



DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[CIS No. 2654-19; DHS Docket No. USCIS-2019-0020]

RIN 1615-ZB83

Continuation of Documentation for Beneficiaries of Temporary Protected Status

Designations for El Salvador, Haiti, Honduras, Nepal, Nicaragua, and Sudan

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: Notice.

SUMMARY: Through this notice, the Department of Homeland Security (DHS) announces actions to ensure its continued compliance with the preliminary injunction orders of the U.S. District Court for the Northern District of California in *Ramos, et al. v. Nielsen, et al.*, No. 18-cv-01554 (N.D. Cal. Oct. 3, 2018) (“*Ramos*”) and the U.S. District Court for the Eastern District of New York in *Saget, et al., v. Trump, et al.*, No. 18-cv-1599 (E.D.N.Y. Apr. 11, 2019) (“*Saget*”), and with the order of the U.S. District Court for the Northern District of California to stay proceedings in *Bhattarai v. Nielsen*, No. 19-cv-00731 (N.D. Cal. Mar. 12, 2019) (“*Bhattarai*”). Beneficiaries under the Temporary Protected Status (TPS) designations for El Salvador, Honduras, Nepal, Nicaragua, and Sudan will retain their TPS while the preliminary injunction in *Ramos* remains in effect, provided that an alien’s TPS is not withdrawn because of individual ineligibility.

Beneficiaries under the TPS designation for Haiti will retain their TPS while either of the preliminary injunctions in *Ramos* or *Saget* remain in effect, provided that an alien’s TPS

is not withdrawn because of individual ineligibility. This notice further provides information on the automatic extension of the validity of TPS-related Employment Authorization Documents (EADs); Notices of Action (Forms I-797); and Arrival/Departure Records (Forms I-94), (collectively “TPS-related documentation”); for those beneficiaries under the TPS designations for El Salvador, Haiti, Honduras, Nepal, Nicaragua, and Sudan.

DATES: DHS is automatically extending the validity of TPS-related documentation for beneficiaries under the TPS designations for El Salvador, Haiti, Honduras, Nepal, Nicaragua, and Sudan, as specified in this notice. Such TPS-related documentation will remain in effect through January 4, 2021, from the current expiration dates of: January 2, 2020 (for beneficiaries under the TPS designations for El Salvador, Haiti, Nicaragua, and Sudan); January 5, 2020 (for beneficiaries under the TPS designation for Honduras); and March 24, 2020 (for beneficiaries under the TPS designation for Nepal).

FOR FURTHER INFORMATION CONTACT:

- You may contact Maureen Dunn, Chief, Humanitarian Affairs Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, U.S. Department of Homeland Security, by mail at 20 Massachusetts Avenue, NW, Washington, DC 20529-2060; or by phone at 800-375-5283.
- For further information on TPS, please visit the USCIS TPS web page at www.uscis.gov/tps.
- If you have additional questions about (TPS), please visit uscis.gov/tools. Our online virtual assistant, Emma, can answer many of your questions and point you to additional information on our website. If you are unable to find your answers there,

you may also call our U.S. Citizenship and Immigration Services (USCIS) Contact Center at 800-375-5283 (TTY 800-767-1833).

- Applicants seeking information about the status of their individual cases may check Case Status Online, available on the USCIS website at www.uscis.gov, or call the USCIS Contact Center at 800-375-5283 (TTY 800-767-1833).
- Further information will also be available at local USCIS offices upon publication of this notice.

SUPPLEMENTARY INFORMATION:

Table of Abbreviations

CFR – Code of Federal Regulations

DHS – U.S. Department of Homeland Security

EAD – Employment Authorization Document

FNC – Final Nonconfirmation

Form I-765 – Application for Employment Authorization

Form I-797 – Notice of Action

Form I-821 – Application for Temporary Protected Status

Form I-9 – Employment Eligibility Verification

Form I-912 – Request for Fee Waiver

Form I-94 – Arrival/Departure Record

Government – U.S. Government

INA – Immigration and Nationality Act

IER – U.S. Department of Justice Civil Rights Division, Immigrant and Employee Rights Section

SAVE – USCIS Systematic Alien Verification for Entitlements Program

Secretary – Secretary of Homeland Security

TNC – Tentative Nonconfirmation

TPS – Temporary Protected Status

TTY – Text Telephone

USCIS – U.S. Citizenship and Immigration Services

Background on Temporary Protected Status (TPS)

- TPS is a temporary immigration status granted to eligible nationals of a country designated for TPS under the Immigration and Nationality Act (INA) or to eligible persons without nationality who last habitually resided in the designated country.
- During the TPS designation period, TPS beneficiaries are eligible to remain in the United States, may not be removed, and are authorized to obtain EADs so long as they continue to meet the requirements of TPS.
- TPS beneficiaries may also apply for travel authorization as a matter of discretion.
- The granting of TPS does not result in or lead to lawful permanent resident status.
- To qualify for TPS, beneficiaries must meet the eligibility standards at INA section 244(c)(1)–(2), 8 U.S.C. 1254a(c)(1)–(2).
- When the Secretary of Homeland Security (the Secretary) terminates a country’s TPS designation, beneficiaries return to one of the following:
 - The same immigration status or category that they maintained before TPS, if any (unless that status or category has since expired or been terminated); or
 - Any other lawfully obtained immigration status or category they received while registered for TPS, as long as it is still valid on the date TPS terminates.

Purpose of this Action

DHS last published notices to ensure its compliance with the *Ramos* preliminary injunction on March 1, 2019, and the *Bhattarai* order to stay proceedings on May 10, 2019. 84 FR 7103; 84 FR 20647. Through this *Federal Register* notice, DHS announces actions to ensure its continued compliance with the *Ramos* and *Saget* preliminary injunction orders and with the order to stay proceedings in *Bhattarai*.

The TPS designations for El Salvador, Nicaragua, and Sudan will remain in effect, as required by the *Ramos* order, so long as the preliminary injunction remains in effect. The TPS designation for Haiti will remain in effect, as required by the preliminary injunction orders in both *Ramos* and *Saget*, so long as either of those preliminary injunctions remain in effect. The TPS designations for Honduras and Nepal will remain in effect, as required by the *Bhattarai* order to stay proceedings, pending final disposition of the Government's appeal of the preliminary injunction order in *Ramos*. Beneficiaries under the TPS designations for El Salvador, Honduras, Nepal, Nicaragua, and Sudan will retain their TPS while the preliminary injunction in *Ramos* remains in effect, and beneficiaries under the TPS designation for Haiti will retain their TPS while the preliminary injunctions in either *Ramos* or *Saget* remain in effect, provided that an alien's TPS status is not withdrawn under INA section 244(c)(3) because of individual ineligibility. *See also* 8 CFR 244.14. DHS will not terminate TPS for any of the affected countries pending final disposition of the *Ramos* appeal, or for Haiti pending both *Ramos* and *Saget* appeals, including through any additional appellate channels in which relief may be sought, or by other orders of the court.

DHS is further announcing it is automatically extending, through January 4, 2021,

the validity of certain TPS-related documentation, as specified in this notice, for beneficiaries under the TPS designations for El Salvador, Haiti, Honduras, Nepal, Nicaragua, and Sudan, provided that the affected beneficiaries remain individually eligible for TPS. This notice also provides information explaining DHS's plans to issue subsequent notices that will describe the steps DHS will take to address the status of beneficiaries under the TPS designations for all the affected countries, if continued compliance with the *Ramos* or *Saget* preliminary injunctions or the *Bhattarai* order to stay proceedings becomes necessary.

Automatic Extension of EADs issued under the TPS designations for El Salvador, Haiti, Honduras, Nepal, Nicaragua, and Sudan

Through this *Federal Register* notice, DHS automatically extends the validity of EADs listed in Table 1 below issued to beneficiaries under the TPS designations for El Salvador, Haiti, Honduras, Nepal, Nicaragua, and Sudan. Such individuals may show their automatically-extended EAD to employers to demonstrate they have employment authorization, and may wish also to show employers this *Federal Register* Notice to explain that their TPS-Related Documentation has been extended through January 4, 2021. This Notice explains how TPS beneficiaries, their employers, and benefit-granting agencies may determine which EADs are automatically extended and how this affects the Form I-9, Employment Eligibility Verification, E-Verify, and USCIS Systematic Alien Verification for Entitlements (SAVE) processes. Additionally, a beneficiary under the TPS designation for any of these countries who has applied for a new EAD but who has not yet received his or her new EAD is covered by this automatic extension, provided that the EAD he or she possesses contains one of the expiration dates listed in Table 1

below.

Table 1. Affected EADs	
If an EAD has a category code of A-12 or C-19 and an expiration date of:	Then the validity of the EAD is extended through:
07/22/2017	01/04/2021
11/02/2017	01/04/2021
01/05/2018	01/04/2021
01/22/2018	01/04/2021
03/09/2018	01/04/2021
06/24/2018	01/04/2021
07/05/2018	01/04/2021
11/02/2018	01/04/2021
01/05/2019	01/04/2021
04/02/2019	01/04/2021
06/24/2019	01/04/2021
07/22/2019	01/04/2021
09/09/2019	01/04/2021
01/02/2020	01/04/2021
01/05/2020	01/04/2021
03/24/2020	01/04/2021

Automatic Extension of Forms I-94 and Forms I-797

Also through this *Federal Register* notice, DHS automatically extends the validity periods of the Forms I-94 and Forms I-797 listed in Table 2 below previously issued to beneficiaries under the TPS designations for El Salvador, Haiti, Honduras, Nepal, Nicaragua, and Sudan. These extensions apply only if the TPS beneficiary properly filed for re-registration during either the most recent DHS-announced registration period for their country, or any applicable previous DHS-announced re-registration periods for his or her country,¹ or has a re-registration application that remains pending. This notice

¹El Salvador: July 8-Sept. 6, 2016 (corresponding to an end validity date of Mar. 9, 2018) or Jan. 18-Mar. 19, 2018 (corresponding to an end validity date of Sept. 9, 2019);
Haiti: Aug. 25-Oct. 26, 2015 (corresponding to an end validity date of July 22, 2017), May 24-July 24, 2017 (corresponding to an end validity date of Jan. 22, 2018), or Jan. 18-Mar. 19, 2018 (corresponding to an end validity date of July 22, 2019);

does not extend the validity periods of Forms I-94 or Forms I-797 for any TPS beneficiary who failed to file for TPS re-registration during one of the applicable previous DHS-announced re-registration periods, or for whom a re-registration request has been finally denied. In addition, the extensions do not apply for any beneficiary from whom TPS has been finally withdrawn.

Country	Beginning date of validity:	End date of validity:	Validity of Forms I-94 and I-797 extended through:
El Salvador	Sept. 10, 2016	Mar. 9, 2018	01/04/2021
	Mar. 10, 2018	Sept. 9, 2019	01/04/2021
Haiti	Jan. 23, 2016	Jul. 22, 2017	01/04/2021
	Jul. 23, 2017	Jan. 22, 2018	01/04/2021
	Jan. 23, 2018	July 22, 2019	01/04/2021
Honduras	July 6, 2016	Jan. 5, 2018	01/04/2021
	Jan. 6, 2018	July 5, 2018	01/04/2021
	July 6, 2018	Jan. 5, 2020	01/04/2021
Nepal	Dec. 25, 2016	June 24, 2018	01/04/2021
	June 25, 2018	June 24, 2019	01/04/2021
Nicaragua	July 6, 2016	Jan. 5, 2018	01/04/2021
	Jan. 6, 2018	Jan. 5, 2019	01/04/2021
Sudan	May 3, 2016	Nov. 2, 2017	01/04/2021
	Nov. 3, 2017	Nov. 2, 2018	01/04/2021

Application Procedures

Current beneficiaries under the TPS designations for El Salvador, Haiti,

Honduras, Nepal, Nicaragua, and Sudan do not need to pay a fee or file any application,

Honduras: May 16-July 15, 2016 (corresponding to an end validity date of Jan. 5, 2018); Dec. 15, 2017-Feb. 13, 2018 (corresponding to an end date of July 5, 2018) or June 5-Aug. 6, 2018 (corresponding to an end validity date of Jan. 5, 2020);

Nepal: Oct. 26-Dec. 27, 2016 (corresponding to an end validity date of June 24, 2018) or May 22-July 23, 2018 (corresponding to an end validity date of June 24, 2019);

Nicaragua: May 16-July 15, 2016 (corresponding to an end validity date of Jan. 5, 2018) or Dec. 15, 2017-Feb. 13, 2018 (corresponding to an end validity date of Jan. 5, 2019);

Sudan: Jan. 25-Mar. 25, 2016 (corresponding to an end validity date of Nov. 2, 2017) or Oct. 11, 2017-Dec. 11, 2017 (corresponding to an end validity date of Nov. 2, 2018).

including Application for Employment Authorization (Form I-765), to maintain their TPS benefits through January 4, 2021, provided that they have properly re-registered for TPS during either the most recent DHS-announced registration period for their country, or any applicable previous re-registration period described in Footnote 1, above.

TPS beneficiaries who have failed to re-register properly for TPS during any of these re-registration periods may still file an Application for Temporary Protected Status (Form I-821), but must demonstrate “good cause” for failing to re-register on time, as required by law. *See* INA section 244(c)(3)(C) (TPS beneficiary’s failure to register without good cause in form and manner specified by DHS is ground for TPS withdrawal); 8 CFR 244.17(b) and Form I-821 instructions.

Any currently eligible beneficiary who does not presently have a pending EAD application under the TPS designations for El Salvador, Haiti, Honduras, Nepal, Nicaragua, or Sudan may file Form I-765 with appropriate fee.

Possible Future Action

In order to comply with statutory requirements for TPS while the district courts’ orders or any superseding court order concerning the beneficiaries under the TPS designations for El Salvador, Haiti, Honduras, Nepal, Nicaragua, and Sudan are pending, DHS may require these beneficiaries to re-register and announce the re-registration procedures in a future *Federal Register* notice. *See* section 244(c)(3)(C) of the INA; 8 CFR 244.17.

The Government has appealed both the *Ramos* and *Saget* preliminary injunctions. Should the Government prevail in its challenge to the *Ramos* preliminary injunction, the Secretary’s determination to terminate TPS for Honduras, Nepal, Nicaragua, and Sudan

will take effect no earlier than 120 days from the issuance of any appellate mandate to the district court. The Secretary's determination to terminate TPS for El Salvador will take effect no earlier than 365 days from the issuance of any appellate mandate to the *Ramos* district court. DHS provides this additional time for El Salvador TPS beneficiaries in part because there are almost 100,000 more such beneficiaries than in the combined TPS beneficiary populations of all the other five countries covered by this notice.² The additional period of 245 days beyond 120 days permits an orderly transition for beneficiaries of TPS from El Salvador as they return to their homeland. If the Government prevails in its appeals, DHS will also continue to monitor the circumstances of the affected beneficiaries under the other five TPS country designations covered by this notice. *See* INA 244(d)(3).

TPS for beneficiaries under Haiti's designation may continue pursuant to the *Saget* preliminary injunction. However, should the Government prevail in its challenges to both the *Ramos* preliminary injunction and the *Saget* preliminary injunction, the Secretary's determination to terminate TPS for Haiti will take effect no earlier than 120 days from the issuance of the later of the two appellate mandates to the District Court. To the extent that a *Federal Register* notice has automatically extended TPS-related documentation beyond 120 days from the issuance of any appellate mandate to the District Court, DHS reserves the right to issue a subsequent *Federal Register* notice announcing an expiration date for the documentation that corresponds to the last day of

² As reported to Congress on May 1, 2019 in the DHS Annual Congressional Report on TPS, there were 251,445 TPS beneficiaries from El Salvador at the end of 2018. In contrast, there were 56,114 beneficiaries from Haiti, 80,570 beneficiaries from Honduras, 14,594 beneficiaries from Nepal, 4,508 beneficiaries from Nicaragua, and 805 beneficiaries from Sudan. As reported, there are 94,854 more beneficiaries of TPS from El Salvador than the combined total of all other countries whose terminations are currently enjoined by court order.

the 120-day period. Should the Government move to vacate the *Bhattarai* order to stay proceedings, TPS will remain in effect for Honduras and Nepal for at least 180 days following an order of the District Court vacating the stay in proceedings.

Additional Notes

Nothing in this notice affects DHS’s ongoing authority to determine on a case-by-case basis whether a TPS beneficiary continues to meet the eligibility requirements for TPS described in section 244(c) of the INA and the implementing regulations in part 244 of Title 8 of the Code of Federal Regulations.

Notice of Compliance with the “Order Enjoining the Implementation and Enforcement of Determinations to Terminate the TPS Designations for El Salvador, Haiti, Nicaragua, and Sudan” in *Ramos*, the “Order Enjoining the Implementation of Enforcement of Determination to Terminate the TPS Designation of Haiti” in *Saget*, and the “Order to Stay Proceedings and Agreement to Stay the Determinations to Terminate the TPS Designations for Honduras and Nepal” in *Bhattarai*

The previously-announced determinations to terminate the existing designations of TPS for El Salvador, Nicaragua, and Sudan³ will not be implemented or enforced unless and until the district court’s order in *Ramos* is reversed and that reversal becomes final. The previously-announced determination to terminate the existing designation of TPS for Haiti will not be implemented or enforced unless and until the district court’s

³ See Termination of the Designation of El Salvador for Temporary Protected Status, 83 FR 2654 (Jan. 18, 2018); Termination of the Designation of Nicaragua for Temporary Protected Status, 82 FR 59636 (Dec. 15, 2017); Termination of the Designation of Sudan for Temporary Protected Status, 82 FR 47228 (Oct. 11, 2017).

orders in *Ramos* and *Saget* are reversed and those reversals become final.⁴ As required by the order to stay proceedings in *Bhattarai*, DHS will not implement or enforce the previously-announced determinations to terminate the existing TPS designations for Honduras and Nepal⁵ unless and until the district court's order in *Ramos* enjoining implementation and enforcement of the determinations to terminate the TPS designations for El Salvador, Haiti, Nicaragua, and Sudan is reversed and that reversal becomes final for some or all of the affected countries, or by other order of the court. Any termination of TPS-related documentation for beneficiaries under the TPS designations for Haiti, Honduras, Nicaragua, Nepal, and Sudan will go into effect no earlier than 120 days, and no earlier than 365 days for beneficiaries under the TPS designation for El Salvador, following the issuance of any mandate to the district court, as described in the "Possible Future Action" section of this *Federal Register* notice.⁶

In further compliance with the orders, DHS is publishing this notice automatically extending the validity of the TPS-related documentation specified in the Supplementary Information section of this notice through January 4, 2021, for eligible beneficiaries under the TPS designations for El Salvador, Haiti, Honduras, Nepal, Nicaragua, and Sudan. DHS will continue to issue notices that will automatically extend TPS-related documentation for all affected beneficiaries under the TPS designations for El Salvador, Honduras, Nicaragua, Nepal, and Sudan, so long as the *Ramos* preliminary injunction and

⁴ See Termination of the Designation of Haiti for Temporary Protected Status, 83 FR 2648 (Jan. 18, 2018).

⁵ See Termination of the Designation of Honduras for Temporary Protected Status, 83 FR 26074 (June 5, 2018); Termination of the Designation of Nepal for Temporary Protected Status, 83 FR 23705 (May 22, 2018).

⁶ An additional provision in the *Bhattarai* Order to Stay Proceedings states that if the Government moves to vacate that Order, TPS will remain in effect for Honduras and Nepal for at least 180 days following an order of the District Court vacating its stay of proceedings order.

Bhattarai order to stay proceedings remain in place; for Haiti so long as either the *Ramos* or *Saget* preliminary injunctions remain in place; or by other order of the court.

However, should compliance with the *Ramos*, *Bhattarai*, and/or *Saget* court orders remain necessary, DHS may announce periodic re-registration procedures for eligible TPS beneficiaries in accordance with the INA and DHS regulations. DHS further continues its commitment to a transition period, as described above.

All TPS beneficiaries must continue to maintain their TPS eligibility by meeting the requirements for TPS in INA section 244(c) and 8 CFR part 244. DHS will continue to adjudicate any pending TPS re-registration and pending late initial applications for affected beneficiaries under the TPS designations for El Salvador, Haiti, Honduras, Nicaragua, Nepal, and Sudan, and continue to make appropriate individual TPS withdrawal decisions in accordance with existing procedures if an alien no longer maintains TPS eligibility. DHS will take appropriate steps to continue its compliance with the orders, and with all statutory requirements.

Dated: October 29, 2019.

Kevin K. McAleenan,

Acting Secretary.

Approved Forms to Demonstrate Continuation of Lawful Status and TPS-related Employment Authorization

- **This *Federal Register* notice [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**
 - Through operation of this notice, certain TPS-related documentation, including EADs, of affected beneficiaries under the TPS designations for El Salvador, Haiti, Honduras, Nepal, Nicaragua, and Sudan are automatically extended through January 4, 2021.
 - A beneficiary granted TPS under the designation for El Salvador, Haiti, Honduras, Nepal, Nicaragua, or Sudan may show his or her EAD that has been automatically extended to his or her employer to demonstrate identity and continued TPS-related employment eligibility to meet Employment Eligibility Verification (Form I-9) requirements. A beneficiary granted TPS under a designation for one of these countries may also wish to show an employer this *Federal Register* notice, which explains that his or her EAD has been automatically extended.
 - Alternatively, such a TPS beneficiary may choose to show other acceptable documents that are evidence of identity and employment eligibility as described in the instructions to Form I-9.
 - Finally, such a TPS beneficiary may show a copy of this *Federal Register* notice, along with his or her EAD that has been automatically extended, or Form I-94, or Form I-797, as evidence of his or her lawful status, to law enforcement, Federal, state, and local government agencies, and private entities.

- **Employment Authorization Document (EAD)**

Am I eligible to receive an automatic extension of my current EAD using this *Federal Register* notice?

Yes. Provided that you currently have a TPS-related EAD with the specified expiration dates below, this notice automatically extends your EAD as stated in Table 3 below.

Table 3. Affected EADs	
If your EAD has category code of A-12 or C-19 and an expiration date of:	Then this <i>Federal Register</i> notice extends your EAD through:
07/22/2017	01/04/2021
11/02/2017	01/04/2021
01/05/2018	01/04/2021
01/22/2018	01/04/2021
03/09/2018	01/04/2021
06/24/2018	01/04/2021
07/05/2018	01/04/2021
11/02/2018	01/04/2021
01/05/2019	01/04/2021
04/02/2019	01/04/2021
06/24/2019	01/04/2021
07/22/2019	01/04/2021
09/09/2019	01/04/2021
01/02/2020	01/04/2021
01/05/2020	01/04/2021
03/24/2020	01/04/2021

When hired, what documentation may I show to my employer as evidence of employment authorization and identity when completing Form I-9?

You can find the Lists of Acceptable Documents on the third page of Form I-9 as well as the Acceptable Documents web page at www.uscis.gov/i-9-central/acceptable-documents. Employers must complete Form I-9 to verify the identity and employment authorization of all new employees. Within 3 days of hire, employees must present

acceptable documents to their employers as evidence of identity and employment authorization to satisfy Form I-9 requirements.

You may present any document from List A (which provides evidence of both your identity and employment authorization) or one document from List B (which provides evidence of your identity) together with one document from List C (which provides evidence of your employment authorization), or you may present an acceptable receipt as described in the Form I-9 instructions. Employers may not reject a document based on a future expiration date. You can find additional information about Form I-9 on the I-9 Central web page at www.uscis.gov/I-9Central.

An EAD is an acceptable document under List A. See the section “How do my employer and I complete Form I-9 using my automatically extended employment authorization for a new job?” of this Federal Register notice for further information. If you present your EAD with one of the expiration dates specified below, you may also provide your employer with a copy of this *Federal Register* notice, which explains that your EAD has been automatically extended for a temporary period of time, through January 4, 2021, as follows:

Table 4. Affected EADs and Form I-9		
You may show your EAD to complete Form I-9 if your EAD has category code of A-12 or C-19 and bears an expiration date of:	Enter this date in Section 1 of Form I-9:	Your employer must reverify your employment authorization by:
07/22/2017	01/04/2021	01/05/2021
11/02/2017	01/04/2021	01/05/2021
01/05/2018	01/04/2021	01/05/2021
01/22/2018	01/04/2021	01/05/2021
03/09/2018	01/04/2021	01/05/2021
06/24/2018	01/04/2021	01/05/2021
07/05/2018	01/04/2021	01/05/2021
11/02/2018	01/04/2021	01/05/2021

01/05/2019	01/04/2021	01/05/2021
04/02/2019	01/04/2021	01/05/2021
06/24/2019	01/04/2021	01/05/2021
07/22/2019	01/04/2021	01/05/2021
09/09/2019	01/04/2021	01/05/2021
01/02/2020	01/04/2021	01/05/2021
01/05/2020	01/04/2021	01/05/2021
03/24/2020	01/04/2021	01/05/2021

What documentation may I present to my employer for Form I-9 if I am already employed but my current TPS-related EAD is set to expire?

Even though your EAD has been automatically extended, your employer is required by law to ask you to verify your continued employment authorization, and you will need to present your employer with evidence that you are still authorized to work. Once presented, your employer should correct the EAD expiration date in Section 2 of Form I-9. *See* the section, “What corrections should my current employer make to Form I-9 if my employment authorization has been automatically extended?” of this *Federal Register* notice for further information. You may show this *Federal Register* notice to your employer to explain what to do for Form I-9 and to show that your EAD has been automatically extended through January 4 2021, as indicated in the above chart. Your employer may need to re-inspect your automatically extended EAD to check the Card Expires date and Category code if your employer did not keep a copy of your EAD when you initially presented it.

The last day of the automatic extension for your EAD is January 4, 2021. Before you start work on January 5, 2021, your employer is required by law to reverify your employment authorization in Section 3 of Form I-9. At that time, you must present any document from List A or any document from List C on Form I-9, Lists of Acceptable

Documents, or an acceptable List A or List C receipt described in the Form I-9 instructions to reverify employment authorization.

If your original Form I-9 was a previous version, your employer must complete Section 3 of the current version of Form I-9, and attach it to your previously completed Form I-9. Your employer can check the I-9 Central web page at www.uscis.gov/I-9Central for the most current version of Form I-9.

Your employer may not specify which List A or List C document you must present and cannot reject an acceptable receipt.

Can I obtain a new EAD?

Yes, if you apply and remain eligible for TPS, you can obtain a new EAD. However, you do not need to apply for a new EAD in order to benefit from this automatic extension. If you are a beneficiary under the TPS designations for El Salvador, Haiti, Honduras, Nepal, Nicaragua, or Sudan and want to obtain a new EAD valid through January 4, 2021, then you must file Form I-765 and pay the associated fee. If you do not want a new EAD, you do not have to file Form I-765 or pay the Form I-765 fee. If you do not want to request a new EAD now, you may file Form I-765 at a later date and pay the fee, provided that you still have TPS or a pending TPS application. You may file the application for a new EAD either before or after your current EAD has expired.

If you are unable to pay the application fee and/or biometric services fee, you may complete a Request for Fee Waiver (Form I-912) consistent with applicable form instructions. For more information on the application forms and fees for TPS, please visit the USCIS TPS web page at www.uscis.gov/tps. Fees for Form I-821, Form I-765, and biometric services are also described in 8 CFR 103.7(b)(1)(i).

If you have a Form I-821 and/or Form I-765 application that is still pending as of January 2, 2020 (for beneficiaries under the TPS designations for El Salvador, Haiti, Nicaragua, or Sudan); January 5, 2020 (for beneficiaries under the TPS designation for Honduras); or March 24, 2020 (for beneficiaries under the TPS designation for Nepal); then you should not file either application again. If your pending Form I-821 is approved, you will be issued Forms I-797 and I-94 through January 4, 2021. Similarly, if you have a pending TPS-related Form I-765 that is approved, your new EAD will be valid through January 4, 2021.

Your TPS itself continues as long as the preliminary injunction impacting your country's TPS designation remains in effect and in accordance with any relevant future *Federal Register* notices that DHS may issue respecting your country's TPS designation, or your TPS is finally withdrawn for individual ineligibility under INA, section 244(c), or the applicable TPS designation is terminated as discussed in the "Possible Future Action" section of this *Federal Register* notice.

Can my employer require that I provide any other documentation to prove my status, such as proof of my citizenship from El Salvador, Haiti, Honduras, Nepal, Nicaragua, or Sudan?

No. When completing Form I-9, including reverifying employment authorization, employers must accept any documentation that appears on the Form I-9 Lists of Acceptable Documents that reasonably appears to be genuine and that relates to you, or an acceptable List A, List B, or List C receipt. Employers need not reverify List B identity documents. Employers may not request documentation that does not appear on the Lists of Acceptable Documents. Therefore, employers may not request proof of

citizenship or proof of re-registration for TPS when completing Form I-9 for new hires or reverifying the employment authorization of current employees. If presented with an EAD that has been automatically extended, employers should accept such a document as a valid List A document, so long as the EAD reasonably appears to be genuine and relates to the employee. Refer to the “Note to Employees” section of this *Federal Register* notice for important information about your rights if your employer rejects lawful documentation, requires additional documentation, or otherwise discriminates against you based on your citizenship or immigration status, or your national origin.

How do my employer and I complete Form I-9 using my automatically extended employment authorization for a new job?

See the chart in the question above “When hired, what documentation may I show to my employer as evidence of employment authorization and identity when completing Form I-9?” to determine if your EAD has been automatically extended.

For Section 1, you should:

- a. Check “An alien authorized to work until” and enter January 4, 2021, as the expiration date indicated in the chart; and
- b. Enter your USCIS number or A-Number where indicated (your EAD or other document from DHS will have your USCIS number or A-Number printed on it; the USCIS number is the same as your A-Number without the A prefix).

For Section 2, your employer should also use the chart in the question above “When hired, what documentation may I show to my employer as evidence of employment authorization and identity when completing Form I-9?” to determine if your EAD has been automatically extended. If it has been automatically extended, the employer should:

- a. Write in the document title;
- b. Enter the issuing authority;
- c. Enter either the employee's A-Number or USCIS number from Section 1 in the Document Number field on Form I-9; and
- d. Write January 4, 2021, as the expiration date indicated in the chart.

Before the start of work on January 5, 2021, employers are required by law to reverify the employee's employment authorization in Section 3 of Form I-9. If your original Form I-9 was a previous version, your employer must complete Section 3 of the current version of Form I-9 and attach it to your previously completed Form I-9. Your employer can check the I-9 Central web page at www.uscis.gov/I-9Central for the most current version of Form I-9.

What corrections should my current employer make to Form I-9 if my employment authorization has been automatically extended?

If you presented a TPS-related EAD that was valid when you first started your job and your EAD has now been automatically extended, your employer may need to re-inspect your current EAD if they do not have a copy of the EAD on file. See the chart in the question above "When hired, what documentation may I show to my employer as evidence of employment authorization and identity when completing Form I-9?" to determine if your EAD has been automatically extended. If your employer determines that your EAD has been automatically extended, your employer should correct Section 2 of your previously completed Form I-9 as follows:

- a. Write EAD EXT and January 4, 2021, as the last day of the automatic extension in the Additional Information field; and

b. Initial and date the correction.

Note: This is not considered a reverification. Employers do not need to complete Section 3 until either this notice's automatic extension of EADs has ended or the employee presents a new document to show continued employment authorization, whichever is sooner. By January 5, 2021, when the employee's automatically extended EAD has expired, employers are required by law to reverify the employee's employment authorization in Section 3. If your original Form I-9 was a previous version, your employer must complete Section 3 of the current version of Form I-9 and attach it to your previously completed Form I-9. Your employer can check the I-9 Central web page at www.uscis.gov/I-9Central for the most current version of Form I-9.

If I am an employer enrolled in E-Verify, how do I verify a new employee whose EAD has been automatically extended?

Employers may create a case in E-Verify for a new employee by providing the employee's A-Number or USCIS number from Form I-9 in the Document Number field in E-Verify. Employers should enter January 4, 2021 for the document expiration date.

If I am an employer enrolled in E-Verify, what do I do when I receive a "Work Authorization Documents Expiration" alert for an automatically extended EAD?

If you have an employee who provided a TPS-related EAD with an expiration date that has been automatically extended by this *Federal Register* notice, you should dismiss the "Work Authorization Documents Expiring" case alert. Before this employee starts work on January 5, 2021, as appropriate, you must reverify his or her employment authorization in Section 3 of Form I-9. Employers should not use E-Verify for reverification.

Note to All Employers

Employers are reminded that the laws requiring proper employment eligibility verification and prohibiting unfair immigration-related employment practices remain in full force. This *Federal Register* notice does not supersede or in any way limit applicable employment verification rules and policy guidance, including those rules setting forth reverification requirements. For general questions about the employment eligibility verification process, employers may call USCIS at 888-464-4218 (TTY 877-875-6028) or email USCIS at I9Central@dhs.gov. USCIS accepts calls and emails in English, Spanish, and many other languages. For questions about avoiding discrimination during the employment eligibility verification process (Form I-9 and E-Verify), employers may call the U.S. Department of Justice's Civil Rights Division, Immigrant and Employee Rights Section (IER) Employer Hotline at 800-255-8155 (TTY 800-237-2515). IER offers language interpretation in numerous languages. Employers may also email IER at IER@usdoj.gov.

Note to Employees

For general questions about the employment eligibility verification process, employees may call USCIS at 888-897-7781 (TTY 877-875-6028) or email USCIS at I9Central@dhs.gov. USCIS accepts calls in English, Spanish, and many other languages. Employees or applicants may also call the IER Worker Hotline at 800-255-7688 (TTY 800-237-2515) for information regarding employment discrimination based upon citizenship, immigration status, or national origin, including discrimination related to Form I-9 and E-Verify. The IER Worker Hotline provides language interpretation in numerous languages.

To comply with the law, employers must accept any document or combination of documents from the Lists of Acceptable Documents if the documentation reasonably appears to be genuine and to relate to the employee, or an acceptable List A, List B, or List C receipt as described in the Form I-9 instructions. Employers may not require extra or additional documentation beyond what is required for Form I-9 completion. Further, employers participating in E-Verify who receive an E-Verify case result of “Tentative Nonconfirmation” (TNC) must promptly inform employees of the TNC and give such employees an opportunity to contest the TNC. A TNC case result means that the information entered into E-Verify from an employee’s Form I-9 differs from records available to DHS.

Employers may not terminate, suspend, delay training, withhold pay, lower pay, or take any adverse action against an employee because of the TNC while the case is still pending with E-Verify. A “Final Nonconfirmation” (FNC) case result is received when E-Verify cannot verify an employee’s employment eligibility. An employer may terminate employment based on a case result of FNC. Work-authorized employees who receive an FNC may call USCIS for assistance at 888-897-7781 (TTY 877-875-6028). For more information about E-Verify-related discrimination or to report an employer for discrimination in the E-Verify process based on citizenship, immigration status, or national origin, contact IER’s Worker Hotline at 800-255-7688 (TTY 800-237-2515). Additional information about proper nondiscriminatory Form I-9 and E-Verify procedures is available on the IER website at www.justice.gov/ier and on the USCIS and E-Verify websites at www.uscis.gov/i-9-central and www.e-verify.gov.

Note Regarding Federal, State, and Local Government Agencies (Such as Departments of Motor Vehicles)

While Federal Government agencies must follow the guidelines laid out by the Federal Government, state and local government agencies establish their own rules and guidelines when granting certain benefits. Each state may have different laws, requirements, and determinations about what documents you need to provide to prove eligibility for certain benefits. Whether you are applying for a federal, state, or local government benefit, you may need to provide the government agency with documents that show you are a TPS beneficiary, show you are authorized to work based on TPS or other status, and/or that may be used by DHS to determine whether you have TPS or other immigration status. Examples of such documents are:

- Your current EAD;
- Your automatically extended EAD with a copy of this *Federal Register* notice, providing an automatic extension of your currently expired or expiring EAD;
- A copy of your Form I-94 or Form I-797 that has been automatically extended by this notice and a copy of this notice;
- Any other relevant DHS-issued document that indicates your immigration status or authorization to be in the United States, or that may be used by DHS to determine whether you have such status or authorization to remain in the United States.

Check with the government agency regarding which document(s) the agency will accept.

Some benefit-granting agencies use the USCIS Systematic Alien Verification for Entitlements Program (SAVE) program to confirm the current immigration status of applicants for public benefits. While SAVE can verify when an alien has TPS, each

agency's procedures govern whether they will accept a particular document, such as an EAD or an I-94. If an agency accepts the type of TPS-related document you are presenting, such as an EAD or I-94, the agency should accept your automatically extended TPS-related document. You should:

- a. Present the agency with a copy of this *Federal Register* notice showing the extension of TPS-related documentation, in addition to your most recent TPS-related document with your A-Number or I-94 number;
- b. Explain that SAVE will be able to verify the continuation of your TPS using this information; and
- c. Ask the agency to initiate a SAVE query with your information and follow through with additional verification steps, if necessary, to get a final SAVE response showing the validity of your TPS.

You can also ask the agency to look for SAVE notices or contact SAVE if they have any questions about your immigration status or automatic extension of TPS-related documentation. In most cases, SAVE provides an automated electronic response to benefit-granting agencies within seconds, but, occasionally, verification can be delayed. You can check the status of your SAVE verification by using CaseCheck at save.uscis.gov/casecheck/, then by clicking the "Check Your Case" button. CaseCheck is a free service that lets you follow the progress of your SAVE verification case using your date of birth and one immigration identifier number. If an agency has denied your application based solely or in part on a SAVE response, the agency must offer you the opportunity to appeal the decision in accordance with the agency's procedures. If the agency has received and acted upon or will act upon a SAVE verification case and you do

not believe the response is correct, you may make an InfoPass appointment for an in-person interview at a local USCIS office. Detailed information on how to make corrections or update your immigration record, make an appointment, or submit a written request to correct records under the Freedom of Information Act can be found on the SAVE website at www.uscis.gov/save.

[FR Doc. 2019-24047 Filed: 11/1/2019 8:45 am; Publication Date: 11/4/2019]