of Form I-864, a household size includes the total of the following groups of individuals:

- Sponsor;
- Person(s) the sponsor is sponsoring on the Affidavit of Support (will always be one if the sponsor is using Form I-864EZ instead of Form I-864);
- Sponsor's spouse, if the sponsor is married;

- All of the sponsor's children, as defined in section 101(b)(1) of the Act, except those that have (1) reached the age of majority (i.e., are at least 18 years old) or are emancipated under the law of the person's domicile, and (2) are not claimed as dependents on the sponsor's most recent Federal income tax return;
- Other persons lawfully claimed as dependents on the sponsor's tax return for the most recent tax year; and
- The number of siblings, parents, and/or adult children who (1) have the same principal residence as the sponsor, and (2) have combined their income with the sponsor's income by submitting Form I-864A.

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

(4) Part 6 of Form I-864 or Part 5 of Form I-864EZ: Sponsor's Income and Employment

(A) General Rule and Active Duty Military Exception. Either the petitioning sponsor, substitute sponsor, or a joint sponsor must generally demonstrate the ability to maintain his or her annual household income at 125% of the governing Federal Poverty Guideline threshold.

A petitioner on active duty in the U.S. Armed Forces, other than for training, only needs to demonstrate the means to maintain an annual income equal to at least 100% of the Federal Poverty Guidelines if he or she is petitioning for a spouse or child.

Note that a substitute sponsor or joint sponsor is not eligible to claim the 100% income level based on the *petitioner's* relationship to the intending immigrant, or the *petitioner's* military status. A substitute sponsor or joint sponsor may claim the 100% income level only if the substitute sponsor or joint sponsor, *himself or herself*, is on active duty in the U.S. Armed Forces (other than for training) and the intending immigrant is the spouse or child of the substitute sponsor or joint sponsor.

To qualify for this exception, the petitioner must have provided evidence that he or she is on active duty, such as a military dependent's identification card for the sponsored intending immigrant (the spouse or child), or a photocopy of the military identification card of the sponsor (the spouse or parent).

Regardless of whether a sponsor qualifies for the military exception, all of his or her income counts toward the 125% (or 100%) income requirement, including (in

the case of Armed Forces personnel) any allotments received for the dependents.

(B) Poverty Guidelines. Form I-864P, Poverty Guidelines, provides the Federal Poverty Guidelines calculated at both the 100% level and 125% level for the 48 contiguous states, the District of Columbia, Puerto Rico, the U.S. Virgin Islands and Guam. Separate guidelines are published for Alaska and Hawaii.

The Form I-864P guidelines are based on household sizes of 2 to 8. A dollar amount is provided to add for each additional household member or dependent. To determine the requirement for a household size of 10, USCIS should take the poverty line for a household size of 8 and add the additional dollar amount multiplied by 2.

Form I-864P is based upon the Federal Poverty Guidelines that the Department of Health and Human Services (HHS) publishes annually in the Federal Register (usually in February or March). (See "Federal Register Publications" under the "Immigration Law and Regulations" button on *I-LINK*). In concert with the Federal Poverty Guidelines, USCIS annually updates Form I-864P, Poverty Guidelines. USCIS begins to apply the updated Form I-864P guidelines to adjustment of status applications received on the first day of the second month after the HHS guidelines are published.

(C) Determining the Sponsor's Ability to Provide Sufficient Support. If the sponsor is using Form I-864EZ, he or she must only use his or her salary or pension as shown on his or her most recent Federal income tax return. If the sponsor provides a photocopy of the return, the sponsor must include a copy of any Form(s) W-2 provided by the sponsor's employer(s) to prove income from employment and/or Form(s) 1099 to show pension income; if a W-2 or 1099 is missing, follow the guidance in the second note under paragraph 20.5(e)(2). As with other sponsors, these copies are not needed if the sponsor provides an IRS transcript of the return. (See Part 1(a) of Form I-864EZ.) If sponsor relies on other types of income, the sponsor must use Form I-864. The sponsor must also use Form I-864, rather than Form I-864EZ, if the sponsor will be submitting any Forms I-864A.

Regardless of the form the sponsor uses, he or she must provide evidence of any income (and/or assets in the case of Form I-864) used to demonstrate the means to maintain the sponsored immigrant.

Sponsors who use Form I-864 may qualify based only upon their own income and/or assets if either or both are sufficient to reach the income requirement. If, however, the sponsor's combined income and assets are not sufficient to meet

the governing threshold, the sponsor may include the income and/or assets of another household member if the household member:

- Is at least 18 years old;
- Is included in the calculation of household size;
- Has the same principal residence as the sponsor (or is the sponsor's spouse); and
- Has completed and signed a Form I-864A.

USCIS should ensure that each Form I-864A is completed and signed by the sponsor and the household member.

As noted above, the intending immigrant does not need to sign a Form I-864A if he or she is immigrating alone (that is, has no accompanying dependents). In this situation, the intending immigrant should be listed on line 24(e) and should be the only person listed in 24(b), with his or her income listed on that line and value of assets listed on the appropriate line(s) in item 28.

(D) Federal Tax Return(s). No matter whether a sponsor submits Form I-864 or I-864EZ, the sponsor must provide a copy or an IRS-generated transcript of the sponsor's Federal income tax return for the sponsor's most recent tax year. Each Federal tax return must include all the supplements and attachments that were sent to the IRS with the tax return. For purposes of demonstrating means to maintain income, the determining income amount is the income, before deductions, on the sponsor's income tax return. In other words, income means an individual's total income (adjusted gross income for those who file IRS Form 1040EZ) for purposes of the individual's U.S. Federal income tax liability, including a joint income tax return (e.g., line 22 on the 2005 IRS Form 1040, line 15 on the 2005 IRS Form 1040-A, or line 4 on the 2005 IRS Form 1040EZ or the corresponding line on any future revision of these IRS Forms).

Note that, by signing the Form I-864 or Form I-864EZ under penalty of perjury, a sponsor certifies that the transcript or photocopy is true and correct. This certification meets the statutory requirement of presenting a "certified" copy of the transcript or photocopy. Certification of the returns by the IRS is not necessary; the sponsor's certification under penalty of perjury is sufficient.

If a sponsor filed a joint tax return with a spouse, but is qualifying using only his/her own individual income, the sponsor must submit evidence of that individual income. This evidence would include, for example, the sponsor's own W-2(s), Wage and Tax Statement, and if necessary to reach the income

requirement, evidence of other income reported to IRS which can be attributed to him/her, usually on Forms 1099.

(E) Other Evidence of Income. For purposes of demonstrating means to maintain income, the total income, before deductions, in the sponsor's tax return for the most recent taxable year will be generally determinative. There is no requirement to determine whether the sponsor would have met 125% (or 100%) of the governing Poverty Guideline before the most recent tax year. Income tax information from these years should only be used to take the earning trend into consideration when assessing current and future earning capability.

USCIS, however, may consider other evidence of income (e.g., pay stub(s), employer letter(s), or both), if (1) the sponsor establishes that he/she was not legally obligated to file a Federal income tax return for the most recent tax year, or (2) USCIS determines that the income listed on the Federal tax return for the sponsor's most recent tax year does not meet the governing threshold. In other words, if the sponsor's current income is sufficient, it can establish that the Form I-864 itself is sufficient even if the tax return without any other documentation might warrant a finding that it is not sufficient. For example, if the sponsor recently started a new job (that USCIS is satisfied will likely continue) and the income from the job now meets or exceeds the legal requirement, USCIS may find the Affidavit of Support to be sufficient, notwithstanding information included in the transcript or copy of the tax return(s).

By contrast, 8 CFR 213a.2(c)(2)(ii)(C) permits USCIS to conclude that a Form I-864 is not sufficient, even if the sponsor's household income meets the Poverty Guideline threshold. USCIS should make this conclusion only if the evidence of record makes it "reasonable to infer that the sponsor will not be able to maintain his or her household income at a level sufficient to meet his or her support obligation." For example, if the sponsor's income is from a job that is merely temporary or seasonal, USCIS might reasonably conclude that the income is likely not to continue, and could also conclude that the Affidavit of Support, for that reason, is not sufficient.

If the household income meets the Poverty Guidelines threshold, however, USCIS will generally conclude that the Form I-864 is sufficient. There must be some specific reason, supported by evidence in the record, to conclude that the Form I-864 is not sufficient.

(F) Means-Tested Public Benefits Received by the Sponsor. USCIS has decided that, as a matter of policy, it will require the sponsor to disclose his or her receipt of means-tested public benefits and not consider the fact that a sponsor has received such means-tested public benefits in the past to be an adverse factor in evaluating a Form I-864 or Form I-864EZ. However, the

sponsor may not include any means-tested benefits currently being received in calculating the household income.

(G) Compare Total Household Income with Governing Poverty Guideline. If the sponsor's total household income (line 24c of Form I-864 or line 18 of Form I-864EZ) is greater than or equal to the governing Poverty Guideline threshold, the sponsor does not need to show evidence of assets and does not require a joint sponsor. In this case, USCIS may move to Part 8 of Form I-864 or Part 6 of Form I-864EZ.

If a Form I-864EZ does not demonstrate means to maintain the required income, USCIS may choose to request that the adjustment of status applicant submit a new Form I-864 from the sponsor (if the applicant seeks to qualify based on showing "significant assets"), or to submit a sufficient Form I-864 from a joint sponsor. Note that this request for evidence would go to the applicant, not the sponsor.

If a Form I-864 does not demonstrate means to maintain the required income, USCIS should consider the assets listed in Part 7 of the form.

(5) Part 7 of Form I-864: Use of Assets to Supplement Sponsor's Income. If a sponsor cannot meet the Poverty Guideline requirement based upon total household income listed on line 24c, 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.

For assets of the intending immigrant and/or household member to be considered, the household member must complete and sign Form I-864A. USCIS should check to make sure that the Form I-864A is completed and signed by the sponsor and the household member.

(A) Evidence of assets. Evidence of the sponsor's assets should be attached to the Form I-864. Evidence of the principal sponsored immigrant's and/or household member assets should be attached to Form I-864A. In each instance, the evidence should establish the location, ownership, and value of each listed asset, including any liens or liabilities for each listed asset. 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 in which the sponsor has deposits, including deposit/withdrawal history for the last 12 months, and current balance;
- 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.

(B) 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.

Example for a household size of 4:	
125 percent of 2006 Poverty Guideline	\$25,000
Sponsor's income	<u>\$19,500</u>
Difference	\$5,500
Multiply by 5	<u> x 5</u>
Minimum Required Net Value of Assets	\$27,500

There are two exceptions, however:

- If the adjustment of status applicant intends to immigrate as a spouse of a U.S. citizen or as the child of a U.S. citizen who will not become a citizen under section 320 of the Act because the child has already reached his or her 18th birthday, the "significant assets" requirement will be satisfied if the assets equal three times, rather than five times, the difference between the applicable income threshold and the actual household income.

Example for a household size of 4:	
125 percent of 2006 Poverty Guideline	\$25,000
Sponsor's income	<u>\$19,500</u>
Difference	\$5,500
Multiply by 3	<u> x 3</u>
Minimum Required Net Value of Assets	\$16,500

- If the adjustment of status applicant intends to immigrate as an IR-4 immigrant (orphans coming to the United States for adoption), the parents' assets only need to equal or exceed the difference between the applicable income threshold and the actual household income.

Example for a household size of 4:	
125 percent of 2006 Poverty Guideline	\$25,000
Sponsor's income	<u>\$19,500</u>

Difference (Minimum Required Net Value of Assets) \$5,500

(6) Joint Sponsors. If the petitioner or substitute sponsor cannot demonstrate ability to maintain a household 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 and several liability 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 regulations at 8 CFR 213a.2(c)(2)(iii)(C) allow but do not require two joint sponsors per family unit intending to immigrate based upon the same family petition. Further guidance regarding joint sponsors may be found at paragraph (d)(7) above.

(7) Part 8 of Form I-864 or Part 6 of Form I-864EZ. Part 8 of Form I-864 or Part 6 of Form I-864EZ constitute the bulk of the contract and covers the purpose of the Affidavit of Support, which is to overcome the public charge grounds of inadmissibility. It also includes the notice of change of address requirements (the sponsor must notify the Secretary of Homeland Security of the sponsor's new address within 30 days of any change of address by filing Form I-865 with USCIS), means-tested benefit prohibitions and exceptions, consideration of the sponsor's income in determining eligibility for benefits and the civil action to enforce the Affidavit. Additionally, it requires a certification under penalty of perjury that the sponsor is aware of the legal ramifications of being a sponsor under section 213A of the Act.

After placing the sponsor under oath, USCIS should verify that the portion under "Concluding Provisions" has been completed.

Once signed, the concluding provisions satisfy the statutory requirement that the sponsor must make a written statement under penalty of perjury indicating that the copies of the Federal income tax returns submitted with the Affidavit of Support are true copies of the returns filed with the Internal Revenue Service.

A photocopy of the signed Form I-864 may be submitted for each spouse and/or child of the principal beneficiary of the adjustment of status application. Copies of supporting documentation are not required.

(8) USCIS Completion of "Agency Use Only" Box. In adjustment cases adjudicated by USCIS, USCIS must complete the "Agency Use Only" box on the first page of the Form I-864 or Form I-864EZ. If the petitioner sponsor does *not* qualify, USCIS should check the box "Does not meet." In order for the applicant to be approved, there must be in the file another Form I-864 that meets the requirements from a joint sponsor. In such a case, USCIS must check the "Meets" box, and then sign, date, and note the office code for location.

In cases adjudicated by an immigration judge where the judge did not complete the Agency Use Only box, USCIS will complete the processing of the case after the judge's decision by completing the box on the USCIS copy of the Form I-864 by checking either the "Meets" or the "Does not meet" box. USCIS must then add a notation, "Adjustment application approved (or denied) by U.S. Immigration Court at (place) on (date)." USCIS will then sign, date, and note the office code for location.

(9) Verification of Information. The Government may pursue verification of any information provided on or with Form I-864, I-864EZ, I-864A (e.g., employment, income, and/or assets) with the employer, financial or other institutions, the Internal Revenue Service, or the Social Security Administration.

If USCIS finds that a sponsor, joint sponsor, or household member has concealed or misrepresented material facts concerning income, household size, or any other material fact, USCIS shall conclude that the Affidavit of Support is not sufficient to establish that the sponsored immigrant is not likely to become a public charge. In this situation, the sponsor or joint sponsor may be liable for criminal prosecution under the general statutes relating to the submission of fraudulent immigration documents. Failure of the sponsor or joint sponsor to provide adequate evidence of income and/or assets will result in the denial of the application for adjustment to lawful permanent residence status.

(I) Insufficient Affidavits Submitted in Support of Adjustment Applications. The Affidavit of Support is not a separate application. It is supporting documentation for an adjustment of status application. Correspondence regarding insufficient Affidavits of Support should be sent to the adjustment applicant and his/her legal representative, but not to the sponsor.

If the Form I-864 or I-864EZ is insufficient, and procedures for requesting additional evidence have been exhausted, the entire adjustment of status application should be denied because the intending immigrant is inadmissible on public charge grounds in addition to any other reasons why the adjustment case may be denied.

The following language should be included in a denial letter of an adjustment of status application which does not fulfill the requirements under section 213A of the Act:

You are not eligible for adjustment of status under INA 245 (a)(2), because you are inadmissible as an alien who is likely at any time to become a public charge pursuant to INA 212(a)(4)(C). 8 USC 1182(a)(4)(A) and 1255(a)(2). If you are an alien seeking adjustment of status as (insert appropriate category: an immediate relative, a family based immigrant, or an employment based immigrant who will be employed by a relative or a relative's firm) you are inadmissible under this

ground unless an Affidavit of Support that meets the requirements of INA 213A, 8 U.S.C. 1183a, has been filed on your behalf. The Affidavit(s) of Support provided in your case does not meet the requirements of section 213A because (insert appropriate language/deficiency; e.g. failure to meet the income requirement, ineligible sponsor, etc.)

Note: This language must be modified in order to address the specifics of each case, including any other reasons for denial. If the applicant is denied due to an ineligible sponsor, be sure to include the reason why the sponsor is ineligible, e.g., the sponsor cannot be a corporation, organization, or other entity, the sponsor is not at least 18 years of age, etc. Details regarding the sponsor's personal financial matters should not be revealed in the denial letter to the adjustment applicant unless the denial is based at least partially upon such information.

(m) Service Center Processing. The processing of the packet of forms which subsequently produce an alien registration card (I-181, I-485 or OS-155A) includes data entry of Affidavits of Support when they are required by statute.

If an applicant fails to submit an Affidavit of Support when one is required, USICS will request that an Affidavit of Support be submitted before the case can be adjudicated.

In those instances where one or more Affidavits of Support are contained in the packets, data from each of them will be entered into CLAIMS as a subscreen of the I-485 or visa to which it is attached.

The types of data entry at the Service Centers will be:

- Forms I-864 attached to a Form OS-155A, immigrant visa received from Ports of Entry;
- Forms I-864 attached to a Form I-485 filed and adjudicated at the Service Center; or
- Forms I-864 attached to Form I-485 filed and/or adjudicated at local offices. The data entry in most of these cases will be attached to the data entry of a "copy 3" of Form I-181.

All Forms I-864 will be maintained in the same A or T File in which the controlling form is stored. There is no data entry of information from Form I-864A.

(n) Statistical Reporting. Effective October 1, 2005, hours and actions are tracked on Form G-23.3, Line 171S. Reporting Instructions are provided in the document entitled, "Examinations Activity: G-22.2, G-22.2a, G-22.3, G-22.3a Adjudications Summary Procedures." These procedures implement Administrative Manual (AM) Policy Statement 3.1.101.

(o) Termination of Sponsor's Obligation and Enforcement. The obligations created under Form I-864 and I-864A terminate when the sponsored alien:

- Becomes naturalized;
- Is credited with at least 40 quarters of employment in the Social Security system;
- Loses or abandons his or her lawful permanent resident status; or
- Dies.

Note: For any qualifying quarter to be creditable for any period beginning on or after December 31, 1996, the alien must not have received any Federal means-tested public benefit during that quarter. A Federal means-tested public benefit is any public benefit funded in whole or in part by funds provided by the Federal Government that the Federal agency administering the Federal funds defines as a Federal means-tested public benefit under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub. L. 104-193). 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.

Note: The qualifying quarters worked by a parent of, or the spouse of such alien during the marriage to the alien may often be credited to the alien beneficiary.

If the sponsored immigrant is the sponsor's child, the legal obligation made in the Affidavit of Support is not terminated by the child's adoption after acquiring permanent residence.

If the sponsored immigrant is the sponsor's spouse, divorce will not terminate the legal obligation made in the Affidavit of Support.

Even when the support obligation has been terminated, the sponsor, or the sponsor's estate may still be held liable for any reimbursable amount that accrued before the termination of the obligation.

(p) Reimbursement Requests. USCIS is not directly involved in enforcing an Affidavit of Support sponsor's obligation to reimburse an agency for means tested public benefits. USCIS does, however, make information about the sponsor available to an agency seeking reimbursement. Upon the receipt of a duly issued subpoena, USCIS will provide the agency with a certified copy of a sponsor's Form I-864.

In addition, USCIS routinely provides the sponsor's name, address, and Social Security number to Federal, state, and local agencies providing means-tested benefits. This information is used to determine whether a sponsored immigrant who is applying for benefits is eligible for them. These queries are submitted to USCIS on Forms G-845, G-845S, and the G-845 Supplement.

(q) **Sponsor's Address Change Notification.** Under section 213A(d) of the Act, the sponsor must notify the Secretary of Homeland Security of the sponsor's new address within 30 days of any change of address. The sponsor meets this obligation by completing and filing Form I-865 with USCIS. USCIS is obligated by statute to maintain the address and social security number of all sponsors in an automated system.

If a sponsor fails to satisfy this requirement, USCIS may, after notice and opportunity to be heard, impose on the sponsor a civil penalty of not less than \$250 or more than \$2,000, or if such failure occurs with knowledge that the sponsored alien has received any means-tested public benefits (other than benefits described in 401(b), 403(c)(2), or 411(b) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996) not less than \$2,000 or more than \$5,000.

2. The **AFM Transmittal Memoranda** button is revised by adding a new entry, in numerical order, to read:

AD 06-20 June 27, 2006	Chapter 20.5	This memorandum replaces Chapter 20.5 of the <i>Adjudicator's Field Manual (AFM)</i> with a revised Chapter 20.5.
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cc: USCIS Headquarters Directors
Bureau of Immigration and Customs Enforcement
Bureau of Customs and Border Protection

F. New Form I-864		YES	NO
F 1	Reserved for future use.		
F 2	Office for I-130 or I-129f?	Go to F04	Go to F03
F 3	Is there a concurrently filed Form I-130 in the file or • an approved Form I-130 • or approved Form I-129f in the file?	Goto F04	Goto O01
F 4	notice or 171 or concurrently filed I-130 or Petitions Form I-129F (Petition for Alien Fiancée) or Form I-130 (petition for Alien Relative) in file (check other A or T files)?	Go to G04	Go to F05
F 5	Page 1, Part 1, question 1, block "f" marked on one I-864?	Go to K01	Go to F10
F 6	Page 1 of I-864 submitted?	Go to F07	Go to O01 RFE (F06)
F 7	Page 2 of I-864 submitted?	Go to F08	Go to O01 RFE (F07)
F 8	Only one block marked on Page 1, Part 1, question 1 of I-864?	Go to F09	Go to F13
F 9	Page 1, Part 1, question 1, block "a" marked on one I-864?	Go to G01	Go to F10
F 10	Page 1, Part 1, question 1, block "b" or "c" marked on only I-864?	Go to F19	Go to F11
F 11	Page 1, Part 1, question 1, block "d" or "e" marked on I-864?	Go to F12	Go to F13
F 12	Is there more than one I-864 filed by a different sponsor?	Go to I01 RFE (F12)	Go to F18
F 13	A name provided on Page 1, Part 1, line 1 of I-864?	Go to F14	Go to F15
F 14	I-797 notice or concurrently filed I-130?	Go to G01	Go to F15
F 15	A name listed on Page 2, Part 4, line 11?	Go to F18	Stop
F 16	certs, G325A, etc. Find I-864 sponsor's name (check tax documents, employment letters, signature line on I-864, Etc). I-864 sponsor same	Go to G01	Go to F17
F 17	Another I-864 submitted with petitioner's name as sponsor?	Go to P01	RFE (F17)
F 18	on I-797 notice or concurrently filed I-130?	Go to G01	RFE (F18)
F 19	Concurrently filed I-130 and/or I-797 for I-130, I-129f, I-360?	Go to G01	Go to F20
F 20	I-797 for I-140 only proof of petition (NO I-797 for I-130, I-129f, I-360)?	ORB3 Stop	Go to G01
F 21	Verify no other petition or eligibility for AOS except Form I-140. Form I-140 only eligibility for adjustment?	STOP! Transfer to NSC	Review file and systems for eligibility. Correct I-
G. Petitioner/Sponsor I-864		Yes	No
G 1	Office for I-130 or I-129f?	Go to G03	Go to G02
G 2	Is there a concurrently filed Form I-130 in the file or • an approved Form I-130 • or approved Form I-129f in the file?	Go to G03	Go to O01
G 3	One I-864 lists petitioner's name on Page 2, Part 4, line 11 of I-864 (petitioner listed on I-130 or I-129f petition or on I-797 or I-171 notice)?	Go to G04	RFE (G03)
G 4	Page 3 of I-864 submitted?	Go to G05	RFE (G04)
G 5	Page 4 of I-864 submitted?	Go to G06	RFE (G05)
G 6	Page 5 of I-864 submitted?	Go to G07	RFE (G06)

G 7	Page 8 of I-864 submitted?	Go to G08	RFE (G07)
G 8	Form I-864 for petitioner signed (Page 8, Part 8, line 31 of I-864)?	Go to G09	RFE (G08)
G 9	Does page 8, Part 8, line 31 of I-864 contain a date in the date line?	Go to G10	Go to G11
G 10	485 receipt date (I-485 receipt date is found on page 1 of I-485 on the barcode sticker)? OR any time after the I-485 was filed?	Go to G11	RFE (G10)
G 11	income tax return included?	Go to G12	Go to G13
G 12	Is petitioner's Federal income tax return for most recent tax year as of date I-864 signed?	Go to G20	RFE (G12)
G 13	transcript included?	Go to G14	Go to G15
G 14	Is petitioner's IRS-issued transcript for most recent tax year as of date I-864 signed?	Go to G28	RFE (G14)
G 15	Application for Automatic Extension of Time to File US Individual Tax Return in file?	Go to G16	Go to G18
G 16	Is petitioner's IRS Form 4868 for most recent tax year as of date I-864 signed?	Go to G17	RFE (G16)
G 17	I-864) or use the I-485 receipt date (page 1 of I-485 on barcode sticker) if no date by I-864 signature. Is the Date Form I-864 signed (or the I-485 receipt date if the I-864 has no date by the signature) before 10/17	Go to G20	Go to O01 RFE (G17)
G 18	tax year?	Go to G28	Go to G19
G 19	Did petitioner mark Page 3, Part 6, question 22, block "d" or a notation of unemployed?	Go to G28	RFE (G19)
G 20	Schedule C, Schedule B, Schedule C-EZ, Schedule D, Schedule E, Schedule F)?	Go to G21	Go to G22
G 21	Petitioner/Sponsor's tax schedules for the most recent tax year?	Go to G28	RFE (G21)
G 22	Using most recent tax documents in file, is petitioner's W-2s included?	Go to G23	Go to G24
G 23	Petitioner/Sponsor's W-2 for the most recent tax year?	Go to G28	RFE (G23)
G 24	Using most recent tax documents in file, is petitioner's 1099 included?	Go to G25	Go to G26
G 25	Petitioner/Sponsor's 1099 for the most recent tax year?	Go to G28	RFE (G25)
G 26	Using most recent tax documents in file, is petitioner's Form 4598 or Form 4852 included?	Go to G27	RFE (G26)
G 27	Petitioner/Sponsor's Form 4598 or Form 4852 for the most recent tax year?	Go to G28	RFE (G27)
G 28	Page 3, Part 5, line 21, item h of I-864 "2" or more?	Go to G30	RFE (G28)
G 29	Reserved for future use	Go to G30	Go to G31
G 30	4852's for most recent tax year \$ _____) and household size (Page 3, Part 5, Line 21, item h of I-864) (____). If income does not qualify or is not available from the above documents use the income from the most recent tax return/transcripts. Using the I-864P in effect on the date Form I-485 was filed does the income for household	Go to O01	Go to G32
G 31	Reserved for future use	Go to O01	Go to G32

	Petitioner/Sponsor's tax documentations: On Form 1040, 1040CM or 390 o Is any non taxable income listed on lines 8b, 9b, 15a, 16a, 20a or a notation of Form 2555 or foreign income on line 21? On Form 1040A or 1040A-CM o Is any non taxable income listed on lines 8b, 9b, 11a, 12a or 14a?		
G 32		ORB3 Stop Go to G33	Go to G37
	Petitioner/Sponsor's tax documentations: On Form 1040, 1040CM or 390 o Is any non taxable income listed on lines 8b, 9b, 15a, 16a, 20a or a notation of Form 2555 or foreign income on line 21? On Form 1040A or 1040A-CM • Is any non taxable income listed on lines 8b, 9b, 11a, 12a or 14a?		
G 33		Go to G34	Go to G37
G 34	Are the petitioner/sponsor's 1099s or Form 2555 for the non taxable income included?	Go to G35	RFE (G34)
G 35	Are the petitioner/sponsor's 1099s or Form 2555 for the most recent tax year?	Go to G36	RFE (G35)
G 36	taxable income listed on Form 1099 or Form 2555 for the most recent tax year \$ _____) and household size (Page 3, Part 5, Line 21, item h of I-864)(____). Using the I-864P in effect on the date Form I-485 was filed does the income for household size meet or	Go to O01	Go to G37
G 37	self employed?	Go to G52	Go to G38
G 38	(\$ _____) and Household size (Page 3, Part 5, Line 21, Item h of I-864) (____). Using the I-864P in effect the date Form I-485 was filed does the income for household size meet or exceed 125% of	Go to G39	Go to G41
G 39	Letter from employer for petitioner with current income?	Go to O01	Go to G40
G 40	earnings (pay stubs, Social Security benefits statements, pension/retirement disbursement statements)?	Go to O01	RFE (G40)
G 41	Page 2, Part 4, line 20 marked "Yes" and petitioning for spouse or child?	ORB3 Stop Go to G42	Go to G52
G 42	Proof of active duty military status of petitioner?	Column on I-864P & Go to G43	Go to G43 RFE (G42)
G 43	(_____) and household size (Page 3, Part 5, Line 21, item h of I-864) (____). Using the I-864P in effect on the date Form I-485 was filed does the income for household size meet or exceed 100% of	Go to O01	ORBs Stop Go to G44
G 44	(_____) and household size (Page 3, Part 5, Line 21, item h of I-864) (____). Using the I-864P in effect on the date Form I-485 was filed does the income for household size meet or exceed 100% of	Go to O01	Go to G45
G 45	Find petitioner/sponsor's W2s for the most recent tax year, in box 12, is there a letter and an amount listed in this box?	Go to G46	Go to G47
G 46	amount listed in box 12 of the W2s for the most recent tax year \$ _____) and household size (Page 3, Part 5, Line 21, item h of I-864)(____). Using the I-864P in effect on the date Form I-485 was filed does the income for household size meet or exceed 100% of	Go to O01	Go to G47
G 47	(Leave and Earning Statement)?	Go to G48	Go to G49

G 48	Find the petitioner's monthly income under entitlements on LES (\$ _____) and multiply by 12 (\$ _____). Using the I-864P in effect the date Form I-485 was filed does the income for household size meet or exceed 100% of Poverty line?	Go to O01	Go to G53
G 49	(\$ _____) and Household size (Page 3, Part 5, Line 21, Item h of I-864) (____). Using the I-864P in effect the date Form I-485 was filed, does the income for household size meet or exceed 100% of poverty line?	Go to G50	Go to G52
G 50	Letter from employer for petitioner with current income?	Go to O01	Go to G51
G 51	Proof of income for petitioner that shows weekly, monthly, or yearly earnings (pay stubs, Social Security benefits statements, pension/retirement disbursement statements)?	Go to O01	Go to G52 RFE (G51)
G 52	24 of sponsor's I-864 and names the intending immigrant as the household member? Note: If box E is checked and I-864A is submitted listing someone other than the intending immigrant, review the I-864A first.	Go to G53	Go to G59
G 53	Is there another I-864 filed by a different sponsor?	Go to G54	Go to H01
G 54	Is the HHM the intending immigrant or is the address for the household member (Page 1, Part 1, item 3 of I-864A) and sponsor (Page 2, Part 4, item 13 of I-864) the same?	Go to G55	Go to G59
G 55	Is Page 1, Part 1, item 8, block "a" of I-864A marked OR is box E checked on Page 4, Section 24 of sponsor's I-864 and names the intending immigrant as the household member?	Go to G56	Go to G57
G 56	Evidence of HHM/Intending Immigrant's employment authorization (unexpired EAD; Unexpired I-94 with E1, E2, E3, H1B, H2A, H2B, H3, I, J1, L1, O1A, O1B, O2, P1A, P1B, P2, P3, Q1, R1, TN status)?	Go to G57	Go to G59
G 57	Is a copy of HHM's Federal income tax return or IRS-issued transcripts for most recent tax year (as of date I-864A signed or date I-864 signed for HHM without I-864A) in the file?	Go to G58	Go to G59
G 58	\$ _____) and household size (Page 3, Part 5, Line 21, item h of I-864) (____). Using the I-864P in effect on the date Form I-485 was filed does the income for household size meet or exceed 125% of Poverty line?	Go to H01	Go to G59
G 59	Is there another I-864 filed by a different sponsor?	Go to I01	Go to G60
G 60	Is Page 5, Part 7, line 26, 27, or 28 completed (assets)?	ORB3 Stop Go to G61	RFE (G60)
G 61	title, amount borrowed; Car—more than one vehicle owned, title, value (appraisal minus amount owed); bank accounts (savings, checking—statements for past 12 months); stocks, bonds—evidence of ownership and value, date acquired)	Go to G62	Go to O01 RFE (G61)
G 62	income and poverty line for household size (spouse or child of USC—net value must be 3 times the difference; orphan Adopted abroad by USC—net value must be the difference; all others—net value must be 5 times the difference)?	Go to O01	Go to O01 RFE (G62)
	H. Petitioner's Household member ("HHM")	Yes	No

H 1	for person listed in item "e") and names the intending immigrant as the household member? (Note: If box E is checked and I864A is submitted listing someone other than the intending immigrant, review the I864A first.)	Go to H17	Go to H02
H 2	Is Form I-864A submitted either: • Concurrently or • After the receipt date of Form I-485 (Form I-485 receipt date is found on page 1 of Form I-485 on the barcode sticker)?	Go to H03	Go to O01 RFE (H02)
H 3	Is block 8a or 8b checked on Form I-864A?	Go to H17	Go to H04
H 4	Page 1 of I-864A submitted?	Go to H05	RFE
H 5	Page 2 of I-864A submitted?	Go to H06	RFE
H 6	Page 3 of I-864A submitted?	Go to H07	RFE
H 7	Is every I-864A signed on Page 3, Part 2, line 14 of I-864A?	Go to H08	RFE
H 8	Is every I-864A signed on Page 3, Part 3, line 16 of I-864A?	Go to H09	RFE
H 9	Is Page 1, Part 1, item 8, block "a" of I-864A marked?	Go to H17	Go to H10
H 10	Are Page 1, Part 1, item 8, Block "c" and "Spouse" on I-864A marked?	Go to H18	Go to H11
H 11	Is there a Mailing address on Page 1, Part 1, item 2 of I-864A?	Go to H13	Go to H12
H 12	Is there a Place of Residence Address on Page 1, Part 1, item 3 of I-864A (use for 13)?	Go to H13	Go to H14
H 13	Compare household member's address and sponsor's address (Page 2, Part 4, item 13 of I-864). Are the addresses the same?	Go to H18	Go to H14
H 14	Copy or transcript of petitioner's most recent tax return in file?	Go to H15	RFE
H 15	Is HHM (name on Page 1, Part 1, question 1 of I-864A) listed as a dependent on sponsor's (name on Page 3, Part 2, question 13 of I-864A/page 2, Part 4, question 11 of I-864) tax return?	Go to H18	Go to H47 RFE (H15)
H 16	Reserved for future use	Go to H18	Go to H18
H 17	Evidence of HHM/Intending Immigrant's employment authorization (unexpired EAD; Unexpired I-94 with E1, E2, E3, H1B, H2A, H2B, H3, I, J1, L1, O1A, O1B, O2, P1A, P1B, P2, P3, Q1, R1, TN status)?	Go to H18	Go to H18 RFE (H17)
H 18	Using most recent tax documents in file, is copy of HHM's Federal income tax return included?	Go to H19	Go to H20
H 19	Copy of HHM's Federal income tax return most recent tax year (as of date I-864A signed) (use date I-864 signed for HHMs without I-864A)?	Go to H26	RFE (H19)
H 20	Using most recent tax documents in file, is HHM's IRS-issued transcript included?	Go to H21	Go to H22
H 21	HHM's IRS-issued transcript for most recent tax year (as of date I-864A signed)	Go to H35	RFE (H21)
H 22	for Automatic Extension of Time to File US Individual Income Tax Return included?	Go to H23	Go to H25
H 23	IRS Form 4868 Application for Automatic Extension of Time to File US Individual Income Tax Return in file and for most recent tax year?	Go to H24	RFE (H23)
H 24	I-864) or use the I-485 receipt date (page 1 of I-485 on barcode sticker) if no date by I-864 signature. Is the date Form I-864 signed (or the I-485 receipt date if the I-864 has no date by the signature) before 10/17 of the current year?	Go to H26	Go to O01 RFE(H24)
H 25	Letter explaining why no duty to file income tax returns for most recent tax year?	Go to H26	RFE (H25)
H 26	Are the HHM's tax schedule(s) submitted (Form 1040 Schedule C, Schedule B, Schedule C-EZ, Schedule D, Schedule E, Schedule F)?	Go to H27	Go to H28

H 27	HHM's tax schedules for the most recent tax year?	Go to H35	RFE
H 28	Using most recent tax documents in file, is HHM's W-2s included?	Go to H29	Go to H30
H 29	HHM's W-2s, included for the most recent tax year?	Go to H35	RFE
H 30	Using most recent tax documents in file, is HHM's 1099 included?	Go to H31	Go to H32
H 31	HHM's 1099 included for the most recent tax year?	Go to H35	RFE
H 32	Using most recent tax documents in file, is HHM's Form 4598 or Form 4852 included?	Go to H33	RFE (H32)
H 33	HHM's Form 4598 or Form 4852 included for the most recent tax year?	Go to H35	RFE
H 34	Reserved for future use	Go to H35	Go to H36
H 35	most recent tax year \$ _____) and household size (Page 3, Part 5, Line 21, item h of I-864) (____). If income does not qualify or is not available from the above documents use the income from the most recent federal tax return/transcripts. Using the I-864P in effect on the date Form I-485 was filed does the income for household size meet or exceed 125% of Poverty line?	Go to O01	Go to H37
H 36	Reserved for future use	Go to O01	Go to H37
H 37	HHM's tax documentations: On Form 1040, 1040CM or 390 o Is any non taxable income listed on lines 8b, 9b, 15a, 16a, 20a or a notation of Form 2555 or foreign income on line 21? On Form 1040A or 1040A-CM o Is any non taxable income listed on lines 8b, 9b, 11a, 12a or 14a?	ORB3 Stop Go to H38	Go to H42
H 38	HHM's tax documentations: On Form 1040, 1040CM or 390 o Is any non taxable income listed on lines 8b, 9b, 15a, 16a, 20a or a notation of Form 2555 or foreign income on line 21? On Form 1040A or 1040A-CM o Is any non taxable income listed on lines 8b, 9b, 11a, 12a or 14a?	Go to H39	Go to H42
H 39	included?	Go to H40	RFE
H 40	Are the HHM's 1099s or Form 2555 for the most recent tax year?	Go to H41	RFE
H 41	taxable income listed on Form 1099 or Form 2555 for the most recent tax year \$ _____) and household size (Page 3, Part 5, Line 21, item h of I-864)(____). Using the I-864P in effect on the date Form I-485 was filed does the income for household size meet or exceed 125% of Poverty line?	Go to 01	Go to H42
H 42	Did the HHM mark on Form I-864A, Part 1, Page 2, Section 9, Block B (self employed) or a notation of self employed?	Go to H47	Go to H43
H 43	(use current income reported on page 4, Part 6, question 24, item b for HHM's without I-864A) (\$ ____). Does HHM's current income on Page 2, Part 1, question 10 of I-864A meet or exceed 125% of the Poverty Guideline?	Go to H45	Go to H44
H 44	Find the household income (Page 4, Part 6, question 24, item "c" of I-864) (\$ _____) and household size (Page 3, Part 5, Line 21, item h of I-864) (____). Using the I-864P in effect the date Form I-485 was filed, does the income for household size meet or exceed 125% of Poverty line?	Go to H45	Go to H47

H 45	Letter from employer for household member with current income?	Go to O01	Go to H46
H 46	Proof of income for household member that shows weekly, monthly, or yearly earnings (pay stubs, Social Security benefits statements, pension/retirement disbursement statements)?	Go to O01	Go to H47 RFE (H46)
H 47	Is there another I-864 filed by a different sponsor?	Go to H48	Go to H49
H 48	Joint sponsor I-864 already reviewed?	Go to O01	Go to I01
H 49	Is Page 2, Part 2, item 12 of I-864A filled out (assets) or Page 5, Part 7 Line 29 of I-864 filled out (assets)?	ORB3 STOP	RFE (H49)
H 50	Evidence of assets submitted (house—appraisal minus amount owed, title, amount borrowed; Car—more than one vehicle owned, title, value (appraisal minus amount owed); bank accounts (savings, checking—statements for past 12 months); stocks, bonds—evidence of ownership and value, date acquired)	Go to H51	Go to O01 RFE (H50)
H 51	income and poverty line For household size (spouse or child of USC—net value must be 3 times the difference; orphan Adopted abroad by USC—net value must be the difference; all others—net value must be 5 times the difference)?	Go to O01	Go to O01 RFE (H51)
	I. Joint Sponsor's I-864	Yes	No
I 1	I-864 submitted with other than petitioner's name in page 2, Part 4 of I-864 (a joint sponsor)?	Go to I02	Go to O01 RFE (I01)
I 2	Is Form I-864 submitted either: • Concurrently or • After the receipt date of Form I-485 (Form I-485 receipt date is found on page 1 of Form I-485 on the barcode sticker)?	Go to I03	Go to O01 RFE (I02)
I 3	Page 1 of I-864 submitted?	Go to I04	RFE (I03)
I 4	Page 2 of I-864 submitted?	Go to I05	RFE (I04)
I 5	Page 3 of I-864 submitted?	Go to I06	RFE (I05)
I 6	Page 4 of I-864 submitted?	Go to I07	RFE (I06)
I 7	Page 5 of I-864 submitted?	Go to I08	RFE (I07)
I 8	Page 8 of I-864 submitted?	Go to I09	RFE (I08)
I 9	Form I-864 for joint sponsor signed (Page 8, Part 8, line 31 of I-864)?	Go to I10	RFE (I09)
I 10	Does page 8, Part 8, line 31 of I-864 contain a date in the date line?	Go to I11	Go to I12
I 11	Is date on page 8, part 8, line 31 of I-864 one year or less before the I-485 receipt date (I-485 receipt date is found on page 1 of I-485 on the barcode sticker)? OR any time after the I-485 was filed?	Go to I12	Go to O01 RFE (I11)
I 12	Using most recent tax documents in file, is copy of Joint sponsor's Federal income tax return included?	Go to I13	Go to I14
I 13	Is Joint Sponsor's Federal income tax return for most recent tax year as of date I-864 signed included?	Go to I21	Go to I14 RFE (I13)
I 14	Using most recent tax documents in file, is Joint Sponsor's IRS-issued transcript included?	Go to I15	Go to I16
I 15	Copy of joint Sponsor's IRS-issued transcript for most recent tax year (as of date I-864 signed) included?	Go to I29	Go to I16 RFE (I15)
I 16	Using most recent tax documents in file, is IRS Form 4868 Application for Automatic Extension of Time to File US Individual Tax Return in File?	Go to I17	Go to I19

I 17	IRS Form 4868 Application for Automatic Extension of Time to File US Individual Tax Return in file and for most recent tax year?	Go to I18	Go to I21 RFE (I17)
I 18	I-864) or use the I-485 receipt date (page 1 of I-485 on barcode sticker) if no date by I-864 signature. Is the Date Form I-864 signed (or the I-485 receipt date if the I-864 has no date by the signature) before 10/17 of the current year?	Go to I21	Go to O01 RFE (I18)
I 19	Letter explaining why no duty to file income tax returns for most recent tax year?	Go to I29	Go to I20
I 20	Did the joint sponsor mark Page 3, Part 6, question 22, block "d" or a notation of unemployed?	Go to I29	Go to I21 RFE (I20)
I 21	Schedule C, Schedule B, Schedule C-EZ, Schedule D, Schedule E, Schedule F)?	Go to I22	Go to I23
I 22	Joint Sponsor's tax schedules for the most recent tax year?	Go to I29	RFE (I22)
I 23	included?	Go to I24	Go to I25
I 24	Joint Sponsor's W-2 for the most recent tax year?	Go to I29	RFE (I24)
I 25	included?	Go to I26	Go to I27
I 26	Joint Sponsor's 1099 for the most recent tax year?	Go to I29	RFE (I26)
I 27	Using most recent tax documents in file, is Joint Sponsor's Form 4598 or Form 4852 included?	Go to I28	Go to I29 RFE (I27)
I 28	Joint Sponsor's Form 4598 or Form 4852 for the most recent tax year?	Go to I29	RFE (I28)
I 29	Proof of US citizenship, Puerto Rico Birth Certificate (certified July 1, 2010 or later), US national (Place of birth American Samoa, Swains Island), or LPR status for person listed Page 2, Part 4, line 11?	Go to I30	Go to I30 RFE (I29)
I 30	Page 3, Part 5, line 21, item h of I-864 "2" or more?	Go to I32	RFE (I30)
I 31	Reserved for future use	Go to I32	Go to I33
I 32	Find joint sponsor's income from W2's, 1099's, Form 4598's or Form 4852's for most recent tax year \$_____ and household size (Page 3, Part 5, Line 21, item h of I-864) (____). If income does not qualify or is not available from the above documents use the income from the most recent federal tax return/transcripts. Using the I-864P in effect on the date Form I-485 was filed does the income for household size meet or exceed 125% of Poverty line?	Go to O01	Go to I34
I 33	Reserved for future use	Go to O01	Go to I34
I 34	Joint Sponsor's tax documentations: On Form 1040, 1040CM or 390 o Is any non taxable income listed on lines 8b, 9b, 15a, 16a, 20a or a notation of Form 2555 or foreign income on line 21? On Form 1040A or 1040A-CM o Is any non taxable income listed on lines 8b, 9b, 11a, 12a or 14a?	ORB3 Stop Go to I35	Go to I39
I 35	Joint Sponsor's tax documentations: On Form 1040, 1040CM or 390 o Is any non taxable income listed on lines 8b, 9b, 15a, 16a, 20a or a notation of Form 2555 or foreign income on line 21? On Form 1040A or 1040A-CM • Is any non taxable income listed on lines 8b, 9b, 11a, 12a or 14a?	Go to I36	Go to I39

I 36	Are the joint sponsor's 1099s or Form 2555 for the non taxable income included?	Go to I37	Go to I38 RFE (I36)
I 37	year?	Go to I38	RFE (I37)
I 38	non taxable income listed on Form 1099 or Form 2555 for the most recent tax year (\$ _____) and household size (Page 3, Part 5, Line 21, Item h of I-864) (____). Using the I-864P in effect the date Form I-485 was filed does the income for household size meet or exceed 125% of poverty line?	Go to O01	Go to I39
I 39	Page 3, Part 6, item 22 block b marked (self-employed) or a notation of self employed?	Go to I43	Go to I40
I 40	(\$ _____) and Household size (Page 3, Part 5, Line 21, Item h of I-864) (____). Using the I-864P in effect the date Form I-485 was filed does the income for household size meet or exceed 125% of poverty line?	Go to I41	Go to I43
I 41	Letter from employer for Joint Sponsor with current income?	Go to O01	Go to I42
I 42	Proof of income for joint sponsor that shows weekly, monthly, or yearly earnings (pay stubs, Social Security benefits statements, pension/retirement disbursement statements)?	Go to O01	Go to I43 RFE (I42)
I 43	24 of sponsor's I-864 and names the intending immigrant as the household member? (Note: If box E is checked and I864A is submitted listing someone other than the intending immigrant, review the I864A first.)	Go to J01	Go to I44
I 44	Is Page 5, Part 7, question 26, 27, or 28 completed (assets)?	ORB3 STOP	RFE (I44)
I 45	Evidence of assets submitted (house—appraisal minus amount owed, title, amount borrowed; Car—more than one vehicle owned, title, value (appraisal minus amount owed); bank accounts (savings, checking—statements for past 12 months); stocks, bonds—evidence of ownership and value, date acquired)	Go to I46	Go to O01 RFE (I45)
I 46	income and poverty line For household size (spouse or child of USC—net value must be 3 times the difference; orphan Adopted abroad by USC—net value must be the difference; all others—net value must be 5 times the difference)?	Go to O01	Go to O01 RFE (I46)
	J. J.S. Household member ("HHM")	Yes	No
J 1	for person listed in item "e") and names the intending immigrant as the household member? (Note: If box E is checked and I864A is submitted listing someone other than the intending immigrant, review the I864A first.)	Go to J17	Go to J02
J 2	Is Form I-864A submitted either: • Concurrently or • After the receipt date of Form I-485 (Form I-485 receipt date is found on page 1 of Form I-485 on the barcode sticker)?	Go to J03	Go to O01 RFE (J02)
J 3	Is block 8a or 8b checked on Form I-864A?	Go to J17	Go to J04
J 4	Page 1 of I-864A submitted?	Go to J05	RFE (J04)
J 5	Page 2 of I-864A submitted?	Go to J06	RFE (J05)
J 6	Page 3 of I-864A submitted?	Go to J07	RFE (J06)
J 7	Is every I-864A signed on Page 3, Part 2, line 14 of I-864A?	Go to J08	RFE (J07)
J 8	Is every I-864A signed on Page 3, Part 3, line 16 of I-864A?	Go to J09	RFE (J08)

J 9	Is Page 1, Part 1, item 8, block "a" of I-864A marked?	Go to J17	Go to J10
J 10	Are Page 1, Part 1, item 8, Block "c" and "Spouse" on I-864A marked?	Go to J18	Go to J11
J 11	Is there a Mailing address on Page 1, Part 1, item 2 of I-864A?	Go to J13	Go to J12
J 12	Is there a Place of Residence Address on Page 1, Part 1, item 3 of I-864A (use for 13)?	Go to J13	Go to J14
J 13	Compare household member's address and sponsor's address (Page 2, Part 4, item 13 of I-864). Are the addresses the same?	Go to J18	Go to J14
J 14	Copy or transcript of joint sponsor's most recent tax return in file?	Go to J15	RFE (J14)
J 15	Is HHM (name on Page 1, Part 1, question 1 of I-864A) listed as a dependent on sponsor's (name on Page 3, Part 2, question 13 of I-864A/page 2, Part 4, question 11 of I-864) tax return?	Go to J18	Go to J48 RFE (J15)
J 16	Reserved for future use	Go to J18	Go to J18
J 17	Evidence of HHM/Intending Immigrant's employment authorization (un-expired EAD; Unexpired I-94 with E1, E2, E3, H1B, H2A, H2B, H3, I, J1, L1, O1A, O1B, O2, P1A, P1B, P2, P3, Q1, R1, TN status)?	Go to J18	Go to J18 RFE (J17)
J 18	Using most recent tax documents in file, is copy of HHM's Federal income tax return included?	Go to J19	Go to J20
J 19	Copy of HHM's Federal income tax return most recent tax year (as of date I-864A signed) (use date I-864 signed for HHMs without I-864A)?	Go to J26	Go to O01 RFE (J19)
J 20	Using most recent tax documents in file, is HHM's IRS-issued transcript included?	Go to J21	Go to J22
J 21	HHM's IRS-issued transcript for most recent tax year (as of date I-864A signed)	Go to J35	Go to O01 RFE (J21)
J 22	for Automatic Extension of Time to File US Individual Income Tax Return included?	Go to J23	Go to J25
J 23	IRS Form 4868 Application for Automatic Extension of Time to File US Individual Income Tax Return in file and for most recent tax year?	Go to J24	Go to O01 RFE (J23)
J 24	I-864) or use the I-485 receipt date (page 1 of I-485 on barcode sticker) if no date by I-864 signature. Is the date Form I-864 signed (or the I-485 receipt date if the I-864 has no date by the signature) before 10/17 of the current year?	Go to J26	Go to O01RFE (J24)
J 25	Letter explaining why no duty to file income tax returns for most recent tax year?	Go to J26	Go to J26 RFE (J25)
J 26	Are the HHM's tax schedule(s) submitted (Form 1040 Schedule C, Schedule B, Schedule C-EZ, Schedule D, Schedule E, Schedule F)?	Go to J27	Go to J28
J 27	HHM's tax schedules for the most recent tax year?	Go to J35	RFE (J27)
J 28	Using most recent tax documents in file, is HHM's W-2s included?	Go to J29	Go to J30
J 29	HHM's W-2s, included for the most recent tax year?	Go to J35	RFE (J29)
J 30	Using most recent tax documents in file, is HHM's 1099 included?	Go to J31	Go to J32
J 31	HHM's 1099 included for the most recent tax year?	Go to J35	RFE (J31)
J 32	Using most recent tax documents in file, is HHM's Form 4598 or Form 4852 included?	Go to J33	Go to J35 RFE (J32)
J 33	HHM's Form 4598 or Form 4852 included for the most recent tax year?	Go to J35	RFE (J33)
J 34	Reserved for future use	Go to J35	Go to J36

J 35	for most recent tax year \$ _____) and household size (Page 3, Part 5, Line 21, item h of I-864) (____). If income does not qualify or is not available from the above documents use the income from the most recent federal tax return/transcripts. Using the I-864P in effect on the date Form I-485 was filed does the income for household size meet or exceed 125% of Poverty line?	Go to O01	Go to J37
J 36	Reserved for future use	Go to O01	Go to J37
J 37	HHM's tax documentations: On Form 1040, 1040CM or 390 o Is any non taxable income listed on lines 8b, 9b, 15a, 16a, 20a or a notation of Form 2555 or foreign income on line 21? On Form 1040A or 1040A-CM o Is any non taxable income listed on lines 8b, 9b, 11a, 12a or 14a?	ORB3 Stop Go to J38	Go to J43
J 38	HHM's tax documentations: On Form 1040, 1040CM or 390 o Is any non taxable income listed on lines 8b, 9b, 15a, 16a, 20a or a notation of Form 2555 or foreign income on line 21? On Form 1040A or 1040A-CM • Is any non taxable income listed on lines 8b, 9b, 11a, 12a or 14a?	Go to J39	Go to J43
J 39	included?	Go to J40	RFE (J39)
J 40	Are the HHM's 1099s or Form 2555 for the most recent tax year?	Go to J41	RFE (J40)
J 41	taxable income listed on Form 1099 or Form 2555 for the most recent tax year (\$ _____) and household size (Page 3, Part 5, Line 21, Item h of I-864) (____). Using the I-864P in effect the date Form I-485 was filed does the income for household size meet or exceed 125% of poverty line?	Go to O01	Go to J43
J 42	Reserved for future use	Go to J43	Go to J43
J 43	Did the HHM mark on Form I-864A, Part 1, Page 2, Section 9, Block B (self employed) or a notation of self employed?	Go to J48	Go to J44
J 44	(use current income reported on page 4, Part 6, question 24, item b for HHM's without I-864A)(\$ _____). Does HHM's current income on Page 2, Part 1, question 10 of I-864A meet or exceed 125% of the Poverty Guideline?	Go to J46	Go to J45
J 45	Find the household income (Page 4, Part 6, question 24, item "c" of I-864) (\$ _____) and household size (Page 3, Part 5, Line 21, item h of I-864) (____). Using the I-864P in effect the date Form I-485 was filed, does the income for household size meet or exceed 125% of Poverty line?	Go to J46	Go to J48
J 46	Letter from employer for household member with current income?	Go to O01	Go to J47
J 47	Proof of income for household member that shows weekly, monthly, or yearly earnings (pay stubs, Social Security benefits statements, pension/retirement disbursement statements)?	Go to O01	Go to J48 RFE (J47)
J 48	Is there three or more I-864 submitted with different sponsors?	ORB3 STOP Go to J49	Go to J52

J 49	Is there three or more I-864 submitted?	Go to J50	Go to J52
J 50	Is one I-864 submitted with a qualified total income? Using the I-864P in effect the date Form I-485 was filed, does the income for household size meet or exceed 125% of Poverty line?	Go to O01	Go to J51
J 51	Is Page 2, Part 2, item 12 of I-864A filled out (assets) or Page 5, Part 7 Line 29 of I-864 filled out (assets)?	Go to J53	Go to O01 RFE (J51)
J 52	Is Page 2, Part 2, item 12 of I-864A filled out (assets) or Page 5, Part 7 Line 29 of I-864 filled out (assets)?	ORB3 STOP Go to J53	Go to O01 RFE (J52)
J 53	Evidence of assets submitted (house—appraisal minus amount owed, title, amount borrowed; Car—more than one vehicle owned, title, value (appraisal minus amount owed); bank accounts (savings, checking—statements for past 12 months); stocks, bonds—evidence of ownership and value, date acquired)	Go to J54	Go to O01 RFE (J53)
J 54	income and poverty line For household size (spouse or child of USC—net value must be 3 times the difference; orphan Adopted abroad by USC—net value must be the difference; all others—net value must be 5 times the difference)?	Go to O01	Go to O01 RFE (J54)
	K. Substitute Sponsor's I-864	Yes	No
K 1	I-864 submitted with other than petitioner's name in page 2, Part 4 of I-864 (a substitute sponsor)?	ORB3 STOP	RFE (K01)
K 2	I-864 submitted with other than petitioner's name in page 2, Part 4 of I-864 (a substitute sponsor)?	Go to K03	RFE (K02)
K 3	Page 1 of I-864 submitted?	Go to K04	RFE
K 4	Page 2 of I-864 submitted?	Go to K05	RFE
K 5	Page 3 of I-864 submitted?	Go to K06	RFE
K 6	Page 4 of I-864 submitted?	Go to K07	RFE
K 7	Page 5 of I-864 submitted?	Go to K08	RFE
K 8	Page 8 of I-864 submitted?	Go to K09	RFE
K 9	864)?	Go to K10	RFE
K 10	Does page 8, Part 8, line 31 of I-864 contain a date in the date line?	Go to K11	K12
K 11	Is date on page 8, part 8, line 31 of I-864 one year or less before the I-485 receipt date (I-485 receipt date is found on page 1 of I-485 on the barcode sticker)? OR any time after the I-485 was filed?	Go to K12	Go to O01 RFE (K11)
K 12	Using most recent tax documents in file, is copy of substitute sponsor's Federal income tax return included?	Go to K13	Go to K14
K 13	Is substitute Sponsor's Federal income tax return for most recent tax year as of date I-864 signed?	Go to K21	RFE (K13)
K 14	Using most recent tax documents in file, is substitute Sponsor's IRS-issued transcript included?	Go to K15	Go to K16
K 15	Copy of substitute Sponsor's IRS-issued transcript for most recent tax year (as of date I-864 signed) included?	Go to K29	RFE (K15)
K 16	Using most recent tax documents in file, is IRS Form 4868 Application for Automatic Extension of Time to File US Individual Tax Return in File?	Go to K17	Go to K19

K 17	IRS Form 4868 Application for Automatic Extension of Time to File US Individual Tax Return in file and for most recent tax year?	Go to K18	RFE (K17)
K 18	I-864) or use the I-485 receipt date (page 1 of I-485 on barcode sticker) if no date by I-864 signature. Is the Date Form I-864 signed (or the I-485 receipt date if the I-864 has no date by the signature) before 10/17 of the current year?	Go to K21	Go to O01 RFE (K18)
K 19	Letter explaining why no duty to file income tax returns for most recent tax year?	Go to K29	Go to K20
K 20	Did substitute sponsor mark Page 3, Part 6, question 22, block "d" or a notation of unemployed?	Go to K29	RFE (K20)
K 21	Schedule C, Schedule B, Schedule C-EZ, Schedule D, Schedule E, Schedule F)?	Go to K22	Go to K23
K 22	Substitute Sponsor's tax schedules for the most recent tax year?	Go to K29	RFE
K 23	included?	Go to K24	Go to K25
K 24	Substitute Sponsor's W-2 for the most recent tax year?	Go to K29	RFE
K 25	included?	Go to K26	Go to K27
K 26	Substitute Sponsor's 1099 for the most recent tax year?	Go to K29	RFE
K 27	Using most recent tax documents in file, is Substitute Sponsor's Form 4598 or Form 4852 included?	Go to K28	RFE (K27)
K 28	year?	Go to K29	RFE
K 29	Proof of US citizenship, US National or LPR status for person listed Page 2, Part 4, line 11?	Go to K30	RFE (K29)
K 30	Page 3, Part 5, line 21, item h of i-864 "2" or more?	Go to K32	RFE(K30)
K 31	Reserved for future use	Go to K32	Go to K33
K 32	Find substitute sponsor's income from W2's, 1099's, Form 4598's or Form 4852's for most recent tax year \$_____ and household size (Page 3, Part 5, Line 21, item h of I-864) (____). If income does not qualify or is not available from the above documents use the income from the most recent federal tax return/transcripts. Using the I-864P in effect on the date Form I-485 was filed does the income for household size meet or exceed 125% of Poverty line?	Go to O01	Go to K33
K 33	Reserved for future use	Go to O01	Go to K34
K 34	Substitute Sponsor's tax documentations: On Form 1040, 1040CM or 390 o Is any non taxable income listed on lines 8b, 9b, 15a, 16a, 20a or a notation of Form 2555 or foreign income on line 21? On Form 1040A or 1040A-CM o Is any non taxable income listed on lines 8b, 9b, 11a, 12a or 14a?	Go to K36	Go to K39
K 35	Reserved for future use	Go to K36	Go to K39
K 36	Are the substitute sponsor's 1099s or Form 2555 for the non taxable income included?	Go to K37	RFE (K36)
K 37	tax year?	Go to K38	RFE
K 38	the non taxable income listed on Form 1099 or Form 2555 for the most recent tax year (\$_____) and household size (Page 3, Part 5, Line 21, Item h of I-864) (____). Using the I-864P in effect the date Form I-485 was filed does the income for household size meet or exceed 125% of poverty line?	Go to O01	Go to K39

K 39	Page 3, Part 6, item 22 block b marked (self-employed) or a notation of self employed?	Go to K43	Go to K40
K 40	864) (\$ _____) and Household size (Page 3, Part 5, Line 21, Item h of I-864) (____). Using the I-864P in effect the date Form I-485 was filed does the income for household size meet or exceed 125% of poverty line?	Go to K41	Go to K43
K 41	Letter from employer for substitute sponsor with current income?	Go to O01	Go to K42
K 42	Proof of income for substitute sponsor that shows weekly, monthly, or yearly earnings (pay stubs, Social Security benefits statements, pension/retirement disbursement statements)?	Go to O01	Go to K43 RFE (K42)
K 43	24 of sponsor's I-864 and names the intending immigrant as the household member?	Go to L01	Go to K44
K 44	Another I-864 in file?	Go to I01	Go to K45
K 45	Is Page 5, Part 7, question 26, 27, or 28 completed (assets)?	Go to K46	RFE
K 46	Evidence of assets submitted (house—appraisal minus amount owed, title, amount borrowed; Car—more than one vehicle owned, title, value (appraisal minus amount owed); bank accounts (savings, checking—statements for past 12 months); stocks, bonds—evidence of ownership and value, date acquired)	Go to K47	Go to O01 RFE (K46)
K 47	income and poverty line For household size (spouse or child of USC—net value must be 3 times the difference; orphan Adopted abroad by USC—net value must be the difference; all others—net value must be 5 times the difference)?	Go to O01	Go to O01 RFE (K47)
	L. S.S Household member ("HHM")	Yes	No
L 1	Is block "e" marked Page 4, Part 6, line 24 of I-864 (I-864A not required for person listed in item "e") and names the intending immigrant as the household member?	Go to L17	Go to L02
L 2	Is Form I-864A submitted either: • Concurrently or • After the receipt date of Form I-485 (Form I-485 receipt date is found on page 1 of Form I-485 on the barcode sticker)?	Go to L03	Go to O01 RFE (L02)
L 3	Is block 8a or 8b checked on Form I-864A?	Go to L17	Go to L04
L 4	Page 1 of I-864A submitted?	Go to L05	RFE (L04)
L 5	Page 2 of I-864A submitted?	Go to L06	RFE (L05)
L 6	Page 3 of I-864A submitted?	Go to L07	RFE (L06)
L 7	Is every I-864A signed on Page 3, Part 2, line 14 of I-864A?	Go to L08	RFE (L07)
L 8	Is every I-864A signed on Page 3, Part 3, line 16 of I-864A?	Go to L09	RFE (L08)
L 9	Is Page 1, Part 1, item 8, block "a" of I-864A marked?	Go to L17	Go to L10
L 10	Are Page 1, Part 1, item 8, Block "c" and "Spouse" on I-864A marked?	Go to L18	Go to L11
L 11	Is there a Mailing address on Page 1, Part 1, item 2 of I-864A?	Go to L13	Go to L12
L 12	Is there a Place of Residence Address on Page 1, Part 1, item 3 of I-864A (use for 13)?	Go to L13	Go to L14
L 13	address (Page 2, Part 4, item 13 of I-864). Are the addresses the same?	Go to L18	Go to L14
L 14	Copy or transcript of substitute sponsor's most recent tax return in file?	Go to L15	RFE (L14)
L 15	Is HHM (name on Page 1, Part 1, question 1 of I-864A) listed as a dependent on substitute sponsor's (name on Page 3, Part 2, question 13 of I-864A/page 2, Part 4, question 11 of I-864) tax return?	Go to L18	Go to L47 RFE (L15)

L 16	Reserved for future use	Go to L18	Go to L18
L 17	Evidence of HHM/Intending Immigrant's employment authorization (un-expired EAD; Unexpired I-94 with E1, E2, E3, H1B, H2A, H2B, H3, I, J1, L1, O1A, O1B, O2, P1A, P1B, P2, P3, Q1, R1, TN status)?	Go to L18	Go to L18 RFE (L17)
L 18	Using most recent tax documents in file, is copy of HHM's Federal income tax return included?	Go to L19	Go to L20
L 19	Copy of HHM's Federal income tax return most recent tax year (as of date I-864A signed) (use date I-864 signed for HHMs without I-864A)?	Go to L26	Go to O01 RFE (L19)
L 20	Using most recent tax documents in file, is HHM's IRS-issued transcript included?	Go to L21	Go to L22
L 21	HHM's IRS-issued transcript for most recent tax year (as of date I-864A signed)	Go to L34	Go to O01 RFE (L21)
L 22	for Automatic Extension of Time to File US Individual Income Tax Return included?	Go to L23	Go to L25
L 23	IRS Form 4868 Application for Automatic Extension of Time to File US Individual Income Tax Return in file and for most recent tax year?	Go to L24	Go to O01 RFE (L23)
L 24	I-864) or use the I-485 receipt date (page 1 of I-485 on barcode sticker) if no date by I-864 signature. Is the date Form I-864 signed (or the I-485 receipt date if the I-864 has no date by the signature) before 10/17 of the current year?	Go to L26	Go to O01RFE (L24)
L 25	Letter explaining why no duty to file income tax returns for most recent tax year?	Go to L26	Go to L26 RFE (L25)
L 26	Are the HHM's tax schedule(s) submitted (Form 1040 Schedule C, Schedule B, Schedule C-EZ, Schedule D, Schedule E, Schedule F)?	Go to L27	Go to L28
L 27	HHM's tax schedules for the most recent tax year?	Go to L35	RFE (L27)
L 28	Using most recent tax documents in file, is HHM's W-2s included?	Go to L29	Go to L30
L 29	HHM's W-2s, included for the most recent tax year?	Go to L35	RFE (L29)
L 30	Using most recent tax documents in file, is HHM's 1099 included?	Go to L31	Go to L32
L 31	HHM's 1099 included for the most recent tax year?	Go to L35	RFE (L31)
L 32	Using most recent tax documents in file, is HHM's Form 4598 or Form 4852 included?	Go to L33	Go to L35 RFE (L32)
L 33	HHM's Form 4598 or Form 4852 included for the most recent tax year?	Go to L35	RFE (L33)
L 34	Reserved for future use	Go to L35	Go to L36
L 35	for most recent tax year \$ _____) and household size (Page 3, Part 5, Line 21, item h of I-864) (____). If income does not qualify or is not available from the above documents use the income from the most recent federal tax return/transcripts. Using the I-864P in effect on the date Form I-485 was filed does the income for household size meet or exceed 125% of Poverty line?	Go to O01	Go to L37
L 36	Reserved for future use	Go to O01	Go to L37
L 37	HHM's tax documentations: On Form 1040, 1040CM or 390 o Is any non taxable income listed on lines 8b, 9b, 15a, 16a, 20a or a notation of Form 2555 or foreign income on line 21? On Form 1040A or 1040A-CM o Is any non taxable income listed on lines 8b, 9b, 11a, 12a or 14a?	Go to L39	Go to L42
L 38	Reserved for future use	Go to L39	Go to L42
L 39	included?	Go to L40	RFE (L39)

L 40	Are the HHM's 1099s or Form 2555 for the most recent tax year?	Go to L41	RFE (L40)
L 41	taxable income listed on Form 1099 and Form 2555 for the most recent tax year (\$ _____) and household size (Page 3, Part 5, Line 21, Item h of I-864) (____). Using the I-864P in effect the date Form I-485 was filed does the income for household size meet or exceed 125% of poverty line?	Go to O01	Go to L42
L 42	Did the HHM mark on Form I-864A, Part 1, Page 2, Section 9, Block B (self employed)?	Go to L47	Go to L43
L 43	(use current income reported on page 4, Part 6, question 24, item b for HHM's without I-864A)(\$ _____). Does HHM's current income on Page 2, Part 1, question 10 of I-864A meet or exceed 125% of the Poverty Guideline?	Go to L45	Go to L44
L 44	Find the household income (Page 4, Part 6, question 24, item "c" of I-864) (\$ _____) and household size (Page 3, Part 5, Line 21, item h of I-864) (____). Using the I-864P in effect the date Form I-485 was filed, does the income for household size meet or exceed 125% of Poverty line?	Go to L45	Go to L47
L 45	Letter from employer for household member with current income?	Go to O01	Go to L46
L 46	Proof of income for household member that shows weekly, monthly, or yearly earnings (pay stubs, Social Security benefits statements, pension/retirement disbursement statements)?	Go to O01	Go to L447 RFE (L46)
L 47	Is there another I-864 filed by a different sponsor?	Go to L48	Go to L49
L 48	Joint sponsor I-864 already reviewed?	Go to O01	Go to I01
L 49	Is Page 2, Part 2, item 12 of I-864A filled out (assets) or Page 5, Part 7 Line 29 of I-864 filled out (assets)?	Go to L50	Go to O01 RFE (L49)
L 50	Evidence of assets submitted (house—appraisal minus amount owed, title, amount borrowed; Car—more than one vehicle owned, title, value (appraisal minus amount owed); bank accounts (savings, checking—statements for past 12 months); stocks, bonds—evidence of ownership and value, date acquired)	Go to L51	Go to O01 RFE (L50)
L 51	income and poverty line For household size (spouse or child of USC—net value must be 3 times the difference; orphan Adopted abroad by USC—net value must be the difference; all others—net value must be 5 times the difference)?	Go to O01	Go to O01 RFE (L51)
	Act	Yes	No
M 1	Page 1 of I-864EZ submitted?	Go to M02	RFE (M01)
M 2	Page 2 of I-864EZ submitted?	Go to M03	RFE (M02)
M 3	Page 3 of I-864EZ submitted?	Go to M04	RFE (M03)
M 4	All blocks on Page 1, Part 1 of I-864EZ marked "Yes"?	Go to M06	Go to M05
M 5	I-864 in file?	Go to F02	O01RFE
M 6	I-797 Notice of Action for I-130 or I-129f or I-171 Notice from Consular Office for I-130 OR I-129F?	Go to M08	Go to M07

M 7	Is there: • a concurrently filed Form I-130 in the file or • an approved Form I-130 • or approved Form I-129f in the file? (Check other A or T files)	Goto M08	Goto O01
M 8	I-864EZ lists petitioner's name on Page 1, Part 3, line 7 of I-864EZ (petitioner listed On I-130 or I-129f petition or on I-797 or I-171 notice)?	Go to M09	RFE (M08)
M 9	Any other family members' I-485s riding with principal beneficiary?	Go to M12	Go to M10
M 10	applying With I-130/I-129f beneficiary ("Applying with you?" marked "Yes")?	Go to M11	Go to M14
M 11	Only one name listed on Page 2, Part 3, Section B of Form I-485?	Go to M12	Go to M13
M 12	Is name listed on Page 2, Part 3, Section B of Form I-485 same as I-130/I-129F Petitioner?	Go to M14	Go to M13
M 13	Other family members have their own I-130?	Go to M14	RFE (M13)
M 14	Using most recent tax documents in file, is Copy of petitioner's Federal income tax return included?	Go to M15	Go to M16
M 15	Copy of petitioner's Federal income tax return for most recent tax year (as of date I-864EZ signed) included?	Go to M22	RFE (M15)
M 16	Using most recent tax documents in file, is Petitioner's IRS-issued transcript included?	Go to M17	Go to M18
M 17	Petitioner's IRS-issued transcript for most recent tax year (as of date I-864EZ signed) Included?	Go to M24	RFE (M17)
M 18	Using most recent tax documents in file, is IRS Form 4868 Application for Automatic Extension of Time to File US Individual Income Tax Return in file included?	Go to M19	Go to M21
M 19	IRS Form 4868, Application for Automatic Extension of Time to File US Individual Income Tax Return in file and for most recent tax year?	Go to M20	RFE (M19)
M 20	Find the date Form I-864EZ was signed (page 5, Part 6, line 21, "Date" on I-864EZ) or Use the I-485 receipt date (page 1 of I-485 on barcode sticker) if no date by I-864EZ signature. Is the date Date Form I-864EZ signed (or the I-485 receipt date if the I-864EZ has no date by the signature) before 10/17 of the current year?	Go to M24	Go to O01 RFE (M20)
M 21	Letter explaining why no duty to file income tax returns for most recent tax year?	Go to M24	RFE (M21)
M 22	Petitioner/sponsor W-2s or 1099R included?	Go to M23	RFE (M22)
M 23	Petitioner/sponsor W-2s or 1099R included for the most recent tax year?	Go to M24	RFE (M23)
M 24	Page 5 of I-864EZ submitted?	Go to M25	RFE (M24)
M 25	Form I-864EZ for petitioner signed (Page 5, Part 6, line 21 of I-864EZ)?	Go to M26	RFE(M25)
M 26	Is the date on page 5, part 6, line 21 of I864EZ one year or less before the I-485 receipt date (I-485 receipt date is found on page 1 of I-485 on the barcode sticker)? OR any time after the I-485 was filed?	Go to M27	Go to O01 RFE (M26)
M 27	Page 2, Part 4, line 16, item f of I-864EZ "2" or more?	Go to M29	RFE (M27)
M 28	Reserved for future use	Go to M29	Go to M30

M 29	4852's for most recent tax year \$ _____) and household size (Page 3, Part 5, Line 21, item h of I-864) (____). If income does not qualify or is not available from the above documents use the income from the most recent federal tax return/transcripts. Using the I-864P in effect on the date Form I-485 was filed does the income for household size meet or exceed 125% of Poverty line?	Go to O01	Go to M31
M 30	Reserved for future use	Go to O01	Go to M31
M 31	Petitioner/Sponsor's tax documentations: On Form 1040, 1040CM or 390 o Is any non taxable income listed on lines 8b, 9b, 15a, 16a, 20a or a notation of Form 2555 or foreign income on line 21? On Form 1040A or 1040A-CM o Is any non taxable income listed on lines 8b, 9b, 11a, 12a or 14a?	ORB3 Stop Go to M32	Go to M37
M 32	Petitioner/Sponsor's tax documentations: On Form 1040, 1040CM or 390 o Is any non taxable income listed on lines 8b, 9b, 15a, 16a, 20a or a notation of Form 2555 or foreign income on line 21? On Form 1040A or 1040A-CM o Is any non taxable income listed on lines 8b, 9b, 11a, 12a or 14a?	Go to M33	Go to M37
M 33	Are the petitioner/sponsor's 1099s or Form 2555 for the non taxable income included?	Go to M34	RFE (M33)
M 34	Are the petitioner/sponsor's 1099s or Form 2555 for the most recent tax year?	Go to M35	RFE (M34)
M 35	taxable income listed on Form 1099 or Form 2555 for the most recent tax year \$ _____) and household size (Page 3, Part 5, Line 21, item h of I-864)(____). Using the I-864P in effect on the date Form I-485 was filed does the income for household size meet or exceed 125% of Poverty line?	Go to O01	Go to M37
M 36	Reserved for future use	Go to M37	Go to M37
M 37	(\$ _____) and Household size (Page2, Part 3, Line 16, Item f of I-864EZ) (____). Using the I-864P in effect the date Form I-485 was filed, does the income for household size meet or exceed 125% of poverty line?	Go to O01	Go to M38
M 38	864EZ)(\$ _____) and Household size (Page 2, Part 4, Line 16, Item f of I-864EZ) (____). Using the I-864P in effect the date Form I-485 was filed, does the income for household size meet or exceeds 125% of poverty line?	Go to M39	Go to M41
M 39	Letter from employer for petitioner with current income?	Go to O01	Go to M40
M 40	Proof of income for petitioner that shows weekly, monthly, or yearly earnings (pay stubs, Social Security benefits statements, pension/retirement disbursement statements)?	Go to O01	Go to M41 RFE (M40)
M 41	Page 2, Part 3, line 15 of I-864EZ marked "Yes" and petitioning for spouse or child?	ORB3 STOP Go to M42	Go to O01 RFE (M41)

M	42	Proof of active duty military status of petitioner (DD Form 2ACT, military orders for active duty)?	Use Military on I-864P & Go to M43	Go to M43 RFE (M43)
M	43	(\$ _____) and household size (Page 2, Part 4, Line 16, item f of I-864EZ) (____). Using the I-864P in effect the date Form I-485 was filed, does the income for household size meet or exceed 100% of Poverty line?	Go to O01	Go to M45
M	44	Reserved for future use	Go to M45	Go to M45
M	45	Find petitioner's income from line 1 on W-2 (\$ _____) and Household size (Page2, Part 3, Line 16, Item f of I-864EZ) (____). Using the I-864P in effect the date Form I-485 was filed, does the income for household size meet or exceed 100% of poverty line?	Go to O01	Go to M46
M	46	864EZ)(\$ _____) and Household size (Page 2, Part 4, Line 16, Item f of I-864EZ) (____). Using the I-864P in effect the date Form I-485 was filed, does the income for household size meet or exceeds 100% of poverty line?	Go to M47	Go to O01 RFE (M46)
M	47	Letter from employer for petitioner with current income?	Go to O01	Go to M48
M	48	Proof of income for petitioner that shows weekly, monthly, or yearly earnings (pay stubs, Social Security benefits statements, pension/retirement disbursement statements)?	Go to O01	Go to O01 RFE (M48)
		Part 2.	Yes	No
N	1	Part 2, first block marked?	Go to N05	Go to N02
N	2	Part 2, second block marked?	Go to N13	Go to N03
N	3	Part 2, third block marked?	Go to N20	Go to N04
N	4	Part 2, fourth block marked?	Go to N25	RFE
N	5	SSA earnings statement submitted?	Go to N06	RFE
N	6	SSA earnings statement covers at least 10 years of work history?	Go to N07	RFE
N	7	Is SSA earnings statement for same name in Part 1, line 1 of I-864W?	Go to N26	Go to N08
N	8	Is there evidence of the relationship between the immigrant/applicant (Part 1, line 1 of I-864W) and Name on SSA earnings statement (marriage certificate, birth certificate)?	Go to N09	Go to N09 RFE (N08)
N	9	Is immigrant/applicant using spouse's SSA earnings statement?	Go to N10	Go to N11
N	10	Compare date of marriage/date ceremony performed with SSA earnings statement. Were immigrant/applicant and person on SSA married for 10 years listed on SSA earnings statement?	Go to N26	Go to N26 RFE (N10)
N	11	Is immigrant/applicant using parent's SSA earnings statement?	Go to N12	RFE
N	12	1, Part 1, "Date of Birth" on I-485; date of birth as found on applicant's birth certificate or passport) with SSA earnings statement. Was immigrant/applicant under 18 for 10 years listed on parent's SSA earnings statement?	Go to N26	Go to N26 RFE (N12)
N	13	Immigrant/applicant under 18 years of age (DOB Part 1, line 3 of I-864W; Page 1, Part 1, "Date of Birth" on I-485; date of birth as found on I-485 applicant's birth certificate or Passport)?	Go to N14	Go to N26 RFE (N13)
N	14	parent?	Go to N15	Go to N17
N	15	Proof of US Citizenship of one parent listed on birth cert?	Go to N16	RFE

N 16	USC parent (see address of Petitioner on Form I-130 or correspondence in file)?	Go to N26	RFE (N16)
N 17	Final adoption decree in file with immigrant/applicant (Part 1, line of I-864W) as adopted child?	Go to N18	RFE (N17)
N 18	decree?	Go to N19	RFE
N 19	1, "Date of Last Arrival" on Form I-485; or date of arrival on US immigration stamp in passport with date adoption became final on final adoption decree. Was the adoption final prior to immigrant's/ applicant's date of arrival to the US?	Go to N26	Go to N26 RFE (N19)
N 20	Form I-360 in file with page 1, Part 2, block b marked?	Go to N24	Go to N21
N 21	I-797 Notice of Action for Form I-360 as widow/widower in file?	ORB2 STOP	STOP
N 22	I-797 Notice of Action for Form I-360 as widow/widower in file?	Go to N26	Go to N23
N 23	in file?	Go to N24	RFE
N 24	Is there a death certificate in file for petitioner listed on I-130 notice/USC listed in Part 7, item A of I-360?	Go to N26	Go to N26 RFE(N24)
N 25	Is there an I-797 Notice of Action for a pending or approved I-360 for battered spouse or child?	Go to N26	RFE (N25)
N 26	Form I-864W signed (Part 3 of I-864W)?	Go to O01	RFE



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I-864, Affidavit of Support

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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.



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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.



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.



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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.



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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.



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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.



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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.



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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.



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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.



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:

Sponsor's Household Size	100% of HHS Poverty Guidelines*	125% of HHS Poverty Guidelines*
--------------------------	---------------------------------	---------------------------------

For sponsors on active duty in the U.S. Armed Forces who are petitioning for their spouse or child

For all other sponsors

2	\$18,920	\$23,650
3	\$23,870	\$29,837
4	\$28,820	\$36,025
5	\$33,770	\$42,212
6	\$38,720	\$48,400
7	\$43,670	\$54,587
8	\$48,620	\$60,775

Add \$4,950 for each additional person.

Add \$6,187 for each additional person.

For Hawaii:

Sponsor's Household Size	100% of HHS Poverty Guidelines*	125% of HHS Poverty Guidelines*
--------------------------	---------------------------------	---------------------------------

For sponsors on active duty in the U.S. Armed Forces who are petitioning for their spouse or child

For all other sponsors

2	\$17,410	\$21,762
3	\$21,960	\$27,450
4	\$26,510	\$33,137
5	\$31,060	\$38,825
6	\$35,610	\$44,512
7	\$40,160	\$50,200
8	\$44,710	\$55,887

Add \$4,550 for each additional person.

Add \$5,687 for each additional person.



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.

<http://www.ssa.gov/oact/COLA/QC.html>

- 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

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Office of the Chief Actuary



Quarter of Coverage

Amount of earnings needed to earn one quarter of coverage

Year	Earnings	Year	Earnings	Year	Earnings
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.



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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?



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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.



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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)



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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 (Include Apartment Number)	
	City	State or Province
	Country	Zip/Postal Code
13. Place of Residence <i>(if different from mailing address)</i>	Street Number and Name (Include Apartment Number)	
	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		



Reviewing Form I-864 (cont..)

Part 5. Sponsor's Household Size:

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

Part 5. Sponsor's household size.

21. Your Household Size - DO NOT COUNT ANYONE TWICE

Persons you are sponsoring in this affidavit:

- a. Enter the number you entered on line 10.

Persons NOT sponsored in this affidavit:

- b. Yourself.

- c. If you are currently married, enter "1" for your spouse.

- d. If you have dependent children, enter the number here.

- e. If you have any other dependents, enter the number here.

- 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.

- g. OPTIONAL: If you have siblings, parents, or adult children with the same principal residence who are combining their income with yours by submitting Form I-864A, enter the number here.

- h. Add together lines and enter the number here. Household Size:

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Use Only



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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



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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.



Reviewing Form I-864 (cont..)

Part 6 Sponsor's Income and Employment:

- The sponsor must demonstrate the means to maintain an income of at least 125% of the Federal Poverty Guidelines for the sponsor's household size, including the immigrants being sponsored or previously sponsored.
 - A sponsor on active duty in the U.S. Armed Forces, other than active duty for training, who is petitioning for a spouse or child must only demonstrate the means to maintain an income equal to at least 100% of the Federal Poverty Guidelines.



Reviewing Form I-864 (cont..)

- Entries may help determine the sponsor's Income tax filing requirement.
 - Unemployed during recent tax year
 - Student or retired.

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)

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



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Reviewing Form I-864 (cont..)

- Household members are required to submit Form I-864A (Exception: Intending immigrants with no accompanying family members).

24. My current annual household income:

a. List your income from line 23 of this form. \$

b. Income you are using from any other person who was counted in your household size, including, in certain conditions, the intending immigrant. (See step-by-step instructions.) Please indicate name, relationship and income.

Name	Relationship	Current Income
<input type="text"/>	<input type="text"/>	\$ <input type="text"/>
<input type="text"/>	<input type="text"/>	\$ <input type="text"/>
<input type="text"/>	<input type="text"/>	\$ <input type="text"/>
<input type="text"/>	<input type="text"/>	\$ <input type="text"/>

c. Total Household Income: \$

(Total all lines from 24a and 24b. Will be Compared to Poverty Guidelines -- See Form I-864P.)

d. The persons listed above have completed Form I-864A. I am filing along with this form all necessary Forms I-864A completed by these persons.

e. The person listed above, does not need to complete Form I-864A because he/she is the intending immigrant and has no accompanying dependents.
(Name)

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Household Size =

Poverty line for year

_____ is:

\$ _____



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Income Requirements

Income includes:

- **Earned benefits** such as Social Security retirement, pensions, unemployment compensation, and workman's compensation may be included as income.
- **Non-taxable income** such as VA disability income, nontaxable pensions (Roth IRAs), student stipends.

Income NOT to include:

- State and local means-tested benefits



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 do not 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?



Swift & Company

October 27, 2008

To Whom It May Concern:

Julio SSN [REDACTED] '59 has been employed at [REDACTED] in 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,
Swift & Company**

**Mary
Human Resources Manager**

AOS 805887 Dec 14, 08 Dec 15, 08 10:25

5806 5416996 4 30 0



U.S. Department of Homeland Security

MC/bh

National Benefits Center

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 16a 6000	b Taxable amount (see page 24)	15b 5000
	16a	Pensions and annuities 16a 10000	b Taxable amount (see page 26)	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 20) Form 2555	21	(87500)
	22	Add the amounts in the far right column for lines 7 through 21. This is your total income ▶	22	31850



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

Form **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

Form **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
 Form **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



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.



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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



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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.



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)



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.



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

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



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.



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Federal Income Tax Forms

- Form 1040 - Total Income, Line 22

FORM 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				
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 on page 28		21	
22	Add the amounts in the far right column for lines 7 through 21. This is your total income		22	

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.

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Federal Income Tax Forms

- Form 1040A - Total Income, Line 15

Form **1040A** Department of the Treasury—Internal Revenue Service **U.S. Individual Income Tax Return (99)** **2011** IRS Use Only—(

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
National Benefits Center	
15 Add lines 7 through 14b (far right column). This is your total income. ▶	15

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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.	▲ Make sure the SSN(s) above are correct.
City, town or post office, state, and ZIP code. If you have a foreign address, also complete spaces below (see instructions).					Presidential Election Campaign
Foreign country name		Foreign province/county	Foreign postal code		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
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 de 11

FORMA LARGA												<input type="checkbox"/> PLANILLA CON CHEQUE (FAVOR DE FIJAR 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					
R	G	RO	V1	V2	P1	P2	N	D1	D2	E	A	M	_____ de _____ de _____ Y TERMINADO EL _____ de _____ de _____				
Nombre del Contribuyente						mizos		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



National Benefits Center

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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 FUJAR 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		FALLECIDO DURANTE EL AÑO: / /								
		de de Y TERMINADO EL de de		Do Mes Año								
Nombre del Contribuyente		Apellido Paterno	Apellido Materno	Número de Seguro Social Contribuyente								
				<input type="checkbox"/> CONTRIBUYENTE <input type="checkbox"/> CONYUGE								
				Sello de Recibido								

2. Salarios del Gobierno Federal (Véanse instrucciones)	(02)	00	(04)	00
3. Ingresos de anualidades y pensiones (Anejo H Individuo, Parte II, línea 12)	(05)		(06)	00
4. Ingreso Bruto Ajustado (Sume el total de las líneas 1B, 2B y 3B)	(06)		(06)	00



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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

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 Tentative 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 6199. 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-8 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)

Capital Gains and Losses

OMB No. 1545-0074

Department of the Treasury
Internal Revenue Service (99)

▶ 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.

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:					
1 Single Family Residence	3 Vacation/Short-Term Rental	5 Land	7 Self-Rental		
2 Multi-Family Residence	4 Commercial	6 Royalties	8 Other (describe)		
Income:		Properties			
		A	B	C	
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			



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

5					
6					
7					
8					
9					
10					
11					
12					
13					
14					
15					
16					
17					
18					
19					
20					



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.



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

2011

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	



Should I use the schedules in my determination of sufficiency?

- Not 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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IRS Tax Return Transcript



Internal Revenue Service
United States Department of the Treasury

This Product Contains Sensitive Taxpayer Data

Tax Return Transcript

Request Date: MM-DD-YY
Response Date: MM-DD-YY
Tracking Number: 1000-123456

SSN Provided: 123-45-6789
Tax Period Ending: Dec. 31, 2006

The following items reflect the amount as shown on the return (PR), and the amount as adjusted (PC), if applicable. They do not show subsequent activity on the account.

99N: 123-45-6789 SPOUSE SSN: 321-54-9876
NAME(S) SHOWN ON RETURN: FIRST & SPOUSE LAST
ADDRESS: 1234 FIRST BLVD
 CITY, ST 12345-6789-123

FILING STATUS: Married Filing Joint
FORM NUMBER: 1040
CYCLE POSTED: 20071808
RECEIVED DATE: Apr. 15, 2007
REMITTANCE: 0.00
EXEMPTION NUMBER: 2
DEPENDENT 1 NAME
CTRL:
DEPENDENT 1 SSN:

Income

WAGES, SALARIES, TIPS, ETC:	\$ 0.00
TAXABLE INTEREST INCOME: SCH B:	\$ 7,154.00
TAX-EXEMPT INTEREST:	\$ 0.00
ORDINARY DIVIDEND INCOME: SCH B:	\$ 784.00
QUALIFIED DIVIDENDS:	\$ 784.00
REFUNDS OF STATE/LOCAL TAXES:	\$ 54.00
ALIMONY RECEIVED:	\$ 0.00
BUSINESS INCOME OR LOSS (Schedule C):	\$ 195,665.00
BUSINESS INCOME OR LOSS: SCH C PER COMPUTER:	\$ 195,665.00
CAPITAL GAIN OR LOSS: (Schedule D):	\$ -3,000.00
CAPITAL GAINS OR LOSS: SCH D PER COMPUTER:	\$ -3,000.00
OTHER GAINS OR LOSSES (Form 4797):	\$ 0.00
TOTAL IRA DISTRIBUTIONS:	\$ 0.00



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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.



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22222		Void <input type="checkbox"/>		a Employee's social security number		For Official Use Only ▶ OMB No. 1545-0048	
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		Suff.		11 Nonqualified plans	
f 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 D.

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, First MI)	SOC. SEC. NO.	GRADE	PAY DATE	YRS SVC	ETS	BRANCH	ADJUDG	PERIOD COVERED						
			ES	060211	04	100210	AF		1-31 JUL 08						
ENTITLEMENTS		DEDUCTIONS			ALLOTMENTS		SUMMARY								
Type	Amount	Type	Amount	Type	Amount	+Amt Fed									
A	BASE PAY	FEDERAL TAXES	88.46	DISCRETIONARY ALT	1521.00	+Tot Ent		4266.73							
B	BAS	FICA-SOC SECURITY	139.93	TRICARE DENTAL	11.59	+Tot Ded		1570.22							
C	BAH	FICA-MEDICARE	32.60			+Tot All		1532.58							
D		SGU	27.00			+Net Amt		1163.00							
E		AFRH	20			-Cr Fed		.00							
F		FAMILY SGU	5.60			+EOM Pay		1163.00							
G		TSP	112.37												
H		WID-MONTH-PAY	1164.67												
I															
J															
K															
L															
M															
N															
O															
TOTAL		4266.73		1570.22		1532.58									
LEAVE	BF Bal	End	Used	Cr Bal	ETS Bal	Lv Lost	Lv Paid	Usa Loss	FED TAXES	Wage Period	Wage YTD	M/S	Ex	Acct Tax	Tax YTD
	25.5	25.0	11	20.5	85.5	0	0	0	2132.50	13022.36	M	00	00	00	633.01
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			
	7217.30	14429.50	892.94	14429.50	298.89		AK	00	00	N	00	00			
PAY DATA	BAQ Type	BAQ Degr	VNA Zp	Rent Amt	Share	SGU	JFTR	Degr	2D JFTR	BAS Type	Charity YTD	TPC	PACIDN		
	WDEP	3POUSE	02641	00	0	R		0			00				
THRIFT SAVINGS PLAN (TSP)	Base Pay Rate	Base Pay Current	Spec Pay Rate	Spec Pay Current	Ino Pay Current	Ino Pay Current	Bonus Pay Rate	Bonus Pay Current							
	0	00	0	00	0	00	0	00							
	TSP YTD Deductions				Deferred		Exempt								
	770.14				770.14		00								
REMARKS:	YTD ENTITLE 27768.11			YTD DEDUCT 2557.92											
<p>IF TSP ELECTION AMT EXCEEDS NET AMT DUE, TSP WILL NOT BE DEDUCTED.</p> <p>LEAVE CARRYOVER INCREASED TO 75 DAYS FOR FY08. NO ACTION REQUIRED BY MEMBERS. OFAS WILL BEGIN RESTORING AFTER 1 OCT 08.</p> <p>MPAY 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 MPAY. THANK YOU FOR YOUR SUPPORT.</p> <p>IF YOUR SPOUSE WANTS INFO ABOUT THE MILITARY LIFESTYLE WE INVITE HIM/HER TO JOIN US FOR THE NEXT HEART LINK SPOUSES ORIENTATION. LUNCH AND CHILD CARE ARE PROVIDED. CALL YOUR</p>											<p>BASE AFMAN & FAMILY READINESS CTR FOR DETAILS.</p> <p>-IF YOU GAMBLE WITH SAFETY... YOU BET YOUR LIFE.</p> <p>-ELECTIONS ARE COMING! 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.OOV.</p> <p>TSP 063701(183)</p> <p>RATE CHO SGU 060701(183)</p> <p>CHANGE GRADE 060701(164)</p> <p>BAH BASED ON WDEP; ZP 02641</p> <p>BANK [REDACTED]</p> <p>ACCT # [REDACTED]</p>				



and Immigration Services

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WWW.DFAS.MIL

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**.



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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.



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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



Common Problems with Assets

(cont..)

- Sometimes the assets are submitted to us from foreign accounts.
- Try to use a currency converter to interpret the value of the accounts.
- Link to currency converter:
 - <http://www.xe.com/ucc/>



More asset concerns

- Real Estate Property with no evidence of mortgage history, current balance, or evidence the property is not financed.
- Appraisal is not from a licensed appraiser or no current property tax assessment attached.



More Asset Concerns (cont..)

- Personal Property can encompass more than just real estate, stocks, bonds, cds, cash, and cars – Jewelry can be used as an asset.
When taking these items into consideration you need to do a little research and use a little common sense.
 - Is this personal property liquidable?



More Asset Concerns (cont..)

Questions to ask concerning the asset:

- What is the value of this personal property?
- Can it be appraised?
- How long is the appraisal good for?
- What is the current market value for the personal property?
- When and how did they acquire the property?



More Asset Concerns (cont..)

- Do they own the personal property?

Example: Sponsor's income is below the current federal Poverty Guideline. Sponsor has submitted 2 appraisals for jewelry. They need to make up the difference between income and Poverty Guideline by \$15,000. The first appraisal shows a diamond ring appraised at \$10,000 and the second appraisal show diamond earrings appraised at \$7,500.



More Asset Concerns (cont..)

- Note: Jewelry appraisals and lab certificates are two important types of reports about your gemstones and jewelry, but they do not serve the same purpose.
- A jewelry appraisal can be done on any item of jewelry, no matter what it is composed of. Market values change, so most professionals recommend you have fine jewelry appraised every two years.



More Asset Concerns (cont..)

- A lab certificate or grading report describes an unmounted gemstone. Reports differ for diamonds and colored gems, but documentation includes specifics about carat weight and dimensions, color and clarity grades, and items relating to the gemstone's cut and shape.



Termination of Sponsor's Obligation and Enforcement

- The obligations created under Form I-864 and I-864A terminate when the sponsored alien:
 - Becomes naturalized;
 - Is credited with at least 40 quarters of employment in the Social Security system;
 - Loses or abandons his or her lawful permanent resident status; or
 - Dies.



Termination of Sponsor's Obligation and Enforcement (cont..)

- Divorce **will not** terminate the legal obligation made in the Affidavit of Support.

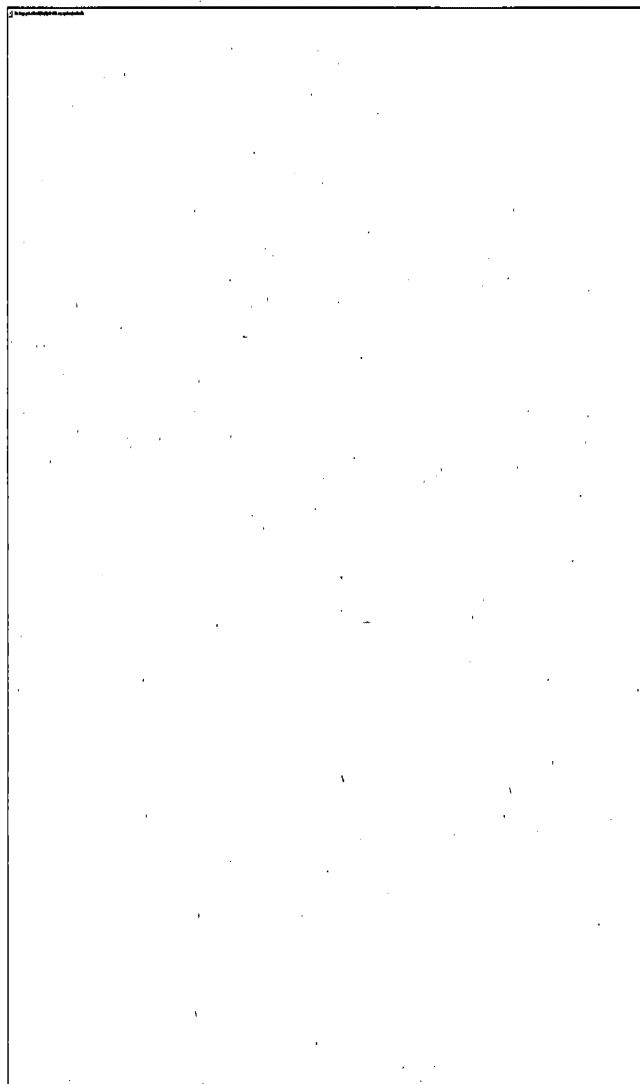


Where do I find this information?

- Before you ask the question, have you looked in the following places:
 - The Adjudicator's Field Manual (AFM)
 - The INA (Section 213A)
 - The 8 CFR § 213a
 - Policy memos
 - Training handouts
 - The application instructions
 - WWW.USCIS.Gov
 - WWW.IRS.Gov



Questions?



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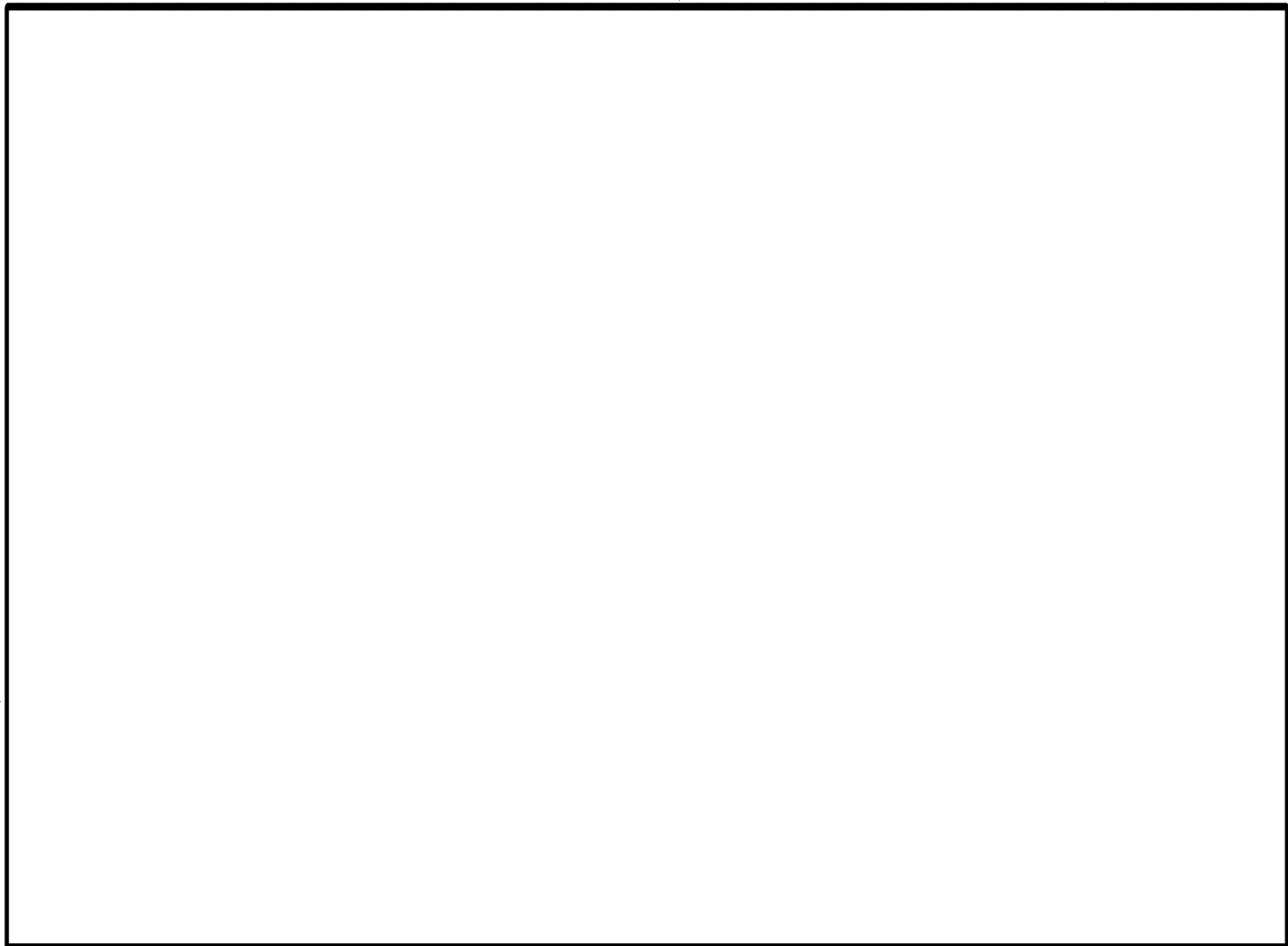
EMPLOYMENT-BASED PETITIONS Course 213



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DESCRIPTION:

Out-of-Scope



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TERMINAL PERFORMANCE OBJECTIVE (TPO):



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ENABLING PERFORMANCE OBJECTIVES (EPOs):

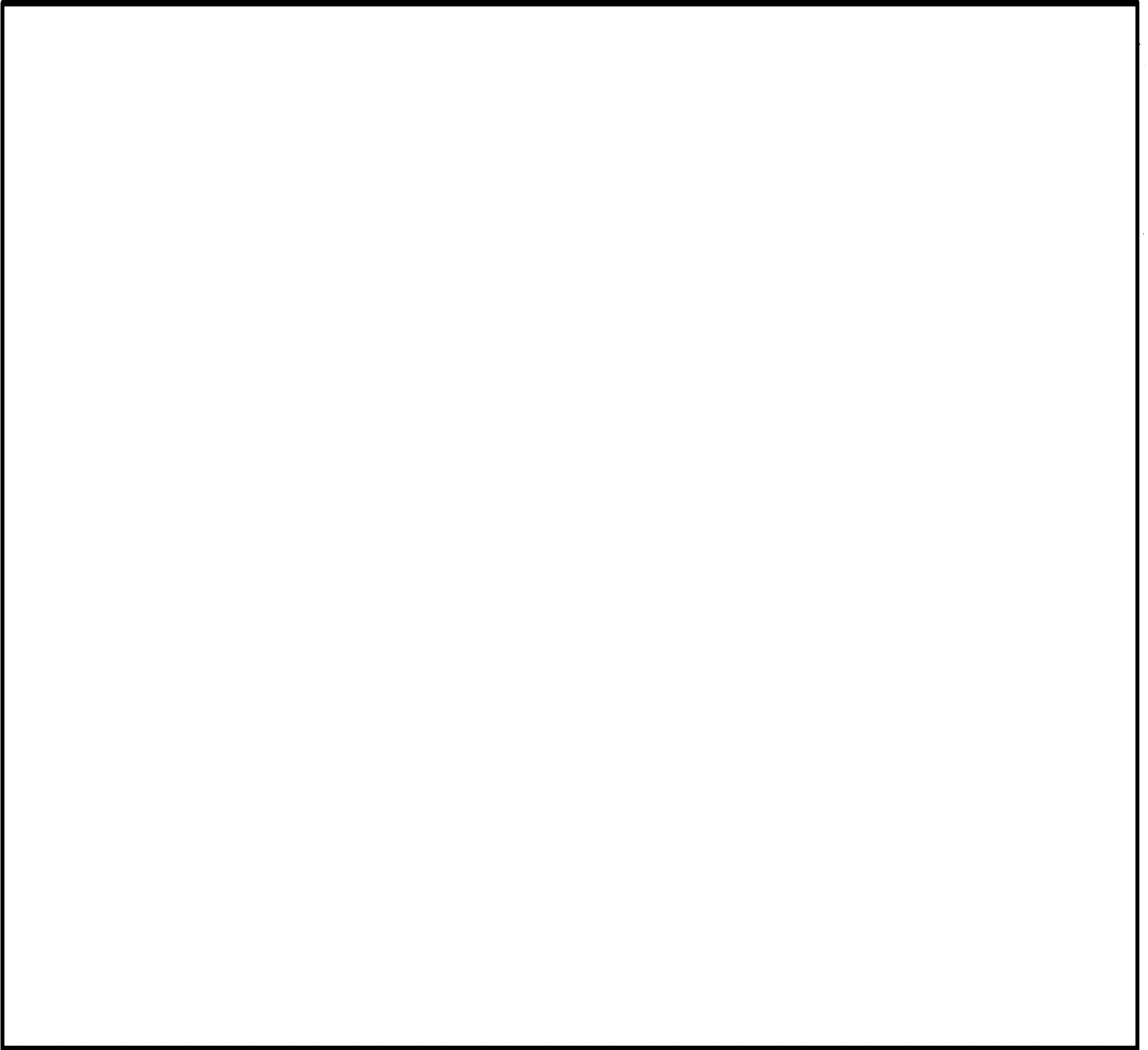
[Empty box for Enabling Performance Objectives (EPOs)]



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INTRODUCTION



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EPO #1



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