

9 FAM 40.41 EXHIBIT I

POVERTY INCOME GUIDELINES 2004

(TL:VISA-650; 08-30-2004)
(Office of Origin: CA/VO/L/R)

The poverty guidelines published by the Department of Health and Human Services (HHS) [69 FR 7336-7338, 2/13/04] have been adopted for Section 212(a)(4) of the Immigration and Nationality Act. The tables are revised at annual intervals (or any shorter interval the Secretary of Health and Human Services deems feasible and desirable) by the Office of the Assistant Secretary for Planning and Evaluation, Department of Health and Human Services, and reflect changes in the consumer price index. The guidelines are a simplified version of the poverty thresholds used by the Bureau of Census to prepare its statistical estimates of the number of persons and families in poverty. The HHS guidelines are published in the Federal Register as public notices.

NOTE: The effective date of these poverty guidelines is *February 13, 2004*.

2004 GUIDELINES

MINIMUM INCOME REQUIREMENT FOR USE IN COMPLETING THE FORM I-864, Affidavit of Support Under Section 213A of the Act

For the 48 contiguous states, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, and Guam use the table below.

2004 HHS Poverty Guidelines

Size of Family Unit	48 Contiguous States and D.C.		Alaska		Hawaii	
	100%	125%	100%	125%	100%	125%
1	\$ 9,310	\$11,638	\$11,630	\$14,538	\$10,700	\$13,375
2	12,490	15,613	15,610	19,513	14,360	17,950
3	15,670	19,588	19,590	24,488	18,020	22,535
4	18,850	23,563	23,570	29,463	21,680	27,100
5	22,030	27,538	27,550	34,438	25,340	31,675
6	25,210	31,513	31,530	39,413	29,000	36,250
7	28,390	35,488	35,510	44,388	32,660	40,825
8	31,570	39,463	39,490	49,363	36,320	45,400
For each additional person, add	3,180	3,975	3,980	4,975	3,660	4,575

NOTE: Each family member above the eighth, add \$3,180 (100%) or \$3,975 (125%).

SOURCE: *Federal Register, Vol. 69, No. 30, February 13, 2004, pp. 7336-7338*

When processing immigrant visa cases subject to Form I-864 Affidavit of Support Under Section 213A of the Act requirements under INA 212 (a) (4) (C), post should use the figures in the column on the right, 125% of poverty guidelines, as the minimum income that a petitioner and/or a joint sponsor must demonstrate, *or the column on the left (100%) for an active member of the U.S. Armed Forces sponsoring his or her spouse and children.* Visa officers are also reminded to consider the “totality of circumstances” (including the applicant’s age, health, and education) and can deny visa issuance under 212 (a)(4)(C) if the applicant appears likely to become public charge despite *meeting the poverty guidelines.* However, *“totality of circumstances” cannot serve as the basis for overcoming Section 212(a)(4) if the poverty guidelines are not met.*

IMPORTANT NOTICE FOR SPONSORS

Read this before submitting the Form I-864, Affidavit of Support Under Section 213A of the Act.

Please use this checklist to assemble Form I-864, Affidavit of Support Under Section 213A of the Act documents. Due to heavy worldwide considerations, the visa section will not accept affidavits of support that are incomplete or have not been assembled correctly. **NOTE:** This form is for your personal reference. You do not need to return it with the completed Form I-864.

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

- *Applicants for family-based immigrant visa categories, including biological and adopted children of U.S. citizens who are not eligible for automatic naturalization upon admission as a legal permanent resident;*
- *Any alien classified IR-2 based on a stepparent-stepchild relationship with a U.S. citizen;*
- *Any alien classified IR-2 who will be age 18 or over upon admission to the United States as a lawful resident;*
- *Any alien classified IR-2 who will not be taking up residence in the United States;*

- *Any alien classified IR-2 who will not be residing with, and in the legal custody of, the U.S. citizen;*
- *Orphans adopted abroad by U.S. citizen (IR-3/IR-4); and/or*
- *Applicants for employment-based immigrant visas where a relative filed the immigrant visa petition or has a five percent or greater ownership interest in the business that filed the petition.*

Which applicants for family-based immigrant visas do not need the I-864 Affidavit of Support?

- *Biological (natural-born, in or out of wedlock) children of U.S. citizens (IR-2 immigrant visa category) provided the child will be admitted to the United States while under the age of 18 and will reside in the United States with, and in the custody of, the U.S. citizen parent;*
- *Self-petitioning widow or widower and battered spouses and children;*
- *An adopted child classified IR-2 who satisfies the requirement of **INA 101(b)(1)(e)** with respect to U.S. citizen parent; provided the child will be admitted to the United States while under age 18 and will reside in the United States with, and in the custody of, the adoptive U.S. citizen parent;*
- *Orphans adopted abroad by U.S. citizen (IR-3/IR-4 immigrant visa category) with a full and final adoption, who will be admitted to the United States while under age 18 and will reside in the United States with, and in the custody of, the adoptive U.S. citizen parent; and/or*
- *Immigrants who have already worked or can be credited with 40 qualifying quarters of work as defined in Title II of the Social Security Act.*

CHECKLIST FOR PREPARING THE FORM I-864, AFFIDAVIT OF SUPPORT UNDER SECTION 213A OF THE ACT

Documents must be submitted in the following order:

(1) **Petitioner's Documents**—Form I-864. The petitioner in family-based cases, or the relative who either filed the petition or has ownership interest in the petitioning company in employment-based cases, must complete a Form I-864 even if a joint sponsor submits an affidavit of support.

- All pages in correct order, 1, 2, 3, 4, 5, and 6 and stapled together

- Each page filled out completely
- Part 7 signed by the petitioner (for employment cases, by the relative and it must be notarized)
- Completed federal tax returns with all supporting schedules for the three most recent tax years. Each year's return must have all pages in the correct order and must be stapled together.
- If you did not have to file a tax return, attach a written explanation and a copy of the instructions from the Internal Revenue Service publication that shows you were not obligated to file. (Pages 7 and 8 of the 1997 1040 provide information on most income tax obligations.)
- If assets are needed to meet the minimum income requirement:
 - a. Evidence of assets with a cash value that equals at least five times the difference between your total household income and the poverty guideline for your household size;

Example for a Household of 4:

<i>125% Poverty Guideline</i>	<i>\$23,563 (2004)</i>
<i>Sponsor's Income</i>	<i>\$18,000</i>
<i>Difference</i>	<i>\$5,563</i>
<i>Multiply by 5</i>	<i>X 5</i>
<i>Minimum Required Cash Value of Assets</i>	<i>\$27,815</i>

- b. Evidence of ownership, location, and the value of each asset;
- c. Evidence of liens, mortgages, and liabilities for each asset (if any); and
- d. Evidence of current employment or self-employment, such as a recent pay statement or a statement from your employer on business stationery, showing beginning date of employment, type of work performed, and salary or wages paid.

(2) Joint Sponsor's Documents (if required):

Form I-864, Affidavit of Support Under Section 213A of the Act: Must be completed by a joint sponsor if the petitioner's income does not meet the 125% income requirement.

NOTE: The petitioner must also submit a Form I-864.

- All pages in correct order, 1, 2, 3, 4, 5, and 6 stapled together;
- Part 7 signed by the petitioner (for employment cases, by the relative and it must be notarized);

- Completed federal tax returns with all supporting schedules for the three most recent tax years. Each year's return must have all pages in the correct order and must be stapled together;

- If assets are needed to meet the minimum income requirement;

- Evidence of assets with a cash value that equals at least five times the difference between your total household income and the poverty guideline for your household size;

a. Example for a Household of 4:

<i>125% Poverty Guideline</i>	<i>\$23,563 (2004)</i>
<i>Sponsor's Income</i>	<i>\$18,000</i>
<i>Difference</i>	<i>\$5,563</i>
<i>Multiply by 5</i>	<i>X 5</i>
<i>Minimum Required Cash Value of Assets</i>	<i>\$27,815</i>

b. Evidence of ownership, location, and the value of each asset;

c. Evidence of liens, mortgages and liabilities for each asset (if any); and

d. Evidence of current employment or self-employment, such as a recent pay statement or a statement from your employer on business stationery, showing beginning date of employment, type of work performed, and salary or wages paid.

- Proof of U.S. citizenship or lawful permanent resident status.

(3) Household members whose income and assets are to be considered:

A separate Form I-864A, Contract Between Sponsor and Household Member, for each household member whose income and assets are to be considered.

- Each page filled out completely and stapled together;

- All tax, employment, and asset documents must be assembled in the same manner as the sponsor's (see above) and attached to the correct Form I-864A;

- Proof of U.S. citizenship or lawful permanent resident status;

- Part 2 and Part 5 completed by sponsor and notarized; and

- Part 3 or Part 4 and Part 6 completed by the household member and notarized.

(4) Documents for the Principal Immigrant and Accompanying Dependents:

Principal Applicant:

- Original, signed and notarized Form I-864, Affidavit of Support Under Section 213A of the Act and Form I-864A, Contract Between Sponsor and Household Member (if needed); and
- One complete set of supporting documents (tax records, employment letters, etc.) are needed for each principal immigrant.

Accompanying Dependents:

- Each dependent must have a signed and notarized Form I-864 and Form I-864A, if needed;
- Copies of the principal's Form I-864 and Form I-864A may be used, but the sponsor's and notary's signatures must be original (photocopies of signatures and notarizations will not be accepted); and
- Copies of supporting documents are not required for dependents applying for visas or adjustment of status together with the principal immigrant.