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20.5 Enforceable Affidavits of Support. [Revised as of 06/27/2006]

(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.

*Not for archival on March 7, 2014
 cited in Tadevosyan v. Holder, No. 07-1505*

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(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\(a\)\(4\)](#) of the Act 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.

cited in Tadevosyan v. Holder, No. 07-75087 archived on March 7, 2014

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