

9 FAM 40.41 EXHIBIT I POVERTY INCOME GUIDELINES 2009

(CT:VISA-1216; 05-12-2009)

Poverty guidelines are published annually by the Department of Health and Human Services (HHS). The guidelines are a simplified version of the poverty thresholds used by the Bureau of Census to prepare statistical estimates of the number of persons and families living in poverty. Applicants who can't meet the applicable minimum poverty guideline threshold are ineligible for visa issuance under INA 212(a)(4)(C).

NOTE: The 2009 guidelines should be considered in determinations of whether a Form I-864, or Form I-864-EZ, Affidavit of Support under Section 213A of the Act, submitted on or after March 1, 2009 meets the minimum federal poverty guidelines threshold. In cases in which the sponsor has filed Form I-864 prior to March 1, 2009, consider the guidelines that were in effect at the time of submission.

ANNUAL GUIDELINES

MINIMUM INCOME REQUIREMENT FOR USE IN COMPLETING THE FORM I-864, AFFIDAVIT OF SUPPORT UNDER SECTION 213A OF THE ACT

Use whichever table below reflects the poverty guidelines that were in effect for the 48 contiguous states, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, and Guam at the time the Affidavit of Support was submitted:

2009 HHS Poverty Income Guidelines

Size of Family Unit	48 Contiguous States and D.C.		Alaska		Hawaii	
	100%	125%	100%	125%	100%	125%
1	\$10,830	\$13,537	\$13,530	\$16,912	\$12,460	\$15,575
2	14,570	18,212	18,210	22,762	16,760	20,950

3	18,310	22,887	22,890	28,612	21,060	26,325
4	22,050	27,562	27,570	34,462	25,360	31,700
5	25,790	32,237	32,250	40,312	29,660	37,075
6	29,530	36,912	36,930	46,162	33,960	42,450
7	33,270	41,587	41,610	52,012	38,260	47,825
8	37,010	46,262	46,290	57,862	42,560	53,200
For each additional person, add	3,740	4,675	4,680	5,850	4,300	5,375

NOTE: For each additional family member, add \$3,740 (100%) or \$4,675 (125%) for the 48 contiguous States. See chart above for Alaska and Hawaii guidelines.

Refer to the figures in the orange columns (see columns 3, 5, and 7) when processing immigrant visa (IV) involving Form I-864 or Form I-864-EZ, Affidavit of Support under Section 213A of the Act. Refer to the gray columns (see columns 2, 4, and 6) for active members of the U.S. Armed Forces sponsoring spouses and children.

Consider the “totality of circumstances” including the applicant’s age, health, and education. You 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.

2008 HHS Poverty Income Guidelines

Size of Family Unit	48 Contiguous States and D.C. 100%	Alaska		Hawaii		
		125%	100%	125%	100%	
1	\$10,400	\$13,000	\$13,000	\$16,250	\$11,960	\$14,950
2	14,000	17,500	17,500	21,875	16,100	20,125
3	17,600	22,000	22,000	27,500	20,240	25,300
4	21,200	26,500	26,500	33,125	24,380	30,475

5	24,800	31,000	31,000	38,750	28,520	35,650
6	28,400	35,500	35,500	44,375	32,660	40,825
7	32,000	40,000	40,000	50,000	36,800	46,000
8	35,600	44,500	44,500	55,625	40,940	51,175
For each additional person, add	3,600	4,500	4,500	5,625	4,140	5,175

NOTE: For each additional family member, add \$3,600 (100%) or \$4,500 (125%) for the 48 contiguous States. See chart above for Alaska and Hawaii guidelines.

Refer to the figures in the orange columns (see columns 3, 5, and 7) when processing immigrant visa (IV) involving Form I-864, Affidavit of Support under Section 213A of the Act. Refer to the gray columns (see columns 2, 4, and 6) for active members of the U.S. Armed Forces sponsoring spouses and children.

You need 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.

2007 HHS Poverty Income Guidelines

Size of Family Unit	48 Contiguous States and D.C.		Alaska		Hawaii	
	100%	125%	100%	125%	100%	125%
1	\$10,210	\$12,763	\$12,770	\$15,963	\$11,750	\$14,688
2	13,690	17,113	17,120	21,400	15,750	19,688
3	17,170	21,463	21,470	26,838	19,750	24,688
4	20,650	25,813	25,820	32,275	23,750	29,688
5	24,130	30,163	30,170	37,713	27,750	34,688
6	27,610	34,513	34,520	43,150	31,750	39,688

7	31,090	38,863	38,870	48,588	35,750	44,688
8	34,570	43,213	43,220	54,025	39,750	49,688
For each additional person, add	3,480	4,350	4,350	5,438	4,000	5,000

NOTE: For each additional family member, add \$3,480 (100%) or \$4,350 (125%) for the 48 contiguous States. See chart above for Alaska and Hawaii guidelines.

Refer to the figures in the orange columns (see columns 3, 5, and 7) when processing immigrant visa (IV) involving Form I-864, Affidavit of Support under Section 213A of the Act. Refer to the gray columns (see columns 2, 4, and 6) for active members of the U.S. Armed Forces sponsoring spouses and children.

You need 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.

2006 HHS Poverty Income Guidelines

Size of Family Unit	48 Contiguous States and D.C.		Alaska		Hawaii	
	100%	125%	100%	125%	100%	125%
1	\$ 9,800	\$12,250	\$12,250	\$15,313	\$11,270	\$14,088
2	13,200	16,500	16,500	20,625	15,180	18,975
3	16,600	20,750	20,750	25,938	19,090	23,863
4	20,000	25,000	25,000	31,250	23,000	28,750
5	23,400	29,250	29,250	36,563	26,910	33,638
6	26,800	33,500	33,500	41,875	30,820	38,525
7	30,200	37,750	37,750	47,188	34,730	43,413

8	33,600	42,000	42,000	52,500	38,640	48,300
For each additional person, add	3,400	4,250	4,250	5,313	3,910	4,888

NOTE: For each additional family member, add \$3,400 (100%) or \$4,250 (125%) for the 48 contiguous States. See chart above for Alaska and Hawaii guidelines.

Refer to the figures in the orange columns (see columns 3, 5, and 7) when processing immigrant visa (IV) cases involving Form I-864, Affidavit of Support Under Section 213A of the Act. Refer to the gray columns (see columns 2, 4, and 6) for active members of the U.S. Armed Forces

IMPORTANT NOTICE FOR SPONSORS

Read the following section before submitting Form I-864, or Form I-864-EZ, Affidavit of Support under Section 213A of the Act.

WHO NEEDS FORM I-864, AFFIDAVIT OF SUPPORT UNDER SECTION 213A OF THE ACT?

- Applicants for family-based immigrant visa (IV) 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)
- 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 FORM I-864, or Form I-864-EZ, Affidavit of Support Under Section 213A Of the Act?

Applicants meeting the criteria below are not required to submit I-864 or I-864-EZ Affidavits of Support, but must submit Forms I-864-W, Intending Immigrant's Affidavit of Support Exemption, to demonstrate an exemption from the affidavit of support requirement:

- (1) Biological (natural-born, in or out of wedlock) children of U.S. citizens (IR-2 immigrant visa (IV) 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;
- (2) Self-petitioning widow or widower and battered spouses and children;
- (3) 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;
- (4) Orphans adopted abroad by U.S. citizen (IR-3/IR-4 immigrant visa (IV) 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;
or
- (5) 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 (SSA).

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

a. Documents must be submitted in the following order:

- (1) Petitioner's Documents—Form I-864, Affidavit of Support Under Section 213A of the Act. The petitioner in family-based immigrants, or the employment-based immigrants where a relative filed the

petition or has ownership interest (5% or more) in the petitioning entity, or a joint sponsor must complete a Form I-864, Affidavit of Support under Section 213A of the Act.

- (2) For Form I-864, all pages in correct order, 1, 2, 3, 4, 5, 6, 7, and 8 are stapled together; for Form I-864-EZ; 1, 2, 3, 4, and 5 are stapled together. Please see instructions for Form I-864-EZ, Affidavit of Support Under Section 213A of the Act "Who May Qualify to Use it."
- (2) Each page filled out completely.
- (3) Part 8 (Form I-864) or Part 6 (Form I-864-EZ) signed by the petitioner (for employment cases, by the relative) (not required to be notarized).
- (4) Photocopy or Internal Revenue Service (IRS) transcript of the most recent federal tax return with all supporting schedules that the sponsor had filed prior to the time of Affidavit of Support (AOS) signing. The return must have all pages in the correct order and must be stapled together.
- (5) If you did not have to file a tax return, attach a written explanation and a copy of the instructions from the IRS publication that shows you were not obligated to file. (For information on most income tax obligations visit the IRS Web site.)
- (6) If assets are needed to meet the minimum income requirement:
 - (a) Amount of assets required. In order to qualify using the 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 of the current year. (See chart below):

Example for a Household of 4:

125% Poverty Guideline	\$27,563 (2009)
Sponsor's Income	\$20,500
Difference	\$7,063
Multiply by 5	X 5
Minimum Required Net Value of Assets	\$35,315

There are two exceptions, however:

If the adjustment of status applicant intends to immigrate as a spouse of a U.S. citizen or 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% Poverty Guideline	\$27,563 (2009)
Sponsor’s Income	\$20,500
Difference	\$7,063
Multiply by 3	X 3
Minimum Required Net Value of Assets	\$21,189

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% Poverty Guideline	\$27,563 (2009)
Sponsor’s Income	\$20,500
Difference (Minimum Required Net Value of Assets)	\$7,063

- (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) When required under 9 FAM 40.41 N5.4 a(3), evidence of current employment or self-employment, such as a recent pay statement or a statement from your employer on business stationery, showing the beginning date of employment, type of work performed, and salary or wages paid.

b. Joint Sponsors (if required):

- (1) Form I-864, Affidavit of Support under Section 213A of the Act:
 - (a) Must be completed by a joint sponsor if the petitioner or substitute sponsor cannot demonstrate the ability to maintain a household income of at least 125% (or 100% when applicable of the Federal Poverty Guidelines).
 - (b) 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 during the period that the Affidavit is enforceable.
 - (c) 8 CFR 213 a(2)(iii) allow but do not require two joint sponsors per family unit intending to immigrate based on the same petition.
- (2) The joint sponsor: Must meet the same qualifications as the petitioner and submit the same documentation as noted in (a) Petitioner's Documents above.

NOTE: The petitioner must also submit a Form I-864, Affidavit of Support under Section 213A of the Act.

- c. Household members whose income and assets are to be considered:
 - (1) A separate Form I-864-A, Contract Between Sponsor and Household Member, must be completed for each household member whose income and assets are to be considered.
 - (2) Each page must be filled out completely and stapled together.
 - (3) 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-864-A, Contract Between Sponsor and Household Member.
 - (4) Proof of U.S. citizenship or lawful permanent resident (LPR) status.
 - (5) Part 1 Information on the Household Member.
 - (6) Part 2 "Sponsor's Promise" must be completed by sponsor.
 - (7) Part 3 "Household Member's Promise" must be completed by the

household member.

d. Documents for the Principal Immigrant and Accompanying Dependents:

- (1) Principal Applicant:
 - (a) Original Form I-864, Affidavit of Support under Section 213A of the Act and Form I-864-A, Contract Between Sponsor and Household Member (if needed); must be signed (not required to be notarized).
 - (b) The sponsor's most recent Federal income tax return filed prior to the time of Form I-864 signing is needed for each principal immigrant.
- (2) Accompanying Dependents:
 - (a) Accompanying dependents, if listed on the original Form I-864 affidavit of support submitted for the principal applicant and accompanying the principal applicant (traveling and entering the United States at the same time) may submit and travel together on one complete set of signed documents (not required to be notarized): Form I-864, Affidavit of Support Under Section 213A of the Act and Form I-864-A, Contract Between Sponsor and Household Member, if needed.
 - (b) Accompanying dependents, if travelling together with the principal applicant, may submit copies of the principal's Form I-864, Affidavit of Support under Section 213A of the Act and Form I-864-A Contract Between Sponsor and Household Member (photocopied signatures are acceptable.)
 - (c) Copies of supporting documents are not required for dependents applying for visas or adjustment of status together with the principal immigrant.
- (3) Follow to join dependents (travelling separately from the principal applicant and entering after the principal, or following to join a principal applicant who has adjusted status in the United States) must submit a signed original affidavit of support from the sponsor, along with a complete set of supporting documents. Follow to join dependents may not submit a photocopy of the affidavit of support previously submitted by the principal applicant.