



March 30, 2006

Questions and Answers

DHS EXTENDS TEMPORARY PROTECTED STATUS (TPS) FOR NICARAGUA FOR 12 MONTHS

Employment Authorization Automatically Extended Until January 5, 2007

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 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. Who is eligible to re-register for the 12-month TPS extension (July 5, 2006-July 5, 2007)?

A. Re-registration is limited to nationals of Nicaragua (or in the case of an alien having no nationality, a person who last habitually resided in Nicaragua) who: 1) registered during the initial registration period for the TPS designation announced on January 5, 1999 (or who late initial registered) and during each of the subsequent re-registration periods; 2) have been continuously physically present in the United States since January 5, 1999; and 3) have continuously resided in the United States since December 30, 1998. Those who have never registered for TPS may be eligible to register for late initial registration, as described below. An individual who has been convicted of either a felony or two or more misdemeanors committed in the United States is not eligible for TPS. Likewise, an individual subject to certain criminal or security-related grounds of inadmissibility or any of the bars to asylum is ineligible for TPS.

Q. How do I re-register for a TPS extension?

A. If you already have been granted TPS under the TPS designation for Nicaragua, your TPS benefits will expire on July 5, 2006. You may re-register during the 60-day re-registration period beginning on April 1, 2006 and ending June 1, 2006. To re-register, you must submit the following:

- Form I-821, Application for Temporary Protected Status, without fee;
- Form I-765, Application for Employment Authorization (see below to determine if you need to include the \$180 filing fee with Form I-765 or a fee waiver request;



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- A biometric services fee of seventy dollars (\$70) if you are 14 years of age or older, or if you are under 14 and requesting an Employment Authorization Document (EAD). The biometric services fee will not be waived.
- A photocopy of the front and back of your EAD if you received an EAD during the most recent registration period.

All TPS re-registration applications submitted without the required fees will be returned to the applicant.

Fees: If the applicant requests employment authorization, he or she must submit a \$180 fee with Form I-765. An applicant who does not seek employment authorization need not submit the \$180 fee, but nonetheless must submit the Form I-765 for data-gathering purposes. The applicant may request a waiver of the Form I-765 fee in accordance with the regulations. However, the biometric services fee will not be waived.

Failure to submit the required filing fees will result in the rejection of the re-registration application.

Q. When should an applicant submit his or her re-registration application for TPS?

A. Applications must be filed during the 60-day re-registration period from April 1, 2006 to June 1, 2006. Applicants are encouraged to file the application as soon as possible after the start of the 60-day re-registration period.

Q. Where should an applicant submit his or her application for TPS?

A. USCIS has designated two post office (P.O.) boxes with the Chicago Lockbox for the filing of TPS applications under this extension in order to facilitate efficient processing. Please note that applications should only be filed at the appropriate P.O. Box and should not be filed with a USCIS Service Center or District Office. Failure to submit a TPS application to the correct P.O. Box may result in a delay of adjudication. In addition, applicants will not be able to file their applications electronically (“E-file”) for this designation.

The type of TPS filing the applicant has to submit will determine the P.O. Box he or she must use to file; see below for instructions as to which of the two P.O. Boxes to utilize. Failure to file your application with the correct P.O. Box may result in a delay of the processing of your application.

1. Applications for re-registration that do not require the submission of additional documentation or applications to renew temporary treatment benefits (i.e., you have been receiving TPS benefits while your initial TPS application has been pending) must be filed at this address:

U.S. Citizenship and Immigration Services
P.O. Box 6943
Chicago, IL 60680-6943

Or, for non-United States Postal Service (USPS) deliveries:

U.S. Citizenship and Immigration Services
Attn: TPS - Nicaragua
427 S. LaSalle – 3rd Floor
Chicago, IL 60605



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2. Aliens who are filing applications for re-registration that require the submission of supporting documentation or are filing for the first time as a late initial registrant must use the address below:

U.S. Citizenship and Immigration Services
P.O. Box 8631
Chicago, IL 60680-8631

Or, for non-United States Postal Service (USPS) deliveries:

U.S. Citizenship and Immigration Services
Attn: TPS - Nicaragua – [EOIR/Additional Documents] or [Late Initial Registrant]
427 S. LaSalle – 3rd Floor
Chicago, IL 60605

Applications for re-registration require the submission of supporting documentation under the following circumstances:

- A) If one or more of the questions listed in Part 4, Question 2 of Form I-821 apply to the alien, then the submission of an explanation, on a separate sheet(s) of paper, and/or additional documentation must be provided.
- B) If the alien was granted TPS by an Immigration Judge or the Board of Immigration Appeals, then the alien must include evidence of the grant of TPS (such as an order from the Immigration Judge) with his or her application package.

Note: Make sure to write “EOIR/Additional Documents” or “Late Initial Registrant” on the “Attn:” line for non-United States Postal Service (USPS) deliveries, after Nicaragua, above.

Q. Is my EAD extended beyond the July 5, 2006 expiration date on its face?

A. Yes. USCIS recognizes that many re-registrants may not receive their extension sticker or EAD until after their current EAD expires on July 5, 2006. Accordingly, the **Federal Register** Notice automatically extends the validity of EADs issued pursuant to the TPS designation of Nicaragua for six months until January 5, 2007, and explains how TPS beneficiaries and their employers may determine which EADs are automatically extended.

Q. Will I receive a new EAD in the mail if I am given an extension sticker at the Application Support Center (ASC)?

A. No. Because the sticker affixed to your card at the Application Support Center (ASC) will extend the validity of your current EAD through July 2007 there will be no need for you to obtain additional employment authorization documentation during the remainder of this extension of the designation of Nicaragua for TPS.



Q. If I am not eligible to receive a sticker extending my EAD, can I receive 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 six months through January 5, 2007, and is therefore acceptable for completion of the Form I-9?

A. For purposes of verifying identity and employment eligibility or re-verifying employment eligibility on the Form I-9 until January 5, 2007, employers of Nicaraguan TPS beneficiaries whose EADs have been automatically extended by the **Federal Register** Notice must accept the EAD if presented. An EAD that has been automatically extended for six months by the **Federal Register** Notice to January 5, 2007, will actually contain an expiration date of July 5, 2006, and must be a Form I-766 bearing the notation "A-12" or "C-19" on the face of the card under "Category." New EADs or extension stickers showing the January 5, 2007, expiration date of the six-month auto-extension will not be issued.

Employers should not request proof of Nicaraguan citizenship. Employers presented with an EAD that has been extended pursuant to the **Federal Register** Notice, if it reasonably appears on its face to be genuine and appears to relate to the employee, should accept the EAD as a valid "List A" document and should not ask for additional Form I-9 documentation. This action by the Secretary of Homeland Security through the **Federal Register** Notice 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.

Employers are reminded that the laws requiring employment eligibility verification and prohibiting unfair immigration-related employment practices remain in full force. The Notice does not supersede or in any way limit applicable employment verification rules and policy guidance, including those setting forth re-verification requirements. *See* Title 8 of the Code of Federal Regulations (C.F.R.), Part 274a.2(b)(1)(vii).

For questions, employers may call the USCIS Office of Business Liaison Employer Hotline at 1-800-357-2099 to speak to a USCIS representative. 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 website at <http://www.usdoj.gov/crt/osc/index.html>

Q. Who is eligible to file for late initial registration?

A. Some persons may be eligible for late initial registration under sections 244(c)(1)(A) and (c)(2) of the Immigration and Nationality Act ("Act") and the regulations at 8 C.F.R. § 244.2 To apply for late initial registration an applicant must:

- (1) Be a national of Nicaragua (or an 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



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(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 registration period for the initial designation (from January 5, 1999 to August 20, 1999) he or she:

- (1) Was a nonimmigrant or had been granted voluntary departure 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) Was the spouse or child of an alien currently eligible to be a TPS registrant.

An applicant for late initial registration must file an application for late registration no later than 60 days after the expiration or termination of the conditions described above. 8 C.F.R. § 244.2(g).

Q. How do I apply for late initial registration?

A. A late initial registrant must file a complete application package, including supporting documentation and all applicable fees, in accordance with the regulations. In addition to the requirements described above for re-registration under the extension, a late initial registrant must submit a \$50 fee with Form I-821 and, if 14 years of age or older, the \$70 biometric services fee. Applicants for late initial registration who are under 14 years of age and request an EAD must also submit the \$70 biometric services fee. The applicant may request a fee waiver in accordance with the regulations, however the biometric services fee will not be waived.

Q. Where should I submit the application for re-registration or late initial registration?

A. All late initial registration applications for TPS, pursuant to the TPS designation of Nicaragua, should be submitted to the aforementioned Lockbox address in Chicago, Illinois:

U.S. Citizenship and Immigration Services
P.O. Box 8631
Chicago, IL 60680-8631

Or, for non-United States Postal Service (USPS) deliveries:

U.S. Citizenship and Immigration Services
Attn: TPS - Nicaragua – Late Initial Registrant
427 S. LaSalle – 3rd Floor
Chicago, IL 60605

Q. When will the extension of the designation of Nicaragua for TPS expire?

A. The TPS extension for Nicaragua is effective for 12 months, from July 5, 2006 to July 5, 2007.

Note: EADs and extension stickers issued pursuant to this extension will show “July 2007” or “July 31, 2007” respectively, as the expiration date, and will therefore be valid throughout the month of July 2007.



Q. Specifically, what factors were considered in making the decision to grant a 12-month extension of TPS for Nicaragua?

A. After reviewing the country conditions and consulting with the appropriate Government agencies, the Secretary of Homeland Security determined that conditions in Nicaragua continue to support TPS designation. While progress has been made in reconstruction from Hurricane Mitch, Nicaragua has not been able to fully recover, in part due to follow-on natural disasters that have severely affected economic recovery that would enable Nicaragua to adequately handle the return of its nationals. In addition, continuing high rates of unemployment and underemployment estimated at 40 percent, coupled with scarce government resources, severely limit current employment opportunities for returning migrants. Agriculture remains devastated, housing projects have not been completed, and parts of the country continue to suffer. Thousands of people were severely affected and houses, churches, medical centers, and schools in several communities were destroyed. Approximately 80 percent of the buildings on the central Atlantic coast, where Hurricane Beta hit, were heavily damaged or destroyed.

There continues to be a substantial, but temporary, disruption in living conditions due to the devastation from Hurricane Mitch and subsequently Hurricane Beta in 2005, thus preventing the safe return of nationals of Nicaragua. Due to continued reconstruction of infrastructure damaged by Hurricane Mitch and Nicaragua's ongoing inability to adequately handle the return of its nationals, the Secretary of DHS has determined that a 12-month extension of the TPS designation is warranted.

Q. Are Nicaragua TPS beneficiaries permitted to travel abroad during the TPS extension?

A. Those granted TPS must receive advance permission to return to the United States if traveling abroad. This advance permission is called Advance Parole and can be obtained by filing Form I-131, Application for a Travel Document, with the USCIS. Failure to obtain advance parole prior to traveling abroad may result in the withdrawal of your TPS and/or the institution or re-calendar of removal proceedings.

Q. Where can I obtain forms and additional information?

A. Information concerning TPS is available at the USCIS web site: www.uscis.gov or the USCIS National Customer Service Center, at 1-800-375-5283. Applicants may obtain forms from the USCIS web site or by contacting the USCIS Forms Line, 1-800-870-3676.

Q. If I entered the United States after December 30, 1998, would I qualify for benefits under TPS?

A. No. This extension does not change the required dates of continuous residence and continuous physical presence in the United States. To be eligible, nationals of Nicaragua (or in the case of an alien having no nationality, is a person who last habitually resided in such designated state) 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.



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

A. Yes. Registration for TPS does not prevent you from applying for another non-immigrant status, from filing for adjustment of status based on an immigrant petition, or from 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. 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. 8 U.S.C. 1158(b)(2)(A)(ii); 8 U.S.C. 1254a(c)(2)(B)(ii).

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