

Annual Update of Federal Poverty Guidelines

The Department of Health and Human Services (HHS) has published its annual update of the Federal Poverty Guidelines. A notice announcing the 2007 update was published in the Federal Register of January 24, 2007.

The poverty guidelines are used by a number of federal programs to determine eligibility for benefits or services. In Immigration law, the guidelines are relevant for “public charge” issues, among others and may also be useful in obtaining waivers of some application fees for certain indigent aliens. They are particularly important in complying with the affidavit of support requirements imposed by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA).

The 2007 guidelines are effective as of the date of publication.

The IIRIRA created the INA § 213A, which provides that sponsors of all family-based and some employment-based immigrants must provide a legally enforceable affidavit (Form I-864) illustrating that they are capable of maintaining an annual income equal to at least 125 percent of the HHS poverty guidelines. This calculation takes into account the total ‘family unit’ for which the sponsor will be responsible. A “family unit” is defined as “members of the sponsor’s household (including family and non-family dependants) plus the total number of other dependants and aliens sponsored by that sponsor”. The ‘other dependants and aliens sponsored by that sponsor’ may not necessarily be a part of the household.

The new poverty guidelines do not necessarily require persons who already filed affidavits to update them. According to the USCIS, if, between the time of filing the I-864 and the adjustment of status interview, the poverty income guidelines are updated, the sponsor is not required to submit a new affidavit of support. As long as the affidavit demonstrated that the sponsor has sufficient income to meet the 125 percent income requirement under the new guidelines, it will be accepted.

2007 POVERTY GUIDELINES

Minimum income requirements for use in completing Form I-864, Affidavit of Support under Section 213A

For the 48 Contiguous States and the District of Columbia

No. of Dependants	100 % Poverty Line	125 % Poverty Line
1	\$10,210	12,763
2	13,690	17,113
3	17,170	21,463
4	20,650	25,813
5	24,130	30,163
6	27,610	34,513
7	31,090	38,863
8	34,570	43,213
	Add \$3,480 for each additional member	Add \$4,350 for each additional member

Note: For Alaska & Hawaii the poverty guidelines are higher.