



May 29, 2007

# Questions and Answers

## DHS Announces 18-Month TPS Extensions for Nationals of Nicaragua *Employment Authorization Documents Automatically Extended through January 5, 2008*

Temporary Protected Status (TPS) is granted to eligible nationals of designated countries suffering the effects of an ongoing armed conflict, environmental disaster, or other extraordinary and temporary conditions. During the period for which the Secretary of Homeland Security (Secretary) has designated a country for TPS, beneficiaries may not be removed from the United States and are authorized to engage in employment.

TPS does not lead to permanent resident status, however. When the Secretary terminates a country's designation, a TPS beneficiary will return to the status he/she had prior to TPS, provided the applicant maintained that status, or to any other status he/she may have obtained while registered for TPS.

### **Q. Why did the Secretary decide to extend the TPS designation of Nicaragua?**

A. During the past year, DHS and the Department of State have continued to review conditions in Nicaragua. Based on this review, the Secretary has concluded that an 18-month extension is warranted because there continues to be a substantial, but temporary, disruption of living conditions in Nicaragua resulting from Hurricane Mitch and Nicaragua remains unable, temporarily, to adequately handle the return of its nationals, as required for TPS designations based on environmental disasters.

Significant progress has been made in reconstruction following Hurricane Mitch. However, Nicaragua has not fully recovered from the environmental disaster.

An estimated 145,000 homes were destroyed by the hurricane, leaving an estimated 400,000 to 800,000 people homeless. Health clinics and schools were also impacted with 90 clinics, 400 health posts, and over 500 primary schools suffering structural damage. While much of the large-scale post-disaster aid and reconstruction projects were completed years ago, these projects were focused on temporary buildings that have not been replaced with permanent cement structures and are now largely deteriorated.

Hurricane Mitch destroyed or disabled 70 percent of the roads and severely damaged 71 bridges. More than 1,700 miles of highway and access roads needed replacement. The Pan-American Highway has been repaired, but reconstruction efforts continue with the focus shifted to improving secondary and rural roads.

Nicaragua also suffered significant economic damage and reduced access to food following Hurricane Mitch. Over 100,000 acres of crops were destroyed by the hurricane, half of them life-sustaining food crops such as beans and corn. The regions hardest hit by the hurricane continue to be the poorest and least developed in Nicaragua and the Government of Nicaragua (GON) is reporting hunger cases in the northern mountainous region. Additionally, landslides triggered by the heavy and sustained rains of the hurricane resulted in the

loss of forest canopy. This has affected the environment, resulting in reduced rainfall and agricultural yields that are consistently below average. Export crops, such as coffee, sugar cane and bananas were also destroyed, to a lesser extent but not without resulting reductions in export income.

While the damage resulting from Hurricane Mitch in 1998 formed the basis of the initial designation of Nicaragua for TPS, the country has remained vulnerable and suffered damage during subsequent storms. Hurricane Beta and Tropical Storm Stan severely affected thousands of people, destroying houses, medical centers, and schools in October 2005.

On the basis of these findings, the Secretary concluded that the designation of Nicaragua for TPS should be extended for an additional 18-month period from July 5, 2007 to January 5, 2009.

**Q. If I currently have benefits through the TPS designation of Nicaragua and would like to maintain them, do I need to re-register for TPS?**

A. Yes. If you already have received TPS benefits through the designation of Nicaragua for TPS, your benefits will expire at 11:59 p.m. on July 5, 2007. All TPS beneficiaries must comply with the re-registration requirements in order to maintain TPS benefits through January 5, 2009. TPS benefits include temporary protection against removal from the United States and employment authorization during the TPS designation period. Failure to re-register without good cause will result in the withdrawal of your TPS and possibly your removal from the United States.

**Q. If I am currently registered for TPS or have a pending application for TPS, how do I re-register to renew my benefits for the duration of the extension period?**

A. Please submit the proper forms and fees according to Table 1 below. Each applicant is strongly encouraged to ensure that all information included on the necessary application forms, such as their date of birth, alien registration number, name spelling, and other required information is correctly entered. Individuals who have previously registered for TPS but whose applications remain pending should follow these instructions if they wish to renew their TPS benefits. All TPS re-registration applications submitted without the required fees will be returned to the applicant. All fee waiver requests should be filed in accordance with 8 CFR 244.20. If you received an EAD during the most recent registration period, please submit a photocopy of the front and back of your EAD.

**Table 1- Application Forms and Application Fees**

<b>If</b>	<b>And</b>	<b>Then</b>
You are re-registering for TPS	You are applying for an extension of your EAD valid through January 5, 2009	You must submit Form I-821, Application for Temporary Protected Status, with no fee. You must also complete and file the Form I-765, Application for Employment Authorization, with fee as contained in 8 CFR 103.7(b) or a fee waiver request.
You are re-registering for TPS	You are NOT applying for renewal of your EAD	You must submit Form I-821 with no fee and the Form I-765 with no fee. Note: DO NOT check any box for the question “ <b>I am applying for</b> ” listed on Form I-765, as you are NOT requesting an EAD benefit.
You are applying for TPS as a late initial registrant and you	You are applying for a TPS-related EAD	You must submit the Form I-821 with the \$50 fee or fee waiver

are between the ages of 14 and 65 (inclusive)		request and the Form I-765 with fee as contained in 8 CFR 103.7(b) or a fee waiver request.
You are applying for TPS as a late initial registrant and are under age 14 or over age 65	You are applying for a TPS-related EAD	You must complete and file Form I-821 with the \$50 fee or fee waiver request. You must also submit Form I-765 with no fee.
You are applying for TPS as a late initial registrant, regardless of age	You are NOT applying for an EAD	You must complete and file Form I-821 with the \$50 fee or fee waiver request and Form I-765 with no fee.
Your previous TPS application is still pending	You are applying to renew your temporary treatment benefits (i.e., an EAD with category “c-19” on its face)	You must complete and file the Form I-821, with no fee. You must also complete and file the Form I-765 with fee as contained in 8 CFR 103.7(b) or a fee waiver request.

Certain applicants must also submit a Biometric Service Fee (See Table 2).

**Table 2-Biometric Service Fees**

<b>If</b>	<b>And</b>	<b>Then</b>
You are 14 years of age or older	<ol style="list-style-type: none"> <li>1. You are re-registering for TPS, or</li> <li>2. You are applying for TPS under the late initial registration provisions, or</li> <li>3. Your TPS application is still pending and you are applying to renew temporary treatment benefits (i.e., and EAD with category “c-19” on its face)</li> </ol>	You must submit a Biometric Service fee as defined in 8 CFR 103.7.
You are younger than 14 years of age	You are applying for an EAD	You must submit a Biometric Service fee as defined in 8 CFR 103.7.
You are younger than 14 years of age	You are NOT applying for an EAD	You do NOT need to submit a biometric fee.

**Q. Will the new fee structure scheduled to take effect this summer have an impact on my TPS re-registration?**

A. If you file after the effective date of a fee increase, you must pay the new, increased fees. USCIS strongly encourages Nicaraguan TPS re-registrants to submit their application and fees as soon as possible if they wish to avoid paying any higher fees once the new fee structure takes effect.

**Q. What edition of the Form I-821 should I submit?**

A. Only the edition of Form I-821 dated November 5, 2004, or later will be accepted. The revision date can be found in the bottom right corner of the form. The proper form can be found on the Internet at <http://www.uscis.gov> or by calling the USCIS forms hotline at 1-800-870-3676.

**Q. Where should I submit my application for TPS?**

A. Please reference Table 3 below to see where to mail your specific application.

**Table 3 - Application Mailing Directions**

<b>If</b>	<b>Then Mail to</b>	<b>Or, for Non-United States Postal Service (USPS) deliveries, Mail to</b>
You are applying for re-registration or applying to renew your temporary treatment benefits	U.S. Citizenship and Immigration Services Attn: TPS Nicaragua P.O. Box 6943 Chicago, IL 60680-6943	U.S. Citizenship and Immigration Services Attn: TPS Nicaragua 427 S. LaSalle--3rd Floor Chicago, IL 60605-1029
You are applying for TPS for the first time, as a late initial registrant, or you were granted TPS by an Immigration Judge or the Board of Immigration Appeals	U.S. Citizenship and Immigration Services Attn: TPS Nicaragua P.O. Box 8631 Chicago, IL 60680-8631	U.S. Citizenship and Immigration Services Attn: TPS Nicaragua [EOIR] or [Late Initial Registrant] 427 S. LaSalle--3rd Floor, Chicago, IL 60605-1029

**Q. How will I know if I need to submit supporting documentation with my application package?**

A. See Table 4 below to determine if you need to submit supporting documentation.

**Table 4 – Who should submit supporting documentation?**

<b>If</b>	<b>Then</b>
One or more of the questions listed in Part 4, Question 2 of Form I-821 applies to you	<b>You must submit an explanation, on a separate sheet(s) of paper, and/or additional documentation must be provided. You may NOT file electronically</b>
You were granted TPS by an Immigration Judge or the Board of Immigration Appeals	<b>You must include evidence of the grant of TPS (such as an order from the Immigration Judge) with your application package. You may NOT file electronically</b>

**Q. Can I file my application electronically?**

A. If you are filing for re-registration and do not need to submit supporting documentation with your application, you may file your application electronically. To file your application electronically, follow directions on the USCIS Web site at: <http://www.uscis.gov>.

**Q. What is late initial registration?**

A. Some persons may be eligible for late initial registration under 8 CFR 244.2. In order to be eligible for late initial registration an applicant must:

- (1) Be a national of Nicaragua (or alien who has no nationality and who last habitually resided in Nicaragua);
- (2) Have continuously resided in the United States since December 30, 1998;
- (3) Have been continuously physically present in the United States since January 5, 1999; and
- (4) Be both admissible as an immigrant, except as provided under section 244(c)(2)(A) of the Act, and not ineligible under section 244(c)(2)(B) of the Act.

Additionally, the applicant must be able to demonstrate that during the initial registration period (from January 5, 1999 to August 20, 1999), he or she:

- (1) Was a nonimmigrant or had been granted voluntary departure status or any relief from removal;
- (2) Had an application for change of status, adjustment of status, asylum, voluntary departure, or any relief from removal or change of status pending or subject to further review or appeal;
- (3) Was a parolee or had a pending request for reparole; or
- (4) Is the spouse or child of an alien currently eligible to be a TPS registrant.

An applicant for late initial registration must file his or her application no later than 60 days after the expiration or termination of the conditions described above. 8 CFR 244.2(g). All late initial registration applications for TPS, pursuant to the designation of Nicaragua, should be submitted to the appropriate address in Chicago, Illinois, as defined in Table 3.

**Q. Are certain aliens ineligible for TPS?**

A. Yes. There are certain criminal and terrorism-related inadmissibility grounds that render an alien ineligible for TPS. See 8 U.S.C. 1254a(c)(2)(A)(iii). Further, aliens who have been convicted of any felony or two or more misdemeanors committed in the United States are ineligible for TPS under section 244(c)(2)(B)(i) of the Act, 8 U.S.C. 1254a(c)(2)(B)(i), as are aliens described in the bars to asylum in section 208(b)(2)(A) of the Act, 8 U.S.C. 1158(b)(2)(A). See 8 U.S.C. 1254a(c)(2)(B)(ii).

**Q. If I currently have TPS, can I lose my TPS benefits?**

A. An individual granted TPS will have his or her TPS withdrawn if the alien is determined to be ineligible for TPS, if the alien fails to timely re-register for TPS without good cause, or if the alien fails to maintain continuous physical presence in the United States. See 8 U.S.C. 1254a(c)(3)(A)-(C).

**Q. Does TPS lead to lawful permanent residence?**

A. No. TPS is a temporary benefit that does not lead to lawful permanent residence or confer any other immigration status. 8 U.S.C. 1254a, (f)(1), and (h). When a country's TPS designation is terminated, TPS beneficiaries will maintain the same immigration status they held prior to TPS (unless that status has since expired or been terminated), or any other status they may have acquired while registered for TPS. Accordingly, if an alien held no lawful immigration status prior to being granted TPS and did not obtain any other status during the TPS period, he or she will revert to unlawful status upon the termination of the TPS designation. Once the Secretary determines that a TPS designation should be terminated, aliens who had TPS under that designation are expected to plan for their departure from the United States.

**Q. May I apply for another immigration benefit while registered for TPS?**

A. Yes. Registration for TPS does not prevent you from applying for non-immigrant status, filing for adjustment of status based on an immigrant petition, or applying for any other immigration benefit or protection. 8 U.S.C. 1254a(a)(5). For the purposes of change of status and adjustment of status, an alien is considered as being in, and maintaining, lawful status as a nonimmigrant during the period in which the alien is granted TPS. See 8 U.S.C. 1254a(f)(4).

**Q. How does an application for TPS affect my application for asylum or other immigration benefits?**

A. An application for TPS does not affect an application for asylum or any other immigration benefit. Denial of an application for asylum or any other immigration benefit does not affect an applicant's TPS eligibility, although the grounds for denying one form of relief may also be grounds for denying TPS. For example, a person who has been convicted of a particularly serious crime is not eligible for asylum or TPS. See 8 U.S.C. 1158(b)(2)(A)(ii) and 8 U.S.C. 1254a(c)(2)(B)(ii).

**Q. Does this extension allow nationals of Nicaragua (or aliens having no nationality who last habitually resided in Nicaragua) who entered the United States after December 30, 1998, to file for TPS?**

A. No. An extension of a TPS designation does not change the required dates of continuous residence and continuous physical presence in the United States. This extension does not expand TPS eligibility to those that are not eligible currently. To be eligible for benefits under this extension, nationals of Nicaragua (or aliens having no nationality who last habitually resided in Nicaragua) must have continuously resided in the United States since December 30, 1998, and been continuously physically present in the United States since January 5, 1999, the date of the initial designation of Nicaragua for TPS.

#### Employment Authorization Document Automatic Extension Guidelines

**Q. Who is eligible to receive an automatic extension of his or her EAD from July 5, 2007 to January 5, 2008?**

A. To receive an automatic extension of an EAD, an individual must be a national of Nicaragua (or an alien having no nationality who last habitually resided in Nicaragua) who has applied for and received an EAD under the designation of Nicaragua for TPS and who has not had TPS withdrawn or denied. This automatic extension is limited to (1) EADs issued on Form I-766, Employment Authorization Document, bearing an expiration date of July 5, 2006 on the face AND that have a July 2007 DHS-issued extension sticker on the back of the card; and (2) EADs issued on Form I-766, bearing an expiration date of July 31, 2007. These EADs must also bear the notation “A-12” or “C-19” on the face of the card under “Category.”

**Q. If I am currently registered under the designation of Nicaragua for TPS and am re-registering for TPS, how do I receive an extension of my EAD after the automatic 6-month extension?**

A. You will receive a notice in the mail with instructions as to whether or not you will be required to appear at a USCIS Application Support Center (ASC) for biometrics collection. To increase efficiency and improve customer service, whenever possible USCIS will reuse previously-captured biometrics and conduct the security checks using those biometrics such that you may not be required to appear at an ASC.

Regardless of whether you are required to appear at an ASC, you are required to pay the biometrics fee during this re-registration. USCIS fees fund the cost of processing applications and petitions for immigration benefits and services, and USCIS’ associated operating costs. A detailed description of how USCIS developed its current fee schedule is contained in the proposed rule, Adjustment of Certain Fees of the Immigration Examinations Fee Account, 63 FR 1775 (Jan. 12, 1998).

If you are required to report to an ASC, you must bring the following documents: (1) your receipt notice for your re-registration application; (2) your ASC appointment notice; and (3) your current EAD. If no further action is required for your case, you will receive a new EAD by mail, valid through January 5, 2009. If your case requires further resolution, USCIS will contact you in writing to explain what additional information, if any, is necessary to resolve your case. Once your case is resolved and if your application is approved, you will receive a new EAD in the mail with an expiration date of January 5, 2009.

**Q. May I request an interim EAD at my local District Office?**

A. No. USCIS will not be issuing interim EADs to TPS applicants and re-registrants at District Offices.

**Q. How may employers determine whether an EAD has been automatically extended for 6 months through January 5, 2008, and is therefore acceptable for completion of the Form I-9?**

A. An EAD that has been automatically extended for 6 months by this Notice through January 5, 2008, will be a Form I-766 bearing the notation “A-12” or “C-19” on the face of the card under “Category,” and either (1) have an expiration date of July 5, 2006 on the face of the card and a July 2007 DHS-issued extension sticker on the back; or (2) have an expiration date of July 31, 2007 on the face of the card. New EADs or extension stickers showing the January 5, 2008, expiration date of the 6-month automatic extension will not be issued. Employers should not request proof of Nicaraguan citizenship. Employers should accept an EAD as a valid “List A” document and not ask for additional Form I-9, Employment Eligibility Verification, documentation if presented with an EAD that has been extended pursuant to the *Federal Register* Notice, and reasonably appears on its face to be genuine and to relate to the employee. This does not affect the right of an

applicant for employment or an employee to present any legally acceptable document as proof of identity and eligibility for employment.

**Note to Employers:**

Employers are reminded that the laws requiring employment eligibility verification and prohibiting unfair immigration-related employment practices remain in full force. This Notice does not supersede or in any way limit applicable employment verification rules and policy guidance, including those setting forth re-verification requirements. See 8 CFR 274a.2(b)(1)(vii).

For questions, employers may call the USCIS Office of Business Liaison Employer Hotline at 1-800-357-2099. Also, employers may call the U.S. Department of Justice, Office of Special Counsel for Immigration Related Unfair Employment Practices (OSC) Employer Hotline at 1-800-255-8155 or 1-800-362-2735 (TDD). Employees or applicants may call the OSC Employee Hotline at 1-800-255-7688 or 1-800-237-2515 (TDD) for information regarding the automatic extension. Additional information is available on the OSC Web site at <http://www.usdoj.gov/crt/osc/index.html>.

**Q. How may employers determine an employee's eligibility for employment once the automatic 6-month extension expires on January 5, 2008?**

A. Eligible TPS aliens will possess an EAD with an expiration date of January 5, 2009. The EAD will be a Form I-766 bearing the notation "A-12" or "C-19" on the face of the card under "Category," and should be accepted for the purposes of verifying identity and employment authorization.

**Q. What documents may a qualified individual show to his or her employer as proof of employment authorization and identity when completing Form I-9, Employment Eligibility Verification?**

A. During the first 6 months of this extension, qualified individuals who have received a 6-month automatic extension of their EADs may present their TPS-based EAD to their employer, as described above, as proof of identity and employment authorization through January 5, 2008. To minimize confusion over this extension at the time of hire or re-verification, qualified individuals may also present a copy of the *Federal Register* Notice regarding the automatic extension of employment authorization documentation through January 5, 2008.

After the first 6 months of this extension, and continuing until the end of the extension period (January 5, 2009), a qualified individual may present his or her new EAD valid through January 5, 2009.

In the alternative, any legally acceptable document or combination of documents listed in List A, List B, or List C of the Form I-9 may be presented as proof of identity and employment eligibility.

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