



Fact Sheet

May 13, 2010

Documentation Employers May Accept and Temporary Protected Status Beneficiaries May Present as Evidence of Employment Eligibility

Treatment of Auto-Extended Employment Authorization Documents When Completing the Form I-9, Employment Eligibility Verification

Introduction

Temporary Protected Status (TPS) is an immigration benefit granted by the Department of Homeland Security (DHS) to eligible individuals in the United States who are nationals of a country (or persons without nationality who last habitually resided in such country) that has been designated for TPS. A country may be designated for TPS on the basis of on-going armed conflict, environmental disaster or other extraordinary and temporary conditions that prevent such nationals from safely returning to their homelands. TPS is granted to eligible individuals from the designated countries for time-limited periods, depending on the length of the country designation or an extension of that designation.

Individuals who have been granted TPS may work in the United States and may apply to U.S. Citizenship and Immigration Services (USCIS) to receive an Employment Authorization Document (EAD). An EAD is a plastic, credit card-sized document that shows proof of the individual's authorization to work in the United States and contains a photograph of the individual.

When securing employment in the United States, TPS beneficiaries, like any other individual whom an employer hires, will be requested by their employers to attest to their authorization to work in the United States using the USCIS form, Employment Eligibility Verification, Form I-9. To complete the Form I-9 process, they also must present to their employers a document or combination of documents of the employees' choosing evidencing their identity and employment authorization from the list of acceptable documents.

The EAD issued to TPS beneficiaries by USCIS is one of the documents listed as acceptable for the Form I-9. This document establishes both identity and employment authorization under "List A" of the Form I-9. The expiration date on the card is usually the end of the TPS period for which the bearer last registered. When DHS extends a specific TPS country designation, it sometimes issues a *Federal Register* notice containing a temporary blanket automatic extension of expiring EADs for TPS beneficiaries from that country to allow time for USCIS to issue new EADs with updated validity dates. The USCIS Web site and the *Federal Register* notice will describe this EAD auto-extension and will note the date when the auto-extension ends. The auto-extension is typically for 6 months, but the time period can vary.

This Fact Sheet provides guidance to employees and employers on the treatment of auto-extended EADs issued to TPS beneficiaries when completing the Form I-9 process.

Employers

If presented for completion of Form I-9 by your employee, you must accept a TPS-related EAD that is expired on its face if it nevertheless remains unexpired based on an auto-extension of the EAD by DHS as announced in a notice published in the *Federal Register*. Also, the card must reasonably appear on its face to be genuine and to relate to the employee presenting it to be acceptable. The following information will appear on the card:



- The notation “A-12” or “C-19” appears on the face of the EAD under “Category.”
- The expiration date of the most recent TPS extension period on the face of the card. This date will appear in the *Federal Register* notice announcing the auto-extension of EADs and may also be found at www.uscis.gov/tps.

Employers should enter the document name, number, and expiration date in Section 2 under List A, noting the end of the auto-extension period. You may not request that an employee provide proof that he or she is a national of a country that has been designated for TPS.

When the automatic extension of the EAD expires, you must reverify the employee’s employment authorization. The employee may choose to present an unexpired EAD with an updated expiration date, or any other document from List A or C of Form I-9 evidencing that he or she continues to be authorized to work in the United States. You should enter the document name, number and expiration date in Section 3 of the Form I-9.

In addition to completing the Form I-9 process described above, employers that participate in E-Verify may also confirm the employment authorization of the TPS beneficiary by submitting the required data from the Form I-9 to E-Verify. However, the employer may only check the employment authorization of *new hires* through E-Verify. If the TPS beneficiary is a current employee, the employer may not use E-Verify to confirm employment authorization and should complete only the reverification required in Section 3 of the Form I-9.

Employees

If you are a TPS beneficiary and have been issued a TPS-based EAD, your EAD will contain the notation “A-12” or “C-19” under “Category” and an expiration date for the last TPS designation or extension of TPS for your country. When completing the Form I-9 for your employer, you may choose to present this EAD as evidence of both your identity and employment authorization under List A of the form if the card is unexpired. Once the expiration date on the face of your card is reached, your EAD is no longer acceptable for the Form I-9, unless DHS has automatically extended the expiration date of your card in a notice published in the *Federal Register*. Your card will remain valid through the auto-extension period stated in the *Federal Register* notice and must be accepted by your employer for completion of the Form I-9. You may want to provide your employer with a copy of the *Federal Register* notice stating the

automatic extension of your EAD, in case your employer is not aware that he or she may accept your EAD.

If you choose to present your auto-extended, TPS-based EAD to your employer, your employer will be required to reverify your employment authorization on Section 3 of Form I-9 at the end of the automatic EAD extension period. At that time, you must present your employer with either your new TPS-related EAD containing an updated, valid expiration date, or any other acceptable document from List A or C evidencing that you continue to be authorized for employment in the United States.

Contact Information

For additional information about TPS, please call the USCIS National Customer Service Center at 1-800-375-5273 or visit the USCIS Web site at www.uscis.gov/tps to find:

- General TPS information;
- A list of countries currently designated for TPS;
- Links to *Federal Register* notices for TPS designated countries; and
- Each designated country's:
 - Most recent designation date;
 - Current expiration date;
 - Current registration period; and
 - Duration of the country's automatic extension of EADs.

Employers seeking information about accepting documents from TPS beneficiaries may contact the U.S. Department of Justice (DOJ), Office of Special Counsel for Immigration Related Unfair Employment Practices (OSC) Employer Hotline at 1-800-255-8155 or visit the DOJ Web site at www.justice.gov/crt/osc.

Employees should contact the Office of Special Council Employee Hotline at 1-800-255-7688 or visit the Web site at www.justice.gov/crt/osc if:

- You believe your employer is treating you in a discriminatory manner based on your immigration or TPS status, or based on your national origin; or
- Your employer will not allow you to work despite having presented your employer with your valid, auto-extended TPS EAD, or your presentation of other documents acceptable for the Form I-9.

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