



# Grounds of Inadmissibility



U.S. Department of Justice  
Immigration and Naturalization Service

**Affidavit of Support under Section 213A of the Act (Form I-864)**

**Part 1. Basis for Filing Affidavit of Support**  
I am filing this affidavit of support because (check only one box):

a.  I am the petitioner who filed/s filing for the immigration of my relative or orphan child.  
b.  I am the joint sponsor. I am submitting proof that I am a U.S. citizen, U.S. national, or lawful permanent resident (LPR).  
I am also submitting a statement indicating how I know the petitioner and/or intending immigrant.  
c.  I filed an alien worker immigrant visa petition for my relative or I own at least 5% of the petitioning company.  
My relationship to the intending immigrant is \_\_\_\_\_

**Part 2. Information on the Sponsor (You)**  
LAST NAME \_\_\_\_\_

**For Government Use Only**  
This I-864 is for:  
The PETITIONER; it  
 meets the requirements of section 213A.

## Affidavit of Support

## 212(h) Criminal Waivers



## Unlawful Presence

***New York/Miami/Chicago/L.A./San Francisco... 2003***

# Affidavit of Support

- Due to the transition, the final rule implementing Affidavit of Support policy has not yet been published. BCIS will be introducing a new set of I-864 forms at about the same time as the publication of the final rule.



- When it is published, we will forward a reproducible training CD to each office.
- The CD covers:
  - The changes made by the final rule
  - An overview of AOS policy beginning to end
- Today's information covers the Family Sponsor Immigration Act of 2002.

# Family Sponsor Immigration Act

The petitioner is required by law to submit an Affidavit of Support, even if a joint sponsor is needed.



Sometimes the original petitioner died prior to the person receiving an immigrant visa or adjusting status, especially in preference cases if there was a long wait.

# Family Sponsor Immigration Act

For compelling cases, this used to be resolved by “humanitarian reinstatement.” The INS could reinstate the original petition, so long as it was approved prior to the petitioner’s death.



*8 CFR 205.1(a)(3)(i)(C)*

This became useless, however, once the I-864 was created, since there was no one to sign the Affidavit of Support, as required by INA 213A.

Congress responded by passing the  
“Family Sponsor Immigration Act.”

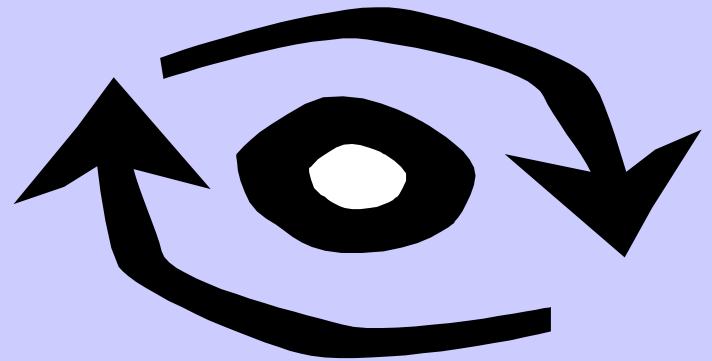
Prepared by BCIS Office of  
Adjudications



# Substitute Sponsors

The Family Sponsor Immigration Act created the use of “**substitute sponsors**” for the I-864 requirement in those cases where the petitioner is deceased.

Now, if a visa petitioner dies after approval of the petition, but prior to the beneficiary obtaining permanent residence, that beneficiary may use a “**substitute sponsor**” for the I-864.



**NOTE:** An I-130 can **NEVER** be approved **AFTER** the death of the petitioner.

# Substitute Sponsors

Substitute sponsors must be related to the intending immigrant in one of the following ways:

- spouse
- parent
- sibling
- grandparent
- child (if at least 18 years of age)
- son
- daughter
- father-in-law
- mother-in-law
- brother-in-law
- sister-in-law
- son-in-law
- daughter-in-law
- grandchild
- legal guardian

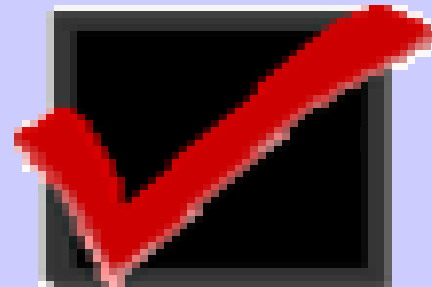


*INA 213A(f)(5)(B)*

# Substitute Sponsors

**Substitute sponsors** can **ONLY** be used in the case of a deceased petitioner. **Substitute sponsors** must meet all of the requirements of a sponsor:

- age
- domicile
- income
- status, **except** that they need not be the original person petitioning for the intending immigrant.



# Substitute Sponsors

- **Use of household income and assets:** Like a joint sponsor, a substitute sponsor may use the income and/or assets of qualified household members who have signed a Form I-864A.
- **Joint sponsor:** may be used if the substitute sponsor does not satisfy the income/assets requirement.

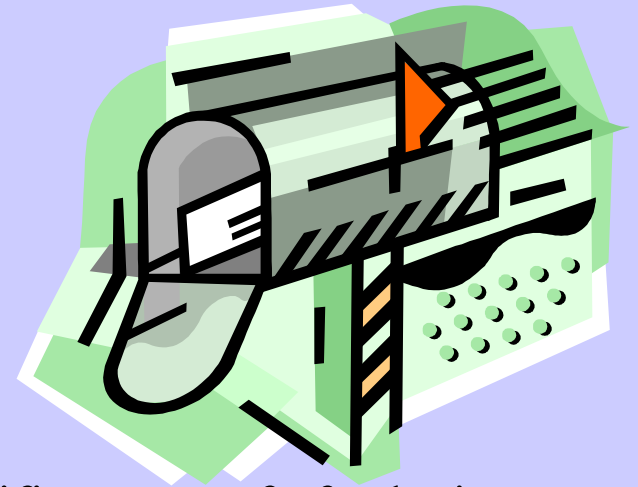




# Substitute Sponsors

## Procedures for filing under the new law:

- The beneficiary sends a written request for humanitarian reinstatement to the BCIS office where the original I-130 was sent by the original petitioner (now deceased). This will nearly always be a Service Center.
- The request must include a copy of the death certificate, proof of substitute sponsor's relationship to the beneficiary, and a viable I-864 completed by a substitute sponsor. (and a joint sponsor's I-864, if needed.) It should also include a copy of the approved I-130.
- The BCIS office then decides whether the I-130 petition should be reinstated for humanitarian reasons— such as if there is one family member (out of many) who has been unable to immigrate because of the petitioner's death.
- If the I-130 is reinstated, the BCIS office either forwards it to the State Dept. abroad, or to the officer adjudicating the alien's adjustment of status application.



# Questions on I-864 Issues

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