



U.S. Citizenship
and Immigration
Services

September 14, 2006

Questions and Answers

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

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, the alien will return to the status he/she had prior to TPS 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?

A. Re-registration is limited to nationals of Burundi (or in the case of an alien having no nationality, a person who last habitually resided in Burundi) who have previously registered for TPS and who have re-registered annually since the time of initial registration. 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 in the United States of either a felony or two or more misdemeanors committed in the United States is not eligible for TPS. Likewise, an individual subject to a criminal or security-related ground of inadmissibility or any bar to asylum is ineligible for TPS.

Q. If I currently have benefits through the TPS designation of Burundi, do I need to re-register for TPS?

A. Yes. All TPS beneficiaries must comply with the re-registration requirements described below in order to maintain TPS benefits through November 2, 2007. 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 temporary protected status and possibly your removal from the United States. All Employment Authorization Documents (EADs) issued pursuant to this designation have been auto-extended for six months until May 2, 2007 to allow ample processing time of re-registration applications and issuance of new EADs with the November 2, 2007 expiration date..

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

A. All persons previously granted TPS under the designation of Burundi must re-register by filing the following:

- (1) Form I-821, Application for Temporary Protected Status, without fee;
- (2) Form I-765, Application for Employment Authorization (see the chart below to determine whether you must submit the one hundred and eighty dollar (\$180) filing fee with Form I-765 or a fee waiver request);
- (3) 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 a new EAD or an EAD extension. The biometric services fee will not be waived; and
- (4) A photocopy of the front and back of your EAD if you received an EAD during the most recent registration period.

When filing Form I-821, it is important to place your Alien Registration Number on your application. You may find your Alien Registration Number, also known as “A#”, listed below your name on your EAD. In addition, please note that you do not need to submit photographs with your TPS application because a photograph will be taken, if needed, when you appear at an USCIS Application Support Center (ASC) for collection of biometrics.

Aliens 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 applicants.

Q. What edition of the Form I-821 should be submitted?

A. Only Forms I-821 with revision dates of November 5, 2004 or later will be accepted. The revision date can be found on the bottom right corner of the form. Submissions of older versions of Form I-821 will be rejected. You may obtain immigration forms, free of charge, on the Internet at <http://www.uscis.gov> or by calling the USCIS forms hotline at 1-800-870-3676.

Q. Who must submit the \$180 filing fee for the Form I-765, Application for Employment Authorization?

If	Then
You are applying for an extension of your EAD valid through November 2, 2007.	You must complete and file the Form I-765, Application for Employment Authorization, with the \$180 fee.
You are re-registering for TPS but not applying for a new EAD or a renewal of your EAD.	You must complete and file Form I-765 (for data-gathering purposes only) with no fee. DO NOT check the Application Reason Type on the top of Form I-765.
You are applying for an EAD under the late initial registration provisions and are under age 14 or over age 65.	You must complete and file Form I-765 with no fee.
You are applying for an EAD under the late initial registration provisions and between the ages of 14 and 65 (inclusive).	You must complete and file the Form I-765, Application for Employment Authorization, with the \$180 fee.
You are applying for a new EAD or an extension of your EAD and are requesting a fee waiver.	You must complete and file: 1) Form I-765 and 2) a fee waiver request and affidavit (and any other supporting information) in accordance with 8 CFR 244.20.

Applicants who are only seeking to re-register for TPS and are not requesting an EAD or applying for an extension of their EAD should NOT check any of the following boxes on the I-765 (Application for Employment Authorization) in response to the question "I am applying for:"

Permission to accept employment

Replacement (of lost employment authorization document)

Renewal of my permission to accept employment (attach previous employment authorization document).

If a TPS applicant is not applying for an EAD and he or she incorrectly checks any of these boxes without submitting a \$180 fee with his/her Form I-765, the processing of the application may be delayed.

Q. Who must submit the \$70 biometric services fee?

A. The \$70 biometric services fee must be submitted by all aliens 14 years of age and older who: 1) have previously been granted TPS and are now re-registering for TPS; 2) have an initial application for TPS currently pending, have an EAD bearing the notification "C-19" on the face of the card under "Category" and wish to renew temporary treatment benefits; or 3) are applying for TPS under the late initial registration provisions. In addition, any alien, including one who is under the age of 14, choosing to apply for a new EAD or an extension of an EAD must submit the \$70 biometric services fee. This biometric services fee will not be waived and failure to include a biometrics fee will cause the application to be rejected.

Q. When should I submit my re-registration application for TPS?

A. Applications must be filed during the 60-day re-registration period beginning September 14, 2006 and will remain in effect until November 13, 2006. You are encouraged to file the application as soon as possible after the start of the 60-day re-registration period.

Q. Where should I submit my re-registration application for TPS?

A. To facilitate efficient processing, USCIS has designated two post office (P.O.) boxes with the Chicago Lockbox for the filing of TPS applications. The type of TPS application you submit will determine the P.O. Box where your application must be submitted. Certain applications for TPS re-registration may also be electronically filed ("E-Filed"). See below for further filing instructions. Please note that applications should not be filed with a USCIS Service Center or District Office. Failure to file your application properly may result in the delay of the processing of your application.

Category 1: Applications for re-registration that do not require the submission of additional documentation must either be E-filed (see below) or 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 – Burundi
427 S. LaSalle – 3rd Floor
Chicago, IL 60605-1029

E-Filing Your Application: If your application falls into Category 1 you are strongly encouraged to E-File your application. During the re-registration period beginning September 14, 2006, and remaining in effect

until November 13, 2006, aliens re-registering for TPS under this designation may E-file the Forms I-821 and I-765 and associated fees electronically at the USCIS Internet site, <http://www.uscis.gov>. In order to properly re-register using E-Filing, aliens must begin the E-Filing process by completing Form I-821 online. After the Form I-821 is completed, the system will then automatically link the alien to Form I-765. E-filing will only be available during the 60-day re-registration period. Attempts to E-file after the re-registration period ends November 13, 2006 will not be accepted. Aliens whose applications fall into Category 2 (explained below) may not E-File and must send their application materials to the USCIS Chicago Lockbox at the address listed below.

Category 2: Aliens who are filing a re-registration application that requires the submission of additional documentation or who are filing for TPS for the first time as a late initial registrant must file at the P.O. Box listed below:

U.S. Citizenship and Immigration Services
P.O. Box 8677
Chicago, IL 60680-8677

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

U.S. Citizenship and Immigration Services
Attn: TPS – Burundi – [EOIR/Additional Documents] or [Late Initial Registrant]
427 S. LaSalle – 3rd Floor
Chicago, IL 60605-1029

Note: Please make sure to indicate either “EOIR/Additional Documents” or “Late Initial Registrant” on the “Attn:” line, as appropriate, after “Burundi,” above.

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 alien must submit an explanation, on a separate sheet(s) of paper, and/or additional documentation.

(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 Executive Office for Immigration Review (EOIR)) with his or her application package.

Category 2 applications may not be E-Filed.

Q. Are certain aliens ineligible for TPS?

A. Yes. There are certain criminal and security-related inadmissibility grounds that render an alien ineligible for TPS. Further, aliens who have been convicted of any felony or two or more misdemeanors committed in the United States are ineligible for TPS, as are aliens described in the bars to asylum. Aliens should note that an individual granted TPS will have his/her TPS withdrawn if the alien is not eligible for TPS, fails without good cause to timely re-register, or, with several exceptions, fails to maintain continuous physical presence in the United States from the date the alien first was granted TPS.

Q. Am I eligible to receive an automatic extension of my EAD from November 2, 2006, through May 2, 2007?

A. To receive an automatic extension of your EAD, you must be a national of Burundi (or an alien having no nationality who last habitually resided in Burundi) who has applied for and received an EAD under the TPS designation for Burundi and who has not had TPS withdrawn or denied. This automatic extension is limited

to EADs (1) issued on Form I-766, Employment Authorization Document, (2) bearing an expiration date of November 2, 2006, and (3) bearing the notation “A-12” or “C-19” on the face of the card under “Category.”

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

A. TPS re-registrants will receive a notice in the mail with instructions to appear at an ASC for biometrics collection. When you report to the 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, valid through November 2, 2007, through the mail. 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. If your application is approved, you will receive a new EAD in the mail with an expiration date of November 2, 2007.

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

A. No. USCIS will not issue 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 May 2, 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 through May 2, 2007, employers of Burundi TPS beneficiaries whose EADs have been automatically extended must accept the EAD, if it is presented and reasonably appears on its face to be genuine and to relate to the employee, as a valid “List A” document. Employers should not ask for additional Form I-9 documentation and should not request proof of Burundian citizenship. An EAD that has been automatically extended for 6 months through May 2, 2007, will actually contain an expiration date of November 2, 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 showing the May 2, 2007 expiration date of the 6-month automatic extension will not be issued.

This action by the Secretary 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. 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 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 extension has expired, between May 2, 2007, and the end of the TPS extension of Burundi on November 2, 2007?

A. TPS beneficiaries who re-register and are granted benefits will possess an EAD with an expiration date of November 2, 2007. This EAD must be accepted for the purposes of verifying identity and employment

authorization. Employers are reminded that the laws requiring employment eligibility verification and prohibiting unfair immigration-related employment practices remain in full force, as described above.

Q. What can an employee present to an employer for purposes of completing Form I-9, Employment Eligibility Verification through May 2, 2007?

A. Qualified individuals who have received a six-month extension of their EADs may present a TPS-based EAD to their employer for the purpose of completion of the Form I-9 at the time of hire or re-verification, as proof of identity and employment authorization through May 2, 2007. 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 published on September 14, 2006 regarding the automatic extension of employment authorization documentation through May 2, 2007.

As an alternative to the aforementioned options, 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; it is the choice of the employee.

Q. Does TPS lead to lawful permanent residence?

A. No. TPS is a temporary benefit that does not lead to lawful permanent residence by itself or confer any other immigration status.

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

A. Yes. Registration for TPS does not prevent you from applying for any other immigration benefit or protection. For the purposes of change of nonimmigrant 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.

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.

Q. Does this extension allow nationals of Burundi (or aliens having no nationality who last habitually resided in Burundi) who entered the United States after November 9, 1999, 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 beyond the current TPS requirements for the Burundi designation. To be eligible for TPS benefits under this extension, nationals of Burundi (or aliens having no nationality who last habitually resided in Burundi) must have been continuously physically present and continuously resided in the United States since November 9, 1999.

Q. What is late initial registration?

A. Some aliens may be eligible for late initial registration under 8 U.S.C. 1254a(c)(1)(A)(iv) and 8 CFR 244.2(f)(2) and (g). In order to be eligible for late initial registration an applicant must:

- (1) Be a national of Burundi (or an alien who has no nationality and who last habitually resided in Burundi);
- (2) Have continuously resided in the United States since November 9, 1999;
- (3) Have been continuously physically present in the United States since

November 9, 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 registration period for the initial designation (from November 4, 1997 until November 3, 1998), or during the registration period for the re-designation (from November 9, 1999 to November 2, 2000), 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 an application for late registration no later than 60 days after the expiration or termination of the conditions described above. All late initial registration applications pursuant to the TPS designation of Burundi should be submitted to the aforementioned Lockbox address in Chicago, Illinois.

Q. What happens when this extension of TPS expires on November 2, 2007?

A. At least 60 days before this extension of Burundi's TPS designation expires on November 2, 2007, the Secretary, after consultation with appropriate agencies of the Government, will review conditions in Burundi and determine whether the conditions for TPS designation continue to be met, or whether the TPS designation should be terminated. Notice of that determination, including the basis for the determination, will be published in the Federal Register.

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