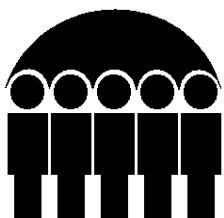


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Employees' Manual  
Title 4  
Chapter L

FAMILY INVESTMENT PROGRAM

# **ALIENS AND MIGRANTS**



Iowa  
Department  
of  
Human Services

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## **Overview**

This chapter contains policies unique to aliens and migrants. It contains only policies that are different from standard Family Investment Program (FIP) policy. Use this chapter in conjunction with the remaining Title 4 chapters to determine FIP eligibility and benefits for aliens and migrants.

## **Aliens**

**Legal reference:** Public Law 104-193; 441 IAC 41.23(5)

This section discusses special treatment of certain aspects of an alien's circumstances:

- ◆ Applicants must provide documentation of each family member's alien status to attain FIP eligibility.
- ◆ You must verify the immigration status of aliens who appear to be eligible.
- ◆ Only aliens with an eligible status can be included on the FIP grant. Eligible alien statuses are listed under [Alien Status](#).

The following sections address:

- ◆ [Declaration of citizenship or alienage](#)
- ◆ [Alien status](#)
- ◆ [Aliens exempt from the five-year bar on eligibility](#)
- ◆ [Aliens subject to the five-year bar on eligibility](#)
- ◆ [Sponsor affidavits of support and deeming](#)
- ◆ [Ineligible aliens](#)
- ◆ [Social security number requirements for aliens](#)
- ◆ [Income and resource guidelines for aliens](#)

### **Declaration of Citizenship or Alienage**

**Legal reference:** 441 IAC 40.24(239B); 41.23(5)

| **Policy:**

As a condition for eligibility, all applicants and participants must declare their citizenship or alien status in writing.

| **Procedure:**

See 4-C, [Citizenship](#), for more information. Aliens must provide documentation of their alien status to be eligible for FIP.

If an alien claims to have an eligible status, but does not have any documentation, refer the person to the U.S. Citizenship and Immigration Services (USCIS) Bureau of the Department of Homeland Security (formerly the Immigration and Naturalization Service (INS)) to obtain proof of status.

Instruct the person in writing to provide the necessary documentation within ten days. Extend the ten-day period as appropriate. Pend the application as is reasonable under the circumstances. Depending on how much time is needed to obtain the documentation, make monthly contacts with the applicant to:

- ◆ Check on the status of the documentation, and
- ◆ Determine that the applicant is making continued efforts to obtain the documentation.

For example, you could ask for a copy of a form the applicant has filed with the USCIS or a copy of correspondence that would indicate the applicant has contacted that agency and is working on obtaining the documentation.

Upon receipt of the documentation, approve FIP retroactive to the effective date of the FIP application, provided the person is otherwise eligible. Include or exclude the alien's needs as indicated by the alien status documentation that you received.

Draw a distinction between situations that result in FIP ineligibility for just the alien or for the entire family. When an alien provides documentation of an ineligible alien status, the person's FIP status has been identified. This enables you to determine the eligible group. Process the application for the remaining family members and exclude only the needs of the ineligible alien.

If the alien does not provide necessary documentation of alien status as requested, you do not know if the alien is eligible to be included in the FIP grant (nor can you determine the alien's PROMISE JOBS referral status). That means you cannot determine the eligible group.

If you cannot determine the eligible group, the entire family is ineligible, regardless of the reason. In that case, deny the application for failure to provide information.

For additional information, refer to 4-B, [APPLICATION PROCESSING](#), and 4-G, [Adding a New Member to an Active Case](#).

### **Evidence of United States Citizenship**

Establish the birthplace of all people whose needs are to be included in the FIP grant.

Consider any person born in the United States to be a citizen. People born in Puerto Rico, Guam, the U.S. Virgin Islands, and the Northern Mariana Islands are United States citizens. People born abroad with United States citizen parents are generally, but not always, United States citizens.

For FIP purposes, also consider a person who is a noncitizen United States national the same as a citizen. A "noncitizen United States national" is a person who is born in American Samoa or Swain's Island.

People who are not citizens or nationals can become citizens through a process called "naturalization."

NOTE: Persons from the Federated States of Micronesia or the Marshall Islands are not United States citizens or nationals.

The following are examples of acceptable documentation of United States citizenship:

- ◆ Birth certificate.
- ◆ Religious record of birth recorded in the United States or its territories within three months of birth that indicates a United States place of birth. The document must show either the date of birth or the person's age when the record was established.

- ◆ United States passport (excludes limited passports that are issued for periods of less than five years).
- ◆ *Report of Birth Abroad of a Citizen of the U.S.* (USCIS Form FS-240).
- ◆ *Certification of Birth* (USCIS Form FS-545).
- ◆ *U.S. Citizen ID Card* (USCIS Form I-197).
- ◆ *Naturalization Certificate* (USCIS Forms N-550 or N-570).
- ◆ *Certificate of Citizenship* (USCIS Forms N-560 or N-561).
  
- ◆ *Northern Mariana Identification Card* (issued by the USCIS to a collectively naturalized citizen of the United States who was born in the Northern Mariana Islands before November 3, 1986).
  
- ◆ Contemporaneous hospital record of birth in the United States, Puerto Rico, Guam, the Virgin Islands, American Samoa, Swain's Island, or the Northern Mariana Islands (unless the person was born to foreign diplomats residing in such a jurisdiction).

### **Alien Status**

**Legal reference:** Section 121 of the Immigration and Control Act of 1986 (Public Law 99-603); Public Law 104-193; 441 IAC 41.23(5)

Legal aliens may be eligible or ineligible for FIP, depending on their immigration status. Illegal or undocumented aliens are never eligible for FIP.

The federal Personal Responsibility and Work Opportunity Reconciliation Act of 1997 (PRWORA) divides aliens into two categories, "qualified" and "nonqualified." Not all qualified aliens are eligible for FIP, but all qualified alien parents, applying for or receiving FIP, are subject to PROMISE JOBS requirements.

Qualified aliens are those who are:

- ◆ Lawfully admitted for permanent residence
- ◆ Refugees
- ◆ Asylees
- ◆ Amerasian immigrants
- ◆ Cuban/Haitian entrants
- ◆ Paroled into the United States for at least one year
- ◆ Aliens whose deportation is withheld
- ◆ Granted conditional entry into the United States
- ◆ Battered aliens
- ◆ Victims of trafficking
- ◆ Iraqi and Afghan special immigrants

| The qualified aliens described under [Qualified Aliens Exempt from Five-Year Bar](#) are eligible for FIP from the date they obtain that alien status.

| The qualified aliens described under [Qualified Aliens Subject to Five-Year Bar](#) are not eligible for FIP for five years after their date of entry. The five-year period of ineligibility begins on the date of the person's entry into the United States with one of the listed statuses. If the alien entered with a status that is not listed, the five-year period begins with the date a listed status is obtained.

| Nonqualified aliens are all of those whose classification is not specifically listed under either [Qualified Aliens Exempt from Five-Year Bar](#) or [Qualified Aliens Subject to Five-Year Bar](#). Nonqualified aliens are not eligible for FIP at any time, regardless of the date they entered the United States. Nonqualified aliens are exempt from PROMISE JOBS requirements. See [Nonqualified \(Ineligible\) Aliens](#) for more information.

### **Alien Status Verification**

**Legal reference:** Section 121 of the Immigration Reform and Control Act of 1986 (Public Law 99-603); Public Law 104-193; 441 IAC 9.10(4)“d”; 41.23(5)

Aliens must provide documentation of their alien status before you approve a FIP application or add an alien to an existing FIP case. (Refer to [Alien Status](#) for the effect of a person’s alien status on PROMISE JOBS participation.)

Aliens listed under [Qualified Aliens Subject to Five-Year Bar](#) or under [Qualified Aliens Exempt from Five-Year Bar](#) must also provide verification of the entry or admission date from which their status started.

Draw a distinction between situations that result in FIP ineligibility for just the alien or those that result in ineligibility for the entire family.

- ◆ When the alien provides documentation of an ineligible alien status, the alien status does not affect your ability to determine the eligible group. Thus, exclude only the needs of the ineligible alien.
- ◆ However, when a person is unwilling to provide documentation of alien status, do not attempt to get verification from the U.S. Citizenship and Immigration Services (USCIS). Deny FIP for the entire family, because the eligible group cannot be determined until the person’s alien status has been established.

Do not verify an alien’s documentation with USCIS if it clearly shows the alien has an ineligible status. In this situation, deny FIP for the person and determine eligibility for the remaining family members.

All aliens must also provide verification of their identity. This means that if the alien’s documentation does not contain a photograph, you must get another form of verification of the person’s identity. Additional verification of identity may be necessary because:

- ◆ An immigration document contains a photo that does not allow for reasonable identification of the person, or
- ◆ The document contains the person’s maiden name or a misspelling of the person’s name.

I When an alien provides documentation, refer to [Alien Status Documentation Chart](#) to determine if the person is eligible for FIP and for PROMISE JOBS participation. The chart lists:

- ◆ The types of documentation than can be used to verify alien status.
- ◆ Additional verification that certain aliens must provide to prove they are eligible for FIP or PROMISE JOBS (e.g., the date they were admitted to the United States, or the date a particular alien status was granted or adjusted).

NOTE: The USCIS does not require children under age 14 to have documentation of their alien status. Therefore, if the adult who is applying for benefits has a documented legal alien status and attests to the child's legal status, the adult's attestation is sufficient proof of the child's alien status.

Children aged 14 through 17 are required to have immigration documentation, but they are not required to carry it on their persons. The Immigration and Nationality Act does require all aliens who are 18 or older to carry the documentation on their persons at all times.

**Alien Status Documentation Chart**

Status	Acceptable Documentation	FIP Status	PJ Status
Amerasian immigrant	<ul style="list-style-type: none"> <li>◆ Form I-551, <i>Permanent Resident Card</i>,* annotated AM6, AM7, or AM8.</li> <li>◆ Unexpired temporary I-551 stamp in a foreign passport annotated AM1, AM2, or AM3.</li> <li>◆ Form I-94, <i>Arrival/Departure Record</i>, annotated AM1, AM2, or AM3.</li> </ul>	Eligible regardless of U.S. entry date	Mandatory

Status	Acceptable Documentation	FIP Status	PJ Status
Asylee	<ul style="list-style-type: none"> <li>◆ Form I-94, <i>Arrival/Departure Record</i>, or passport stamped "asylee" or section 208. AS-1, AS-2, or AS-3, Visa 92 (or V-92).</li> <li>◆ Order of an immigration judge, the Board of Immigration Appeals or a federal court, granting asylum.</li> <li>◆ Form I-688B or I-766, <i>Employment Authorization Card</i>, coded 274a.12(a)(5) or A5.</li> <li>◆ Form I-730, <i>Approval Letter</i>.</li> <li>◆ Form I-571, <i>Refugee Travel Document</i>.</li> </ul>	Eligible as of date asylum is granted	Mandatory
Battered alien	<p>Proof of admission of entry date <b>and</b> one of the following documents:</p> <ul style="list-style-type: none"> <li>◆ An I-360 or I-130 petition with proof of filing (a file-stamped copy of the petition, an I-797 or I-797C, or other document such as a signed certified return receipt or cash register or computer-generated receipt).</li> <li>◆ Form I-797 or battered aliens I-797C indicating approval or prima facie validity of an I-360 petition.</li> <li>◆ Form I-797 or I-797C indicating filing or approval of an I-130 petition.</li> <li>◆ Order or document from the Immigration Court or Board of Immigration Appeals granting suspension of deportation under INA section 244(a)(3), or cancellation of removal under INA section 204A(b)(2).</li> </ul>	<p>Eligible.</p> <p>If entered United States on or after 8/22/96, case must be coded as a battered alien case until alien has resided in United States five years.</p>	Mandatory

Status	Acceptable Documentation	FIP Status	PJ Status
Battered alien (Cont.)	<ul style="list-style-type: none"> <li>◆ Application for cancellation of removal (form EOIR 42B) or suspension of deportation (form EOIR 40) with proof of filing (a file-stamped copy of the application or other document such as a signed certified return receipt or cash register or computer-generated receipt).</li> <li>◆ A document from the Immigration Court or Board of Immigration Appeals indicating that the applicant has established a prima facie case for:               <ul style="list-style-type: none"> <li>• Suspension of deportation under INA section 244(a)(3) or</li> <li>• Cancellation of removal under INA section 204A(b)(2).</li> </ul> </li> </ul>	Eligible.  If entered United States on or after 8/22/96, case must be coded as a battered alien case until alien has resided in United States five years.	Mandatory
Conditional entrant	Proof of admission or entry date <b>and</b> one of the following documents: <ul style="list-style-type: none"> <li>◆ Form I-94, <i>Arrival/Departure Record</i>, with stamp showing admission under section 203(a)(7) of the INA.</li> <li>◆ Form I-688B, <i>Employment Authorization Card</i>, annotated "274a.12(a)(3)."</li> <li>◆ Form I-766, <i>Employment Authorization Document</i>, annotated "A3."</li> </ul>	Barred for five years if entered United States <b>on or after</b> 8/22/96  Eligible if entered United States <b>before</b> 8/22/96	Mandatory
Cuban or Haitian entrant	<ul style="list-style-type: none"> <li>◆ Form I-551, <i>Permanent Resident Card</i>,* annotated CU6, CU7, CH6, or CNP.</li> <li>◆ Unexpired temporary I-551 stamp in a foreign passport annotated CU6, CU7, CH6, or CNP.</li> <li>◆ Form I-94, <i>Arrival/Departure Record</i>, annotated CU6 or CU7, or with a stamp showing parole as "Cuban/Haitian Entrant" under section 212(d)(5) of the INA.</li> </ul>	Eligible regardless of U.S. entry date	Mandatory

Status	Acceptable Documentation	FIP Status	PJ Status
Deportation or removal withheld	<ul style="list-style-type: none"> <li>◆ Form I-688B, <i>Employment Authorization Card</i>, annotated "274a.12(a)(10)."</li> <li>◆ Form I-766, <i>Employment Authorization Document</i>, annotated "A10."</li> <li>◆ Order of an immigration judge showing deportation withheld under section 243(h) or removal withheld under section 241(b)(3) of the INA and date of grant.</li> </ul>	Eligible regardless of U.S. entry date	Mandatory
Iraqi or Afghan special immigrants (lawful permanent residents, treated as refugees)	<ul style="list-style-type: none"> <li>◆ Form I-551, <i>Permanent Resident Card</i>, showing Iraqi or Afghan nationality with any of these status codes:               <ul style="list-style-type: none"> <li>• SI1, SI2, SI3, SI6, SI7, SI9, or</li> <li>• SQ1, SQ2, SQ3, SQ6, SQ7, SQ9</li> </ul> </li> <li>◆ Iraqi or Afghan passport with an immigrant visa stamp noting admitted under a status code listed and date of entry noted on passport or Form I-94, <i>Arrival/Departure Record</i>.</li> </ul>	Eligible regardless of U.S. entry date	Mandatory

Status	Acceptable Documentation	FIP Status	PJ Status
Lawfully admitted permanent resident	<ul style="list-style-type: none"> <li>◆ Form I-551, <i>Permanent Resident Card</i>.<sup>*</sup>                      NOTE: Form I-551 annotated with certain codes indicates the person originally entered the United States under another status and later adjusted to lawful permanent resident. Eligibility must be determined based on the person's original status upon entry. These statuses and codes are:                     <ul style="list-style-type: none"> <li>• Amerasian (AM-1, AM-2, AM-3, AM-6, AM-7, AM-8)</li> <li>• Asylee (AS-6, AS-7, AS-8)</li> <li>• Cuban or Haitian (CH-6, CU-6, CU-7, LB-2, LB-6, LB-7)</li> <li>• Parolee (LA)</li> <li>• Refugee (R8-6, RE-6, RE-7, RE-8, RE-9)</li> </ul> </li> <li>◆ Form I-327, <i>Permit to Reenter the United States</i>.</li> <li>◆ I-94, <i>Arrival/Departure Record</i>, with temporary I-551 stamp.</li> <li>◆ Foreign passport stamped showing temporary evidence of lawful permanent resident or I-551 status.</li> <li>◆ Form I-181, <i>Memorandum of Creation of Lawful Permanent Residence</i>, with approval stamp.</li> <li>◆ Order issued by the USCIS, an immigration judge, the Board of Immigration Appeals, or a federal court granting registry, suspension of deportation, cancellation of removal, or adjustment of status.</li> <li>◆ Any verification from the USCIS or other authoritative document.</li> </ul>	Barred for five years if entered United States <b>on or after 8/22/96</b>  Eligible if entered United States <b>before 8/22/96</b>	Mandatory

Status	Acceptable Documentation	FIP Status	PJ Status
Paroled into United States for at least one year	<ul style="list-style-type: none"> <li>◆ Form I-94, <i>Arrival/Departure Record</i>, indicating "parole" or "PIP" or 212(d)(5), or other language indicating parole status.</li> <li>◆ Forms I-688B or I-766, <i>Employment Authorization Document</i>, coded A4 or C11 or 274a.12(a)(4), 274a.12(c)(11).</li> <li>◆ Any verification from the USCIS or other authoritative documents.</li> <li>◆ If adjusted to lawful permanent resident status, may have Form I-551, <i>Permanent Resident Card</i>. *</li> </ul> <p>NOTE: The applicant cannot use admission periods for less than one year to meet the one-year requirement.</p>	Barred for five years if entered United States <b>on or after</b> 8/22/96  Eligible if entered United States <b>before</b> 8/22/96	Mandatory
Refugee	<ul style="list-style-type: none"> <li>◆ Form I-94, <i>Arrival/Departure Record</i>, stamped "refugee" or section 207.</li> <li>◆ Form I-668B or I-776, <i>Employment Authorization Card</i>, coded 274a.12(a)(3) or A3.</li> <li>◆ Form I-571, <i>Refugee Travel Document</i>.</li> <li>◆ Any verification from the USCIS or other authoritative document.</li> </ul> <p>NOTE: Refugees who have adjusted to lawful permanent resident status are still considered refugees for FIP eligibility. If a refugee has a Form I-551, <i>Permanent Resident Card</i>,* it will be annotated RE-6, RE-7, RE-8, RE-9, or R8-6.</p>	Eligible regardless of U.S. entry date	Mandatory

\* In December 1997, the name of Form I-551 changed from "*Alien Registration Receipt Card*" to "*Permanent Resident Card*."

Status	Acceptable Documentation	FIP Status	PJ Status
Veteran or active duty military personnel, spouse, or dependent (lawful permanent residents)	Proof of military status: ♦ Active duty: Original or notarized copy of current orders showing the person is on full-time duty in the U.S. Army, Navy, Air Force, Marine Corps, or Coast Guard; or a DD form 2 military ID card (active duty papers). ♦ Honorably discharged veteran: Original or notarized copy of form DD214 (discharge papers). For proof of LPR status, see <a href="#">lawfully admitted permanent resident</a> .	Eligible regardless of U.S. entry date	Mandatory
Victim of trafficking	HHS Office of Refugee Resettlement certification letter, validated by calling the trafficking verification line at (866) 401-5510. NOTE: SAVE does not have information about a person's status as a victim of trafficking.	Eligible for the period certified	Mandatory
Other (legal or illegal)	Documents that indicate the person's alien status is one <b>other than</b> those specifically listed above.	Ineligible regardless of entry date	Exempt

Contact the U.S. Citizenship and Immigration Services (USCIS) through Systematic Alien Verification for Entitlements (SAVE) when:

- ♦ An alien presents Form I-688B, I-766 (*Employment Authorization Documents*), or I-571 (*Refugee Travel Document*) but does not have Form I-94 (*Arrival-Departure Record*);
- ♦ An alien has a grant letter or court order, but the information presented does not include the date the status was granted;
- ♦ You cannot identify the annotation codes on the document;
- ♦ An alien has a receipt card saying the alien has applied for a replacement document.

Do not delay, deny, reduce, or cancel the alien's eligibility for benefits while waiting for the USCIS to provide secondary verification.

For applications, assume the person is eligible and, if otherwise eligible include the person in the assistance grant until the immigration verification is received. If the person would be a mandatory PROMISE JOBS participant if eligible, refer the person to PROMISE JOBS to sign a family investment agreement before FIP is approved.

If the verification received from USCIS indicates that the person is not an eligible alien, remove the person from the FIP grant, subject to timely notice. Recoup excess FIP issued for the person during the interim.

### **Using SAVE (Systematic Alien Verification for Entitlements)**

**Legal reference:** Immigration Reform and Control Act of 1986 (IRCA), Section 121, as amended by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), and by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) and the Balanced Budget Act of 1997 (BBA)

#### **Policy:**

The USCIS shall provide alien status verification when necessary.

#### **Procedure:**

Contact the USCIS through the Systematic Alien Verification for Entitlement (SAVE) system when it is necessary to verify:

- ◆ A person's alien status, as described in [Alien Status Verification](#).
- ◆ Sponsorship of a lawful permanent resident (LPR) alien, as described in [Verifying Sponsor's Information](#).

Do not contact USCIS when the alien claims to be undocumented or provides acceptable documentation of an eligible or ineligible alien status.

### **Qualified Aliens Exempt From Five-Year Bar**

**Legal reference:** 441 IAC 41.23(5)

#### **Policy:**

A qualified alien with one of the following statuses is eligible for FIP from the date the person obtains the status:

- ◆ Aliens lawfully admitted for permanent residence who are:
  - Active-duty personnel of the U.S. armed forces.
  - Spouses (including surviving spouses who have not remarried) or unmarried dependent children of active-duty personnel of U.S. armed forces.
  - Veterans honorably discharged for reasons other than alienage.
  - Spouses (including surviving spouses who have not remarried) or unmarried dependent children of veterans honorably discharged for reasons other than alienage.

NOTE: "Active duty" excludes temporary full-time duty for training purposes performed by members of the National Guard or reserves. See 4-C, [Age](#), for the definition of "child."

- ◆ Refugees admitted under section 207 of the Immigration and Nationality Act.
- ◆ Aliens granted asylum under section 208 of the INA.
- ◆ Amerasian immigrants.
- ◆ Cuban or Haitian entrants under section 501(e) of the Refugee Education Assistance Act of 1980.
- ◆ Aliens whose deportation or removal is withheld under section 243(h) or section 241(b)(3) of the Immigration and Nationality Act.
- ◆ Aliens who entered the United States **before** August 22, 1996, and are:
  - Lawfully admitted for permanent residency;
  - Paroled into the United States under section 212(d)(5) of the INA for a period of at least one year; or
  - Granted conditional entry under section 203(a)(7) of the INA as in effect before April 1, 1980.

- ◆ Battered aliens. See [Battered Aliens](#) for specific instructions.
- ◆ Victims of trafficking, for the period for which the Office of Refugee Resettlement certifies them. See [Victims of Trafficking](#) for specific instructions.
- ◆ Iraqi and Afghan special immigrants. See [Iraqi and Afghan Special Immigrants](#) for specific instructions.

Unless they are determined exempt due to receipt of SSI for disability, alien parents in the categories listed above are mandatory PROMISE JOBS referrals. They are subject to the family investment agreement (FIA) and the limited benefit plan.

**Procedure:**

Determine eligibility for FIP for aliens in these categories without applying the five-year bar.

Refer aliens in these categories to PROMISE JOBS. See 4-J, [REFERRING CLIENTS TO PROMISE JOBS](#), for information on referral and exemptions.

**Battered Aliens**

**Legal reference:** 441 IAC 41.23(4)

Generally, when an alien is the spouse or child of a United States citizen or a lawful permanent resident, the citizen or lawful permanent resident must file USCIS Form I-130, *Petition for Alien Relative*, to allow these family members to remain in the United States. If the petition is not filed (or is withdrawn), the alien has no lawful immigrant status and may face being deported.

In abusive situations, control over the alien's immigration status strengthens the batterer's hold on the victims. For example, the batterer may threaten to stop the visa process if the abused spouse or child attempted to leave their common home or to report the abuse to authorities.

Since the 1994 enactment of the Violence Against Women Act, a battered alien may self-petition for lawful permanent residency by USCIS Form I-360, *Petition for Amerasian, Widow(er) or Special Immigrant*. The petition can be filed without the cooperation or knowledge of the abuser.

The battered person may be the alien or the child or parent of the alien. The abuser may be a United States citizen or lawful permanent resident family member (spouse, parent, or other relative) who lived in the same household in the United States. To qualify as a battered alien, the person must:

- ◆ Present documentation of an approved or a pending petition for a family-based immigrant visa, a self-petition for an immigrant visa, or cancellation of removal, or suspension of deportation, **and**
- ◆ No longer lives with the abuser.

| See [Alien Status Documentation Chart](#) for more information on verification of battered alien status.

NOTE: Because of the abusive relationship, these aliens may not have copies of documents they filed themselves or that were filed on their behalf. Refer applicants who do not have any documentation or who are not certain that a petition for lawful permanent residency has been filed on their behalf to the USCIS forms request line (1-800-870-3676).

These families may already be working with a domestic violence service provider. If not, refer them to the National Domestic Violence Hotline (1-800-799-7233) or to the local domestic violence service provider.

The domestic violence service provider may be able to assist the applicant in obtaining necessary documentation of alien status without jeopardizing the alien's safety or immigration efforts.

Under federal Temporary Assistance for Needy Families (TANF) regulations, a battered alien who entered the United States **before** August 22, 1996, is exempt from the five-year bar and may be eligible for FIP assistance from the date the person receives the status.

A battered alien who entered the United States **on or after** August 22, 1996, is ineligible for assistance for five years from the date of entry, unless the state chooses to provide assistance from state-only funds. The Iowa legislature in 2002 Iowa Acts, Chapter 1175, directed the Department to provide FIP assistance to battered aliens without regard to the five-year bar.

People applying for FIP assistance under these provisions are required to meet all other FIP eligibility requirements, except that the requirement to provide a social security number will be waived until the alien receives employment authorization from the USCIS.

Months of FIP assistance received by a battered alien count toward the 60-month limit. The Eligibility Tracking System will count these months.

### **Social Security Number**

The Social Security Administration requires aliens to provide proof of employment authorization in order to apply for a social security number. A battered alien generally will receive verification of employment authorization from the USCIS three to four months after verification of the person's immigrant status is received.

A battered alien is not required to provide a social security number or proof of application for a social security number until the month following the month employment authorization is received from the USCIS.

A battered alien may apply for FIP before receiving employment authorization from the USCIS. If all other eligibility requirements are met, approve FIP using 999-99-9999 as the person's social security number. Inform the person, in writing, of the requirement to:

- ◆ Apply for employment authorization.
- ◆ Apply for a social security number when the employment authorization is received.
- ◆ Provide proof of application for a social security number by the month following the month when the employment authorization is received.
- ◆ Report the social security number when received.

Enter an Automated Benefit Calculation (ABC) system "tickler" on the case to follow up and request proof of application for a social security number if proof is not provided within the expected time.

NOTE: Although employment authorization is typically received within three to four months, in some situations it may take longer for the authorization to be received. Continue FIP assistance without a social security number, so long as the application for employment authorization remains pending.

### **Child Support Recovery**

As with any other FIP case, before requiring cooperation with child support recovery, thoroughly explain good cause criteria. Make sure the applicant understands the right to claim good cause.

Because of the abusive relationship and other unusual barriers the family may face, if the battered alien wishes to claim good cause, assist the person as much as possible in establishing the claim. Refer to 4-C, [Good Cause for Refusal to Cooperate](#), for details.

Because FIP for battered aliens is paid with state-only funds, child support referrals must be made manually. Enter an "N" in the DEP field on the ABC TD03 screen for each child on the battered alien FIP case. Do not establish an ICAR case.

If the battered alien claims and is determined to have good cause for not cooperating with child support recovery, do **not** make a referral to the Child Support Recovery Unit (CSRU). Document the good cause decision clearly in the case record.

If the battered alien does not claim or is determined not to have good cause for not cooperating with child support recovery, make a manual referral to the CSRU.

To make the referral, send a copy of form 470-0188, *Application for Nonassistance Support Services*, to the local CSRU office. (Print this form from the sample in [9-H-Appendix](#).) Enter your name and worker number in the "Applicant's Signature" section on page 6 and enter the current date in the "Date" section. Leave the rest of the form blank.

Attach photocopies of the following pages from the family's *Health and Financial Support Application*:

- ◆ Page 1, with the client's name and address.
- ◆ Page 3, with the personal information for all family members for whom the referral is being made.
- ◆ Page 7 or 8, with the absent parent information.

Also attach a memo explaining that the family is a battered alien family. If you have any other relevant information about the absent parent, include that information in the memo. If the family has a court order for support in place or has legal assistance pursuing an order, include this information in the memo.

Because the referral is made manually instead of through Iowa Collection and Reporting (ICAR) system, you must manually notify CSRU of changes that occur in the case after referral. Notify the local CSRU office by mail or by e-mail when any of the following events occur:

- ◆ Members of the FIP household leave the home.
- ◆ New household members are approved for FIP.
- ◆ Change of address.
- ◆ New information is received about the absent parent.
- ◆ Cancellation of FIP. NOTE: Since canceled cases are often reinstated before the effective date of cancellation, do not notify CSRU of cancellation of FIP until the effective date of cancellation, to be sure the case will remain canceled.

If the client fails to cooperate with CSRU after referral, CSRU will contact you. Contact the client and offer the client the opportunity to cooperate with CSRU or to claim good cause. Notify the client in writing of:

- ◆ The consequences of failure to cooperate.
- ◆ The client's right to claim good cause.
- ◆ The date by which cooperation or the good cause claim must occur.

Determine whether a sanction should be imposed as follows:

- ◆ If the client resumes cooperation by the deadline, do not impose a sanction.
- ◆ If the client claims good cause and you determine that good cause exists, document the good cause decision in the case record and notify the local CSRU office of the decision by mail or e-mail. Do not impose a sanction if the good cause claim is made by the deadline and good cause is determined to exist.
- ◆ If the client does not cooperate or establish good cause, impose the 25% sanction as described in 4-C, [Sanction for Failure to Cooperate](#). Notify CSRU by mail or e-mail that the sanction has been imposed.

### **PROMISE JOBS**

Battered aliens are subject to the same PROMISE JOBS and family investment agreement (FIA) requirements as other FIP applicants and participants.

If the person already has a social security number, make the referral to PROMISE JOBS in the same way as for any other FIP applicant or participant.

If the person does not yet have a social security number, ABC will not be able to transmit the referral information to PROMISE JOBS.

- ◆ Enter the PROMISE JOBS referral code in the JOBS field on the TD03 screen in the ABC system.
- ◆ Also note in the comments section of form 470-3897, *FIA Appointment*, that the person is a battered alien who does not yet have a social security number. Include the person's address and date of birth and the names and ages of the children in the home (regardless of the child's FIP status).

When the battered alien obtains a social security number and that number is entered into the ABC system, ABC will generate a system referral to PROMISE JOBS.

### **Case Identification**

Identify battered alien cases by entering a "Y" in the BAT ALIEN field on TD02. The field will default to "N" unless a "Y" is entered. This code will identify the case so that payments can be tracked and paid from state funds. The "Y" code should remain so long as FIP continues to be received based on the person's battered alien status.

If any members of the FIP household receive FIP based on battered alien status, code the case as a battered alien case even if some members of the FIP household would be eligible without the battered alien provisions.

Mrs. A applies for FIP for herself and her two children. Mrs. A and one child are eligible for FIP under the battered alien provisions. Mrs. A's youngest child was born in the United States and is a United States citizen.

So long as any members of the household receive FIP based on battered alien status, consider the FIP case as a battered alien case.

Create a tickler message in ABC to notify you when the battered alien has resided in the United States for five years. After that date is reached, the federal five-year bar on assistance no longer applies, and assistance no longer must be paid from state-only funds.

Remove the "Y" code when the person has resided in the United States for five years and is otherwise still eligible.

### **Victims of Trafficking**

**Legal reference:** Public Laws 106-386 and 108-193

Aliens who are certified as “victims of trafficking” by the Department of Health and Human Services’ Office of Refugee Resettlement (HHS ORR) are “eligible aliens” for FIP benefits. Alien victims of trafficking have an eligible status for FIP benefits for the period for which ORR certifies them.

The HHS ORR certifies a victim of trafficking for eight-month periods. The person’s certification date is stated in the body of the HHS ORR certification letter or letter for children under 18 years old.

When a victim of trafficking applies for benefits, follow normal procedures for determining eligibility for refugee cash assistance except:

- ◆ Accept the original HHS ORR certification letter for adults or letter for children under 18 years old in place of USCIS documentation.

Although trafficking victims are not required to provide any documentation of their immigration status for benefit purposes, they may have various documents, such as Form I-94, *Arrival/Departure Record*, with a stamp showing parole under section 212(d)(5) of the INA, an employment authorization document, etc. The documentation may serve to verify identity.

- ◆ Contact the trafficking verification line at (866) 401-5510 to confirm the validity of the certification letter for adults or letter for children under 18 years old and to notify the ORR of the benefits for which the individual has applied. NOTE: Do not contact SAVE concerning victims of trafficking, because SAVE will not have this information.
- ◆ Record the expiration date of the certification letter or the letter for children by using the tickler system, and redetermine eligibility at that time. The expiration date of the HHS ORR certification period is specified in the person’s certification letter.

A recertification letter issued to the victim of trafficking by the ORR is required for the person to receive FIP benefits beyond the eight-month ORR certification period.

Cancel assistance at the end of the specified ORR certification period unless the household has received, and provides, a follow-up letter as stated above, or the household otherwise meets alien eligibility requirements. You must give timely notice.

Victims of trafficking may not yet have standard identity documents, such as driver's licenses. Do not automatically deny applications for people who cannot confirm their identity. Call the trafficking verification line at (866) 401-5510 for assistance.

Some victims of trafficking may not yet have or may not be able to get a social security number for work purposes. Assist these individuals in obtaining non-work social security numbers. See [Social Security Number Requirement](#).

FIP rules require applicants for benefits who do not have social security numbers to apply for them. Assistance cannot be delayed, denied, or discontinued pending the issuance of their social security numbers.

If you encounter a person you believe may meet the definition of trafficking victim, go through your usual channels to obtain instructions on providing the person with assistance in contacting ORR for possible certification by that agency.

If a victim of trafficking gains an eligible alien status, the new eligible alien status is to be used when redetermining eligibility for that person.

### **Iraqi and Afghan Special Immigrants**

**Legal reference:** Public Law 110-161 (December 26, 2007); Public Law 110-181 (January 28, 2008); Public Law 110-329 (September 30, 2008); Public Law 111-8 (March 10, 2009); Public Law 111-118 (December 19, 2009)

#### **Policy:**

Beginning December 26, 2007, some Iraqi and Afghan nationals who have acted as translators for the U.S. military or provided services for the U.S. government, as well as their spouses and unmarried children, have been granted special immigrant status.

Before December 19, 2009, these special immigrants were subject to the five-year bar after an eight-month period of eligibility.

Effective December 19, 2009, Iraqi and Afghan aliens granted special immigrant status are lawful permanent residents (LPRs) who are exempt from the five-year bar on assistance. These special immigrants are eligible for assistance to the same extent as refugees.

#### **Procedure:**

Approve FIP for Iraqi and Afghan special immigrants if all other eligibility requirements are met.

#### **Comment:**

Initially, the exemption period for Afghan special immigrants was only six months. In April 2009, federal law extended the exemption for Afghans to eight months. Afghan special immigrants whose six-month exemption period ended before March 11, 2009, were not eligible for the extension to eight months.

### **Qualified Aliens Subject to Five-Year Bar**

**Legal reference:** 441 IAC 41.23(5)

#### **Policy:**

Qualified aliens with the following statuses are barred from FIP eligibility for five years. The five-year period begins on the date the person enters the United States with one of the following statuses. If the person originally entered the United States with a status that is not listed, the five years begins with the date they first obtained a qualified alien status.

- ◆ Aliens lawfully admitted for permanent residency.
- ◆ Aliens paroled into the United States under section 212(d)(5) of the Immigration and Nationality Act (INA) for a period of **at least one year**.
- ◆ Aliens granted conditional entry under section 203(a)(7) of the INA as in effect before April 1, 1980.

EXCEPTION: See [Qualified Aliens Exempt from Five-Year Bar](#). The five-year bar does not apply to aliens with one of the statuses listed in this section who are lawfully residing in the United States and are:

- ◆ Aliens who entered the United States before August 22, 1996.
- ◆ Battered aliens.
- ◆ Active-duty personnel of the U.S. armed forces.
- ◆ Spouses (including surviving spouses who have not remarried) and unmarried dependent children of active-duty personnel of the U.S. armed forces.
- ◆ Veterans honorably discharged for reasons other than alienage.
- ◆ Spouses (including surviving spouses who have not remarried) and unmarried dependent children of veterans honorably discharged for reasons other than alienage.
- ◆ Iraqi and Afghan special immigrants.

Unless they are determined exempt due to receipt of SSI, alien parents subject to the five-year bar are mandatory PROMISE JOBS referrals, even though they are excluded from the grant during the five-year period. They are subject to the family investment agreement and the limited benefit plan.

**Procedure:**

Deny FIP for aliens who are subject to the five-year bar. Determine FIP eligibility for any remaining family members who are not ineligible due to the five-year bar. Code an ineligible alien parent as an “excluded parent” (“F” individual FIP status) in the ABC system.

Create ticklers in the ABC system to notify you of an excluded alien’s upcoming expiration of the five-year bar.

Since the ending date of the five-year period is known to you, the family is not required to report that date or request to add the excluded alien. Provided the family has not exhausted the 60-month FIP limit and is otherwise still eligible, the date after the five-year bar has ended is the date of application to add the alien to the FIP case.

See 4-G, [Establishing the Date of Application and Eligibility](#), for additional information. See 4-J, [PROMISE JOBS](#), for more information on PROMISE JOBS referrals.

**Sponsor Affidavits of Support and Deeming**

**Legal reference:** 441 IAC 41.26(9) and (10)

**Policy:**

Aliens admitted to the United States as lawful permanent residents may have a sponsor who pledged to support them.

A sponsor is a person who signs an “affidavit of support.” If the sponsor signed an enforceable affidavit of support, the income and resources of the sponsor (and the sponsor’s spouse, if living with the sponsor) may be deemed (considered) in determining eligibility and benefits for FIP. Deeming may apply whether or not the sponsor actually makes the income and resources available to the alien.

Sponsor deeming applies only to applicants and participants who:

- ◆ Are lawful permanent residents,
- ◆ Applied for lawful permanent resident status on or after December 19, 1997, and
- ◆ Are sponsored by a person who signed Form I-864, *Affidavit of Support*.

Sponsor deeming does **not** apply when the sponsor is:

- ◆ An organization such as a church or service club.
- ◆ An employer who does not sign an affidavit of support.
- ◆ A spouse or parent whose income is otherwise considered in determining FIP eligibility and benefits. If the couple separates, then the sponsor deeming rules apply.
- ◆ An individual who signs another form of support affidavit, including Form I-134 or Form I-361.

**Comment:**

An alien may have more than one sponsor and a sponsor may have sponsored more than one alien.

The following sections explain:

- ◆ [Affidavits of support](#)
- ◆ [Verifying sponsor's information](#)
- ◆ [Exceptions to deeming](#)
- ◆ [Calculating deemed sponsor income and resources](#)

**Affidavits of Support**

**Legal reference:** 441 IAC 41.26(9) and (10)

**Policy:**

The USCIS will certify whether an applicant has a sponsor and, if so, what kind of affidavit the sponsor signed.

**Procedure:**

If the sponsor signed Form I-864, *Affidavit of Support*, deem the income and resources unless one of the exemptions listed under [Exemptions to Deeming](#) applies.

If the sponsor signed any other type of affidavit of support, including forms I-134 and I-361, do not deem the income and resources.

### **Verifying Sponsor's Information**

**Legal reference:** IRCA, Section 121, as amended by PRWORA, and IIRIRA and the Balanced Budget Act of 1997

**Policy:**

Sponsorship must be verified, at application and review, for any applicant or participant who became a lawful permanent resident (LPR) on or after December 19, 1997, unless the person is exempt from sponsor deeming.

**Procedure:**

When the person provides Form I-864, *Affidavit of Support*, accept this as proof of sponsorship.

If the person does not have the *Affidavit of Support*, verify sponsorship through SAVE by selecting Request Additional Verification on the Case Details page. Complete the *Additional Verification Data Request* form and enter "sponsorship information request" in the SPECIAL COMMENTS field.

For more instructions on using the SAVE system, see <http://dhsintranet/field/asp/documents/IM/SAVEInstructions.pdf>

If the response verifies that the person has a sponsor who signed Form I-864, *Affidavit of Support*, the name, address, and social security number of the sponsor will be provided in the response from SAVE.

See [Exceptions to Deeming](#) for information on who is exempt from sponsor deeming. If it appears that deeming applies, ask the alien if their sponsor is providing support.

When sponsor deeming applies, request verification of the income and resources of the sponsor and the sponsor's spouse, from the sponsored alien. Do not approve FIP for the eligible group until you receive the sponsor's verification.

If the sponsored person needs more time or help obtaining information from the sponsor, follow the procedures in 4-B, [Verification](#), for obtaining information from a third party.

An applicant or participant who provides a signed release to a specific individual for specific information has met the requirements for supplying requested information or verification.

If a third party does not provide the requested information, contact the applicant to obtain the best information available about the sponsor's income and resources and determine eligibility based on the information provided.

### **Exceptions to Deeming**

**Legal reference:** 441 IAC 41.23(5)

#### **Policy:**

Lawful permanent resident aliens whose sponsor signed Form I-864, *Affidavit of Support*, are exempt from sponsor to alien deeming when:

- ◆ The sponsored alien has attained citizenship.
- ◆ The sponsored alien can be credited with 40 qualifying quarters.
- ◆ The sponsor dies.
- ◆ The sponsored alien dies or permanently leaves the United States. Deeming stops effective with the month the change occurs.
- ◆ The sponsored alien is indigent. This exception applies for 12 months from the date the person is determined indigent. See [Indigent Aliens](#).
- ◆ The sponsored alien is a victim of battering or extreme cruelty in the United States. The victim's children or parents are also exempt from sponsor deeming. This exception applies for 12 months from the date it is determined that the person qualifies as a battered alien. See [Battered Aliens](#) for more information.

NOTE: Aliens who do not have a sponsor who signed Form I-864, *Affidavit of Support*, are also exempt from sponsor deeming. For example, those who entered the United States before December 19, 1997, and those who adjusted to lawful permanent resident status from an alien status that did not require an affidavit of support (refugees, asylees, parolees, etc.).

#### **Procedure:**

Do not apply sponsor deeming to a lawful permanent resident who is identified as exempt from deeming.

**Establishing Qualifying Quarters**

**Procedure:**

When a lawful permanent resident (LPR) is not otherwise exempt from sponsor deeming, you must determine the number of qualifying quarters with which the person can be credited. LPRs become exempt from sponsor deeming when they can be credited with 40 qualifying quarters.

The following chart lists the amount a person had to earn to get one credit for the years 1978 and later. For years before 1978, contact SPIRS for assistance.)

<b>Amount Needed to Earn a Qualifying Quarter</b>			
Year	Earnings Needed to Get One Credit	Year	Earnings Needed to Get One Credit
1978	\$250	1995	\$630
1979	\$260	1996	\$640
1980	\$290	1997	\$670
1981	\$310	1998	\$700
1982	\$340	1999	\$740
1983	\$370	2000	\$780
1984	\$390	2001	\$830
1985	\$410	2002	\$870
1986	\$440	2003	\$890
1987	\$460	2004	\$900
1988	\$470	2005	\$920
1989	\$500	2006	\$970
1990	\$520	2007	\$1,000
1991	\$540	2008	\$1,050
1992	\$570	2009	\$1,090
1993	\$590	2010	\$1,120
1994	\$620	2011	\$1,120

To calculate the number of quarters for a year, divide the person's total earnings for the year by the amount needed to get one credit. Use only full quarters. For example, 2.95 quarters are rounded down to 2 quarters.

For earnings from employment, use the gross amount of earnings. For earnings from self-employment, use the amount of earnings after allowable self-employment expenses have been deducted.

Each person can get up to a total of four qualifying quarters of credit each calendar year, based on the person's own earnings. The person may be credited with additional quarters in a calendar year based on earnings of a parent or spouse, as described later in this section.

Mr. G earned \$5,000 gross income in 1995.  $\$5,000 \div \$630 = 7.936$ . Although the result equals over seven quarters, he is credited with four qualifying quarters in 1995.

NOTE: Starting with January 1, 1997, do not count the income from any quarters in which an alien got FIP benefits or any other type of federal means-tested public assistance during the quarter. "Means-tested public assistance" includes FIP, SSI, Medicaid, and Food Assistance.

The quarters in a calendar year are: January through March, April through June, July through September, and October through December.

This means if an alien received FIP, Food Assistance, Medicaid, or SSI in June 1997, you would subtract the person's April, May, and June earnings from the total 1997 earnings and divide the remainder to figure how many qualifying quarters the person has.

Use the same formula to calculate qualifying quarters by a spouse or parent.

**Spouse's quarters:** Lawful permanent residents can count their spouse's quarters earned during the marriage in addition to their own quarters to meet the 40-quarter requirement.

For example, if each spouse had 20 quarters, you would add the quarters together. Both spouses would be counted as having 40 quarters and both would meet this requirement. Exempt both from sponsor deeming requirements.

Count the spouse's quarters earned during the marriage if the spouse is either a citizen or an alien, and either:

- ◆ The couple is currently married, or
- ◆ A spouse is deceased and the surviving spouse is not remarried, or
- ◆ The couple is separated but not divorced.

If a couple divorces, the former spouses are no longer entitled to each other's quarters. However, if the divorce occurs after a person has been credited with 40 quarters and determined eligible for FIP, do not subtract qualifying quarters earned by the former spouse.

1. Mr. and Mrs. J are LPRs who entered the United States in February 2000 but did not obtain qualifying status until February 2006. March 2006, they apply for FIP.

Although Mr. J has a sponsor, it is determined that sponsor deeming does not apply because Mr. J can be credited with 20 qualifying quarters of his own and 20 of Mrs. J's quarters. Mr. J is exempted from sponsor deeming and all other eligibility factors are met, so FIP is approved.

In July, the couple divorces. The qualifying quarters previously credited to each spouse are not recalculated.

2. Same as Example 1, except the couple has already divorced by the time Mr. J applies for FIP. Mr. J can be credited with his own qualifying quarters but not those of his former spouse.

Mr. J is not exempt from sponsor deeming until he has 40 creditable qualifying quarters. Unless Mr. J meets another reason for exemption from sponsor deeming, FIP eligibility for Mr. J's eligible group will be determined using the income deemed from the sponsor and any other countable income of the eligible group.

**Parents' quarters:** Aliens can also count the quarters earned by a parent in addition to their own quarters to meet the 40-quarter requirement.

For this policy, "parent" means the natural or adoptive parent or the stepparent. Count the parent's quarters if the parent:

- ◆ Is either a citizen or an alien, and
- ◆ Earned the quarters before the child turned 18. (The parent's quarters earned before the child was born also count.)

When calculating creditable quarters for the year in which a child turned 18, count all earnings received by the child's parents while the child was under 18 years of age.

Child D turned 18 on June 15, 2006. His mother earned \$12,000 between January 1 and June 14 of that year. Divide \$12,000 by \$970 = 12.37, converted to the maximum allowable four quarters. Child D is credited with four qualifying quarters from his mother in 2006.

Count the quarters earned by a stepparent during the stepparent relationship, if the relationship still exists. Do not count quarters earned before the stepparent relationship began. Death of the stepparent does not end the relationship.

If the parent and stepparent divorce, any quarters earned by the stepparent are lost. However, if divorce occurs after the person has already been credited with the 40 quarters and determined eligible for FIP, do not subtract qualifying quarters earned by the stepparent.

Do not count quarters earned by a child toward the eligibility of a parent.

### **Verifying Qualifying Quarters**

The alien is responsible for getting verification of qualifying quarters. This includes getting verification of the qualifying quarters earned by a spouse, parent, or stepparent. In addition to verification from the Social Security Administration (SSA), you can use documentation such as:

- ◆ Wage stubs or W-2s
- ◆ Employer's statement
- ◆ Income tax forms

If the alien does not have acceptable proof, the alien is responsible for obtaining necessary verification from the SSA. SSA can verify quarters starting with the year 1930.

If the alien provides verification from SSA of less than the required 40 qualifying quarters but disputes the SSA records, allow the alien an opportunity to resolve the discrepancy.

### **Battered Aliens Exception**

**Legal reference:** 441 IAC 41.23(5)

**Policy:**

A lawful permanent resident (LPR) alien who is determined to be a battered alien is exempt from sponsor deeming.

**Procedure:**

Determine if the sponsored LPR alien has proof of battered alien status as indicated in the [Alien Status Documentation Chart](#). Also see [Battered Aliens](#) for information on eligibility for battered aliens.

### **Indigent Aliens**

**Legal reference:** 441 IAC 41.23(5)

**Policy:**

A lawful permanent resident (LPR) alien whose sponsor signs Form I-864, *Affidavit of Support*, is exempt from sponsor deeming if it is determined that the sponsored person meets indigent criteria of being unable to obtain food and shelter.

**Procedure:**

Explain to the applicant or participant that the sponsor's income and resources will be considered (deemed) in determining eligibility and benefits, unless it is determined that the sponsored person meets indigent criteria of being unable to obtain food and shelter.

If the sponsored person is living with the sponsor, assume the sponsor is providing food and shelter. Do not consider the person to be indigent.

If the sponsored person is living apart from the sponsor, ask the sponsored person how much income the sponsor and others outside the household are making available.

Consider the sponsored person to be indigent if the gross income of the sponsored person's assistance unit (including any income provided by others, including the sponsor) is less than 100% of the federal poverty level for the sponsored person's eligible group. See 6-Appendix, [Desk Aid, RC-0033](#), for the federal poverty level.

In determining whether the indigence exemption applies, county only the **actual** amount of income that the sponsor and others make available to the sponsored person.

**Comment:**

If the indigence exemption applies, there is no sponsor deeming. However, income actually made available by the sponsor is countable when determining eligibility and benefits for the alien's eligible group.

1. Mr. B is an LPR sponsored by a person under Form I-864, *Affidavit of Support*. Mr. B does not live with his sponsor and does not have the 40 qualifying quarters needed to exempt him from sponsor deeming. Mr. B and his wife are qualified aliens who have met the five-year bar. Their children are U.S. citizens.

Mr. B applies for FIP for himself and his family. The family's only income is Mr. B's gross monthly earnings of \$400, plus \$200 provided by his sponsor. The \$600 total income is less than 100% of the federal poverty level for Mr. B's four person eligible group.

Mr. B is determined to be indigent and sponsor deeming is not applied. However, the income actually provided by the sponsor is countable unearned income to Mr. B.

2. Same as Example 1, except Mr. B receives SSI. The family's only income is Mr. B's SSI and \$200 provided by Mr. B's sponsor. Since the sponsored alien is an SSI recipient, indigence does not have to be determined. FIP eligibility and benefits for Mrs. B and the children is determined without considering Mr. B's income.

### **Calculating Deemed Sponsor Income and Resources**

**Legal reference:** 441 IAC 41.26(9) and (10)

**Policy:**

When a lawful permanent resident (LPR) alien is sponsored by a person who signed Form I-864, *Affidavit of Support*, and sponsor deeming applies, income and resources are deemed to the sponsored alien after applying allowable deductions and diversions.

**Procedure:**

**Income.** Calculate the amount of income to deem as follows:

1. Determine the amount of the sponsor or sponsor's spouse's monthly nonexempt gross earned and unearned income in accordance with normal FIP policy.
2. Allow deductions as follows:
  - ◆ Allow the same deductions from the income of the sponsor or sponsor's spouse that are allowed for ineligible stepparents, including diversion for the needs of the sponsor and the sponsor's spouse and dependents. See 4-E, [Deductions Allowed for Stepparents](#).
  - ◆ Divide the amount remaining by the number of aliens sponsored by this sponsor, if known. If the number is not known, count the entire remaining amount.
3. The result is the amount of income deemed to the sponsored person. Count this amount as unearned income when determining eligibility and benefits for the eligible group.

Mr. C is an LPR who is subject to sponsor deeming. He applies for FIP for himself, his wife, and two children. They are qualified aliens who have met the five-year bar but do not have 40 qualifying quarters.

Mr. C has gross monthly earnings of \$400. The sponsor has gross monthly earnings of \$1,500. The sponsor's household includes his wife and one child. The sponsor's wife has no income.

The amount of income to deem from the sponsor is calculated as follows:

\$ 1,500.00	Sponsor's gross monthly earnings
– 300.00	20% earned income deduction
– 849.00	Diversion for sponsor, wife, and child
– <u>203.58</u>	58% work incentive deduction
\$ 147.42	Countable as unearned income to the sponsored person

Next FIP eligibility for Mr. C's household is calculated as follows:

**Test 1:**

\$ 147.42	Deemed from sponsor
+ <u>400.00</u>	Mr. C's earnings
\$ 547.42	Less than 185% (Test 1) for four persons

**Test 2:**

\$ 400.00	Mr. C's gross earnings
– <u>80.00</u>	20% earned income deduction
\$ 320.00	Mr. C's net earnings
+ <u>147.42</u>	Deemed from sponsor
\$ 467.42	Less than Standard of Need (Test 2) for four persons

**Test 3:**

\$ 320.00	Mr. C's net earnings
– <u>185.60</u>	58% work incentive deduction
\$ 134.40	Mr. C's countable earnings
+ <u>147.42</u>	Deemed from sponsor
\$ 281.82	Total countable income
\$ 495.00	Payment standard for four persons
– <u>281.82</u>	Countable income
\$ 213.00	FIP grant (rounded)

**Resources.** Calculate the amount of resources to deem as follows:

1. Determine the amount of nonexempt resources of the sponsor and the sponsor's spouse in accordance with normal FIP policy.
2. Allow deductions as follows:
  - ◆ Subtract \$1,500 from the sponsor's total nonexempt resources.
  - ◆ Divide by the number of aliens sponsored by this sponsor, if known. If the number is not known, count the entire amount.

3. The remainder is the amount of resources deemed to the sponsored alien.

**Comment:**

If the sponsor makes income or resources available to the sponsored person in excess of the deemed amount, also count the extra amount.

A FIP parent who is not eligible to be included in the FIP grant (for example due to the five-year bar) is treated as an excluded parent. See 4-E, [Excluded Parent](#), for information on calculating income.

Ms. K is a sponsored LPR who is ineligible for FIP due to the five-year bar. She applies for FIP for her two children who are U.S. citizens. All of the income deemed from Ms. K's sponsor is treated as unearned income of Ms. K. This income is added to any other income of the household and is used to determine eligibility and benefits for the children.

**Nonqualified (Ineligible) Aliens**

**Legal reference:** 441 IAC 41.23(5)

**Policy:**

Nonqualified aliens whose alien status is not specifically listed under [Qualified Aliens Subject to Five-Year Bar](#) or [Qualified Aliens Exempt from Five-Year Bar](#) are not eligible for FIP or PROMISE JOBS **regardless** of the date they entered the United States. However, their family members who were born in the United States or have an eligible alien status and who otherwise meet FIP requirements may be eligible.

**Procedure:**

Code an ineligible alien parent as an "excluded parent" in the ABC system.

**Important:** Do not refer aliens whose alien status is not listed under [Qualified Aliens Subject to the Five-Year Bar](#) or [Qualified Aliens Exempt From the Five-Year Bar](#) to PROMISE JOBS. PROMISE JOBS is prohibited from providing services to nonqualified aliens. See 4-J, [Alien Exemption](#), for specific information.

If the family of a nonqualified alien parent reaches the 60-month limit on FIP assistance, do not approve a hardship exemption for FIP beyond 60 months. A family that includes a nonqualified alien parent cannot be approved for hardship, because the parent cannot sign the hardship family investment agreement. See 4-C, [Who May Qualify for a Hardship Exemption](#).

**Comment:**

Examples of immigration statuses held by aliens who are ineligible for FIP include:

- ◆ Illegal or undocumented aliens. These aliens either were never legally admitted to the United States for any period, or they were admitted for a limited period and did not leave the United States when the period expired.
- ◆ Aliens paroled into the United States under section 212(d)(5) of the INA **for less than one year**.
- ◆ Aliens with protected status (such as PRUCOLs (permanently residing in the United States under color of law)).
- ◆ Temporary residents (see “legal nonimmigrants”).
- ◆ Aliens in deferred status.
- ◆ Legal nonimmigrants. These include:
  - Visitors for business or pleasure, including exchange visitors
  - Aliens in travel status while traveling through the United States
  - Crewmen on shore leave
  - Foreign students
  - Temporary workers including agricultural contract workers
  - Treaty traders and investors and their families
  - Foreign diplomats on official business and their families and servants
  - International organization personnel and their families and servants
  - Members of foreign press, radio, film or other information media and their families

NOTE: Some of these aliens may possess valid employment authorization documents, but that does not alter their ineligibility for FIP and PROMISE JOBS.

### **Reporting Illegal Aliens**

At the time of interview, explain alien eligibility criteria and verification procedures to households that include non-citizen members. Check the status only of household members who are applying for assistance and claim to have an eligible status for the program.

Based on federal guidance, the Department is to report to the USCIS that an alien is not lawfully present in the United States only if we “know” that the alien is not lawfully present. The Department “knows” this only if:

- ◆ The alien applies to receive benefits, **and**
- ◆ The alien claims to have an eligible status for the program, **and**
- ◆ In making a formal determination of eligibility, we receive from USCIS verification of illegal status, such as a Final Order of Deportation.

NOTE: A SAVE response that shows no service record on a person or shows an immigration status making the person ineligible for a benefit is not a finding of fact or conclusion of law that the person is not lawfully present.

Situations in which the criteria are met for reporting an illegal alien are extremely rare. For this reason, contact SPIRS Helpdesk for assistance if you believe it may be appropriate to report an illegal alien.

### **Social Security Number Requirement**

**Legal reference:** 441 IAC 41.22(13)

People who fail to provide a social security number or proof of application for a number must be excluded from the eligible group, but must still provide documentation of alien status for a PROMISE JOBS determination.

Failure to provide documentation of alien status results in FIP ineligibility for the entire family, because the alien’s PROMISE JOBS referral status cannot be determined. Deny the application for failure to provide information.

If the alien provides documentation of alien status but the status prohibits the person from being included in the eligible group, deny the person’s needs for that reason. Do not require the alien to provide a social security number or proof of application for a number in that instance.

If the alien provides documentation of a FIP-eligible alien status but does not want to provide a social security number or proof of application for a number, deny the person's needs for failure to provide a social security number.

Migrants who are not citizens must meet the same eligibility requirements as any other alien (as described in this chapter). See [Migrants](#).

Some victims of trafficking may not yet have or may not be able to get a social security number for work purposes. Assist them in obtaining non-work social security numbers by sending a letter to the Social Security Administration that:

- ◆ Is on letterhead.
- ◆ Includes the applicant's name.
- ◆ Mentions that this person is a trafficking victim.
- ◆ References the non-work reason for which the number is required.
- ◆ States that the applicant meets the requirements to receive benefits except for the social security number.

While FIP rules require applicants who do not have a social security number to apply for one, assistance cannot be delayed, denied, or discontinued pending the issuance of the social security number. See [Victims of Trafficking](#) for more information.

Some battered aliens may apply for FIP before they are able to apply for a social security number. A battered alien cannot apply for a social security number until employment authorization is received from the USCIS. This authorization is usually received within three or four months following receipt of documentation of status as a battered alien.

Do not delay, deny, or discontinue assistance for a person who has status as a battered alien due to failure to apply for a social security number when the person has applied for employment authorization but has not yet been received it.

The person has until the month following the month the employment authorization is received from the USCIS to apply for a social security number. See [Battered Aliens](#) for additional information.

Refer to 4-C, [Social Security Number](#), for additional information.

### **Income and Resources**

**Legal reference:** 441 IAC 41.23(5); 41.26(2); 41.27(6); 41.27(8)“a”

Treat an eligible alien the same as any other person in the eligible group.

Do not include the needs of a person who is an ineligible alien or whose alien status prohibits the person from receiving FIP for five years as described in this chapter.

Treat the income and resources of these excluded aliens as described in 4-D, [Whose Resources to Count](#), and 4-E, [Excluded Parent](#). Do not count the income and resources of a child who is an ineligible alien, the same as with any other ineligible child.

### **Migrants**

**Legal reference:** 441 IAC 41.23(1), 41.23(5)

Migrants are people who travel between states or counties to find work on a seasonal basis. They are usually employed in agricultural situations. Migrants may be U.S. citizens or nationals, or they may be aliens. If the migrant is also an alien, verify the migrant’s alien status to determine eligibility for FIP.

### **Residency**

**Legal reference:** 441 IAC 41.23(1), 41.26(1)“a”

When a person, who is either a citizen or U.S. national enters Iowa for employment purposes, the person is considered a resident even if the person retains a homestead in another state and intends to return there once employment has ended. “Entering the state for employment purposes” is defined as:

- ◆ Having a job commitment, or
- ◆ Seeking employment, regardless of whether the person is employed when applying for FIP.

This policy makes it possible for migrant families to meet the residency requirement and to receive FIP if otherwise eligible.

A person who is temporarily absent from a state and remains eligible for FIP in that state could also be eligible in another state in which residency has been established for employment purposes. However, under no circumstances can the person **receive** FIP in **both** states at the **same time**.

Discuss with the migrant the pros and cons of receiving assistance in Iowa vs. in the other state, such as use and coverage of the Medicaid card, FIP benefit level, etc., so that the migrant can make an informed choice in which state to apply for assistance.

If the migrant retains a homestead (as defined by FIP policy) in the other state while residing in Iowa for employment purposes, the homestead is exempt as resource as long as the migrant **intends to return to that homestead once employment has ended**. See 4-D, [Homestead](#).

Examine the migrant's "intent to return to the homestead" and document the results in the case record at the time of FIP application and subsequent review. Indications that a person who entered Iowa for employment does not intend to return to the homestead in the other state may include the following:

- ◆ The person moves other family members to Iowa.
- ◆ The person establishes a family in Iowa.
- ◆ The person accepts a "permanent" job in Iowa.
- ◆ The person purchases a home in Iowa.
- ◆ The person attempts to sell the homestead in the other state.

If the family does not intend to return to the homestead left behind in the other state, consider the property nonhomestead property and treat the property in accordance with those policies before approving the family for FIP.

In addition, before FIP can be approved, a migrant family must meet all other program eligibility factors that apply to any other FIP household.