

I-864 AFFIDAVIT OF SUPPORT | FREQUENTLY ASKED QUESTIONS

When a foreign national applies to become a permanent resident through a family member (i.e., a family-based green card case) or through employment when a family member has an ownership interest in the company, the U.S. government requires a demonstration that the intending immigrant has sufficient financial means to live in the U.S. The Affidavit of Support (Form I-864) must be signed and submitted by the petitioner (and any necessary additional financial sponsors) on behalf of the intending immigrant. The U.S. government considers this agreement to be a legally binding contract, and the petitioner and any additional financial sponsor(s) should be aware of the obligations when signing this form.

The following immigrants are required by law to submit Form I-864 completed by the petitioner and joint sponsor(s) as applicable to obtain an immigrant visa overseas or to adjust status to that of a lawful permanent resident in the United States:

1. All immediate relatives of U.S. citizens (spouses, unmarried children under 21 years of age, and parents of U.S. citizens 21 years of age and older);
2. All family-based preference immigrants (unmarried sons and daughters of U.S. citizens, spouses and unmarried sons and daughters of lawful permanent residents, married sons and daughters of U.S. citizens, and brothers and sisters of U.S. citizens 21 years of age and older); and
3. EmplA4. How can I get a receipt number?

The main purpose of this affidavit is to ensure that the intending immigrant does not become a “public charge.” Public charge is a ground of inadmissibility that renders an intending immigrant ineligible to become a permanent resident and potentially impacts a person’s ongoing status as a permanent resident. The following information describes the affidavit’s requirements and public charge determination.

Who can be a financial sponsor?

The affidavit of support is signed by the intending immigrant’s petitioning relative (“petitioner”). When the petitioner does not meet the financial requirements to be the sole financial sponsor, the intending immigrant must find an additional financial sponsor, or “joint sponsor” to fulfill these obligations. There can also be multiple financial sponsors. Whether there is one or more than one financial sponsor, each signer attests that s/he will be able to cover the basic life expenses of the intending immigrant. The sponsor must be either a U.S. citizen or a legal permanent resident.

What does the Affidavit of Support require?

The affidavit of support is a declaration by the sponsor that s/he will provide the intending immigrant with an income of at least 125% of the Federal Poverty Guidelines based on the size of the sponsor’s household. The [Federal Poverty Guidelines](#) are published annually. The household size is determined by using information on the sponsor’s federal tax forms and whether the sponsor is also sponsoring any other immigrants.

The sponsor must also notify USCIS of any change of address within 30 days of a change of address by submitting a Form I-865 Sponsor’s Notice of Change of Address.

When do the financial support obligations end?

The financial obligation remains in place until one of the following five conditions is met by the immigrant foreign national:

- 1) Becomes a U.S. citizen
- 2) Has earnings or credit for 40 quarters (10 years) of work under the Social Security Act
- 3) Is no longer a legal permanent resident and leaves the U.S.
- 4) Is subject to removal proceedings and receives a new grant of adjustment of status based on a new affidavit of support
- 5) Dies

Additionally, if the sponsor dies, the obligation will end except for any support accumulated prior to death.

The affidavit also clearly states that, in a marriage-based green card case, should the marriage end in divorce, dissolution, or annulment, the obligation does not end.

What documents does the sponsor need to provide?

To prepare the affidavit of support, the sponsor will need to provide the following documentation that is submitted to the U.S. government along with the signed affidavit of support:

- Copy of federal taxes for the most recent tax year, plus adjusted gross income for prior 2 years
- Copy of W-2s for the most recent tax year
- Letter of employment verification, including salary information
- If the tax or employment documents do not show sufficient income to meet the Federal Poverty Guidelines, an alternative method to show income is based on financial assets, such as real property and banking accounts.

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In summary, the Affidavit of Support is an important part of qualifying the intending immigrant to become a permanent resident. In practice, it is rare that sponsors are required to repay public benefits. It is also uncommon that past usage of public benefits alone preclude an intending immigrant from eligibility as long as other factors mitigate the risk that the intending immigrant would be likely to become a public charge.

What is a “means-tested benefit” and obligation?

Separate from the public charge consideration below, the Affidavit of Support includes a notification that the financial sponsor’s income and assets may be utilized in determining whether the intending immigrant is eligible for means-tested public benefits. A means-tested public benefit is one in which one’s income and resources determine eligibility and/or the benefit amount. Currently, only five programs are on that list 1) Supplemental Security Income (SSI) for the aged, blind and disabled; 2) food stamps, 3) Medicaid; 4) Temporary Assistance to Needy Families, known as TANF, and 5) the Child Health Insurance Program. The financial sponsor(s) may be required to reimburse any federal, state or local entity that provides a means-tested public benefit to the sponsored immigrant for as long as the affidavit is in force.

What about situations where the foreign national is immigrating based on employment?

When a foreign national applies to become a permanent resident through employment and no family member has an ownership interest in the petitioning entity, there is no I-864 Affidavit of Sponsorship requirement. Instead, the petitioning entity must establish that it has the ability to pay the offered salary from the priority date of the petition to the date that permanent residency is granted.

Ability to pay must be documented via: 1) annual reports for public companies, 2) federal tax returns, or 3) audited financial statements. In some cases, a financial officer letter or additional evidence, such as profit/loss statements, bank account records, or personnel records may be submitted.

USCIS has provided guidance that if the net income or net current assets are equal to or greater than the offered wage, or the beneficiary has been/is being paid the offered wage, the ability to pay is generally considered to be established. In determining whether or not the petitioning entity has the ability to pay the offered salary, USCIS officers are to review the totality of the circumstances.

For self-petitioning employment-based categories, Extraordinary Ability (EB-1) and National Interest Waiver (EB-2), the applicant’s current employment is evaluated in analyzing public charge.