



BASHYAM SPIRO^{LLP} | IMMIGRATION
LAW GROUP

I-134/I-864
Affidavits of Support
How Much Money is Enough?

July 22, 2010

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Part 1: Introduction

Part 2: I-134 Affidavit of Support

Part 3: I-864 Affidavit of Support



Part 1—Introduction:

Immigration and Nationality Act, Section 212 (a)(4)

- (a) Classes of Aliens Ineligible for Visas or Admission.-Except as otherwise provided in this Act, aliens who are inadmissible under the following paragraphs are ineligible to receive visas and ineligible to be admitted to the United States:
- (4) Public charge.- (A) In general.-Any alien who, in the opinion of the consular officer at the time of application for a visa, or in the opinion of the Attorney General at the time of application for admission or adjustment of status, is likely at any time to become a public charge is inadmissible.
- (B) Factors to be taken into account.- (i) In determining whether an alien is excludable under this paragraph, the consular officer or the Attorney General shall at a minimum consider the alien's- (I) age; (II) health; (III) family status; (IV) assets, resources, and financial status; and (V) education and skills.
- (ii) In addition to the factors under clause (i), ***the consular officer or the Attorney General may also consider any affidavit of support*** under section [213A](#) for purposes of exclusion under this paragraph.



I-134, Affidavit of Support

- **Generally not considered to be legally binding**
- **Sponsor specifies what type of support to be provided**
- **Required for the following visa applications:**
 - K-1 (fiance of a US Citizen)**
 - K-3 (spouse of a US Citizen)**
- **Helpful for the following visa applications:**
 - B-1/B-2 (visitor for business/tourism)**
 - F-1 (student)**
- **Occasionally requested by USCIS for derivatives of employment-based immigrant petitions.**



I-864, Affidavit of Support

- Legally binding
- Legally required in most family-based immigrant visa or adjustment of status cases.
- Legally required in employment-based cases where the sponsor is related to the foreign national or where a relative of the foreign national owns a significant portion of the entity sponsoring the foreign national



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Part 2

I-134 Affidavit of Support



Documentation to be filed with I-134

- Evidence of US Immigration Status
- Financial Documentation
 - Last tax return and W-2
 - Employment Verification Letter from employer
 - Evidence of bank account balance for past year
(Letter from Bank or 1 year bank statements)
 - Evidence of other assets
401k statements & other investment accounts
 - Evidence of equity in real property
Example: Your Home
Deed, Recent Mortgage Statement, & Appraisal
(Or Property Tax Bill showing tax value)



For an I-134, how much does it take?

First, try to qualify based on income. If income not sufficient, try assets. Avoid combination if possible.

- **Income: at least 125% of Federal Poverty Guidelines \$18,212 for household of 2**

More may be necessary.

- **Assets: It depends. (See Asset Test for I-864)**
- **Foreign National's Assets: It depends.
(See Asset Test for I-864)**



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Sponsor's Obligations under I-134

Per instructions to Form I-134:

If person you are sponsoring becomes a public charge and obtains public benefits, the agency that provided assistance may be able to sue you.



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Part 3

I-864 Affidavit of Support



Required Documents for I-864

- *Evidence of LPR or USC Status*
- *Most Recent Tax Return*
(Preferable to Submit Last 3 years of tax returns)
- *Most Recent W-2*
- *Employment Verification Letter*
- *Documentation of Assets Optional—produce only if income does not meet r'qmts*



For an I-864, how much does it take?

Guidelines on Form I-864P:

Household of 2: \$18,212

Household of 3: \$22,887

Household of 4: \$27,562

Household of 5: \$32,237

Add \$4,675 for each additional person in household. Active Duty Sponsors slightly lower requirement.

Who is counted in household? sponsor, spouse, children, any other dependents, and sponsored foreign national.



Income Sufficiency

Total Income on Last Tax Return & Current Income should both meet requirement. However, sometimes CIS will accept current income if last income tax return insufficient

Alternatives:

1. Try Assets
2. Combine Household Member's Income with Sponsor's Income
3. Get a Joint Sponsor



Alternative #1 to Current Income: Assets

Can only use assets that can be liquefied within 1 year. (You can use sponsored immigrant's assets or household members.) Examples: cash, investment accounts/401k, equity in real estate.

Total net value must equal:

5 times the different between the poverty guidelines and sponsor's household income

(3 times for spouses of children of USCs)

Example:

US Citizen is sponsoring spouse. US Citizen does not have children or any other dependents. Household of 2—US Citizen must show \$18,212 in annual income. Sponsor's income is only \$16,000 per year. To use assets to compensate for difference, we must show \$6,616 in assets. (\$18,212 minus \$16,000 equals \$2,212. \$2,212 multiplied by 3 equals \$6,616.)



Alternative #2 to Sponsor's Current Income—

Combine Sponsor's Income with Household Member

Household Member can Be:

- Siblings, Parents, or Adult Children who live with Sponsor—Must show birth certificate(s) to prove relationship
- Sponsored Immigrant—Income must be earned legally



Alternative #3 to Sponsor's Current Income-- Joint Sponsor

- Can be any USC or Permanent Resident
- Joint Sponsor Must Meet Requirements Based on His or Her Own Household

Documentation Required:

- *Evidence of LPR or USC Status*
- *Most Recent Tax Return*
(Preferable to Submit Last 3 years of tax returns)
- *Most Recent W-2*
- *Employment Verification Letter*
- *Documentation of Assets Optional—produce only if income does not meet r'qmts*



I-864 Obligations

- Legally binding contract.
- Sponsor Required to Notify USCIS of Address Changes (Form I-865)
- May be enforced by a federal, state, or local government agency against the sponsor.
- May also be enforced against the sponsor by the sponsored foreign national.



Enforcement of I-864 by a Government Agency

- If the foreign national were to receive certain types of local, state, or federal “means-tested” public benefits, the government agency that supplied those benefits could seek recovery from the sponsor.
- Federal means-tested public benefits do not include all types of welfare.
- Benefits such as food stamps, Medicaid, and supplemental security income have all been designated as “means-tested.”
- The following are examples of programs that are not included: emergency Medicaid, short-term noncash emergency relief, and student assistance under the Higher Education Act.



Enforcement of I-864 by the Sponsored Foreign National

- Under federal statute, the I-864 may also be enforced by the foreign national against the sponsor for support at 125% of the federal poverty guidelines. The foreign national would have to sue the sponsor in court.
- If the foreign national brought an appropriate action against the sponsor, the sponsor could be held liable to support the foreign national at 125% of the poverty guidelines for an *unspecified* period of time. Per current guidelines, that figure is \$14,000 for a household of one.



Termination of the Sponsor's Obligations under the I-864

- 1) the foreign national becomes a U.S. citizen;
- 2) the foreign national has worked, or can be credited with, 40 qualifying social security work quarters (roughly 10 years of work);
- 3) the foreign national is formally found to have abandoned or given up her green card;
- 4) the foreign national obtains a new green card under a different basis; then the new sponsor is subject to the support requirements (extremely rare);
- 5) the foreign national dies; or
- 6) the sponsor dies.

The period of time that the sponsor can be held liable under the I-864 cannot be determined with specificity because none of the conditions for termination are under the sponsor's control.



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QUESTIONS?

Thank you for joining our presentation.

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