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Beware of New Affidavit of Support

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Because of a high volume of inquiries about the new affidavit of support (Form I-864) that took effect last December 19, the Department of State has issued guidelines on how to complete the form, what supporting documents should be submitted and the legal consequences to the sponsor.

The new form is far more technical and much longer than the old one and contains contractual language and legal terminology that the Department of State has acknowledged would be difficult for many petitioners to complete. Indeed, because of the contractually binding nature of the affidavit, it would be advisable to obtain professional assistance.

The new affidavit obligates the sponsor to financially support the immigrant until he is naturalized or has worked for 40 quarters or has departed the U.S. permanently or has died. The sponsor may be sued by a federal, state or local agency that will provide means-tested public benefits like food stamps, Medicaid and SSI to the sponsored immigrant.

The sponsor must be the petitioning relative or the relative who has a significant ownership in the petitioning company. He must be a citizen or national of the U.S. or a permanent resident, at least 18 years old, domiciled in the U.S. and able to demonstrate the means to maintain an income of at least 125 percent of the federal poverty level.

Presently, the minimum qualifying income for sponsors with 2 household members including the sponsor is \$13,262; a household of 6 members must have at least \$26,862. If the petitioner is unable to meet the income requirement, one or more joint sponsors may file but each joint sponsor must have the minimum income requirement.

The sponsor must attach his complete federal income tax returns for the last 3 years. If the sponsor's income does not meet the requirement, proof of assets owned by the sponsor, the sponsored immigrant or member of the sponsor's household may be submitted. The value of all assets listed must equal at least 5 times the difference between the minimum income required and the sponsor's total household income.

The affidavit form will have a six-month validity. It must be signed within 6 months prior to the visa interview. If submitted within that period, it is valid indefinitely although supporting documentation must be updated if more than one year pass between the date of the affidavit and the visa issuance.

The sponsor is required to report every change of his address to the INS and the state where the immigrant resides. Failure to report may expose him to civil penalty.