

**FREQUENTLY ASKED QUESTIONS:
HAITIAN TEMPORARY PROTECTED STATUS (TPS)**

Last updated: February 15, 2023

The Department of Homeland Security (DHS) announced a new 18-month designation of Haiti for Temporary Protected Status (TPS), and announced that existing TPS holders can retain their TPS status by re-registering.

The **new TPS designation** allows eligible Haitian nationals (and individuals having no nationality who last habitually resided in Haiti) who have continuously resided in the United States since November 6, 2022 and who have had continuous physical presence in the United States since February 4, 2023, to file applications for TPS. The 18-month designation of Haiti for TPS began on February 4, 2023 and will remain in effect for 18 months, through August 3, 2024. The registration period for eligible individuals to submit TPS applications began January 26, 2023, and will remain in effect through August 3, 2024.

DHS also announced that **existing TPS holders** can retain their TPS as long as they are still eligible for TPS status. They must re-register for TPS within the 60-day period between January 26, 2023 and March 27, 2023. Individuals who applied for TPS whose applications were pending as of January 26, 2023 do not need to take action at this time.

Current Haitian TPS holders who have Employment Authorization Documents (EADs) with a February 3, 2023 expiration date have an automatic one-year extension of their work authorization through February 3, 2024. Applicants who do not have EAD applications pending as of January 26, 2023 should reapply for EADs when re-registering for TPS.

This FAQ addresses eligibility questions and practical application questions. For more detailed instructions, please consult the [Federal Register notice](#).

1. What is TPS?

Temporary Protected Status (TPS) is a *temporary* immigration status granted to nationals from designated countries that are experiencing difficult conditions, making it unsafe for their nationals to return or be deported to those countries.

2. Who is eligible for TPS?

In order to qualify for TPS, an individual must:

1. Be a national of a country designated for TPS, or a person without nationality who last habitually resided in the designated country;
2. Register during the open initial registration or re-registration period for the applicant's country of nationality, or meet the requirements for late initial filing during any extension of the TPS designation;

3. Have continuously resided and been continuously physically present in the United States since the specified periods (although the law does allow for an exception for brief, casual, and innocent departures from the United States); and
4. Not be inadmissible to the United States or be barred from asylum for certain criminal or national security-related reasons, such as individuals who have been convicted of any felony or two or more misdemeanors.

For further details on TPS, check the [TPS for Haiti USCIS page](#).

3. How can applicants check their current immigration status or the status of their application online?

Go to the [USCIS case status website](#) to check an applicant's current immigration status or the status of their application. Applicants will need to have a “Receipt Number” from the last TPS filing or employment filing. This number can be found at the top left corner of a Notice of Action, also known as a Form I-797.

To check the status of an application for employment authorization (Form I-765) that has been pending for more than 90 days, go to the [USCIS e-request site](#) or call the USCIS Contact Center at 800-375-5283 (TTY 800-767-1833).

4. What documents demonstrate approved TPS status?

Once a TPS application (I-821) is approved, the applicant usually receives a receipt called a Notice of Action on a Form I-797. A TPS holder may also have an Employment Authorization Document (EAD) card, or an Arrival/Departure Record (Form I-94) indicating TPS status.

5. Do new TPS beneficiaries need to submit a new application?

Yes. Eligible Haitian nationals who have continuously resided in the United States since November 6, 2022 and have been physically present in the United States since February 4, 2023 and have never before applied for TPS must submit a new application to the Department of Homeland Security (DHS) for TPS.

6. What are the instructions for submitting a TPS application?

A TPS application must be submitted in accordance with the [form instructions](#) and the [Federal Register notice](#) that announces the procedures for TPS registration and re-registration.

This involves submitting an Application for Temporary Protected Status (Form I-821), and paying the \$50 filing fee or submitting a Request for Fee Waiver (Form I-912). There is also an \$85 biometrics service fee for applicants over age 14 (also eligible for a fee waiver). The registration period for new applicants is open until August 3, 2024.

New applicants must indicate that this is a first application by selecting category 1.a. on the TPS Application (Form I-821). It looks like this:

1.a. This is my initial (first time) application for Temporary Protected Status (TPS). I do not currently have TPS.

DHS has stated that Box 1.a. must be checked.

7. Can new applicants also apply for work authorization?

Yes. Applicants may file for work authorization either at the same time as applying for TPS or after receiving TPS. Recipients of Employment Authorization Documents (EADs) will receive an EAD card indicating work authorization until August 3, 2024. Applicants file an Application for Employment Authorization (I-765) and pay the associated \$410 fee or submit a Fee Waiver Form (I-912).

8. Do current TPS beneficiaries need to re-register for TPS?

Yes. Current TPS holders should re-register during the 60-day registration period between January 26, 2023 and March 27, 2023. This includes individuals whose TPS is continuing under the court order in *Ramos v. Nielson*, as explained in question 10 below. Re-registrants do not pay the \$50 fee that accompanies the I-821 TPS application, but applicants over age 14 will be required to pay the \$85 biometrics fee (or complete a fee waiver). Applicants seeking employment authorization may also file the application for Employment Authorization (Form I-765) and pay the \$410 filing fee or apply for a Fee Waiver (Form I-912).

One group of current TPS holders does not need to re-register: those with pending applications as of January 26, 2023, as explained in question 9 below.

9. Do individuals with pending TPS applications have to re-file?

No. Haitians with TPS or EAD applications that were pending as of January 26, 2023 do not need to re-file that application. Approved applications will list the new end date of August 3, 2024.

10. Should individuals who have TPS under the *Ramos* injunction re-register?

Yes. Haitians who had their TPS continued under the *Ramos* injunction (2011 TPS beneficiaries) should re-register for TPS before March 27, 2023 unless their application was pending on January 26, 2023.

The *Ramos* injunction, issued in 2018, and related litigation temporarily stopped DHS from ending TPS for several countries, including Haiti. This injunction is still in effect as of the date of this FAQ (February 15, 2023). Prior TPS recipients unsure whether they have TPS under the *Ramos* litigation can review the eligibility criteria here: [Ramos](#)

[information](#). TPS holders in this group can re-register without losing their status under *Ramos*. While *Ramos* TPS holders are not required to re-register, DHS encourages re-registration to ensure that they maintain TPS status if the *Ramos* injunction ends.

11. What is the expiration date for current TPS beneficiaries who re-register?

Current TPS beneficiaries who re-register for TPS will see their TPS validity extended for an additional 18 months, through August 3, 2024.

12. Is there an automatic extension of employment authorization?

Yes. The federal register automatically extends the employment authorization of every current TPS recipient who has the notation A-12 or C-19 and a “Card Expires” date of February 3, 2023 for one year, to February 3, 2024.

Individuals who benefit from automatic extensions can provide employers with their:

- EAD card;
- Most recent Form I-797 Notice of Action receipt for TPS re-registration;
- Most recent Form I-797 Notice of Action reflecting TPS approval; and
- A copy of the January 26, 2023 [federal register notice](#).

Please note that these documents are not required, but they may be helpful to explain the automatic extension to employers. If employers still do not understand work eligibility, applicants should consider contacting an attorney or using this [DOJ guide](#) to explain the automatic extension process.

13. How long after filing an application will a decision be made?

Currently, there is no accurate timeline on how long it will take for applications to be processed. Please refer to Question 3 for instructions on checking the status of an application.

14. Can individuals with humanitarian parole apply for TPS?

Yes. Individuals with parole or a pending request for re-parole can apply for TPS. It is possible to have TPS and still maintain parole status.

15. Does someone with a final order of removal qualify for TPS?

Maybe. Applicants with a final order of removal should seek a legal consultation before applying for TPS. A removal order is not a bar to TPS, but TPS is only temporary and does not eliminate the removal order. When TPS expires, the removal order will remain. Also, if the removal order was based on criminal issues or other “bars”, the TPS application may be more complicated. An experienced immigration lawyer can review.

16. Should individuals with Orders of Supervision (OSUP) apply?

Maybe. Applicants with orders of supervision (OSUP) should seek a legal consultation before applying for TPS. OSUP is not a bar to TPS, but TPS is only temporary and does not eliminate the OSUP. When TPS ends, the OSUP will continue. Also, if the OSUP was based on criminal issues or other “bars”, the TPS application may be more complicated. An experienced immigration lawyer can review.

17. Do any of the inadmissibility bars apply to TPS?

Yes. Applicants with any criminal record, including Continuances Without a Finding (CWOFFs), should seek legal consultation before applying for TPS. Individuals who are considered "inadmissible" to the U.S. will not be eligible to file for TPS unless a waiver is available and, in some cases, they file a Form I-601 along with their TPS application.¹ Section 212 of the Immigration and Nationality Act (INA) specifies broad inadmissibility grounds on which foreign nationals are considered ineligible to receive visas and ineligible to be admitted to the United States. Section 244(c)(2) of the INA lists which of these grounds of inadmissibility may be waived and which may not be waived.

Even if a TPS applicant is admissible, they may still be ineligible for TPS if they have been convicted of one felony (including Massachusetts misdemeanors where the sentence imposed, suspended or committed, was more than one year); two misdemeanors, as defined in this [memo](#); or any of the mandatory bars to asylum. For more information on bars to TPS, please refer to the [CPCS memo](#). An experienced immigration lawyer can review.

18. Can someone who has a pending asylum application apply for TPS?

Yes. TPS does not affect any pending asylum application. In fact, applying for TPS with a pending asylum application may give applicants some protection from deportation and qualify them for work authorization if their asylum case is denied.

19. Can someone who has lived or traveled through other countries before arriving in the U.S. still apply for TPS?

Yes, unless the person has “firmly resettled” in another country. Applicants with possible firm resettlement issues should seek legal consultation. USCIS will examine whether the applicant has an offer of resettlement from another country and may issue a Request for Evidence (RFE) or a Notice of Intent to Deny (NOID) for evidence showing the person

¹ Some grounds of inadmissibility require the filing and approval of [Form I-601](#) in order to be waived, whereas others listed in the instructions for Form I-601 do not require an application for waiver of grounds of inadmissibility. There are also statutory exceptions to inadmissibility listed in INA § 212(a). *See also*, USCIS, [Draft PM-602-XXXX](#): Clarification of Grounds of Inadmissibility that do not Apply to Applicants for Temporary Protected Status (TPS) and Circumstances Requiring an Individual Waiver of Inadmissibility (2011).

has no right to residency or other benefits in the other country to determine if they had “firmly resettled” in another country. This [practice advisory](#) from the Immigrant Legal Resource Center is helpful in explaining firm resettlement with TPS.

20. If an applicant's child was born outside of Haiti to Haitian nationals, can the child also apply for TPS?

Yes. Under Haitian law, a child born outside of Haiti to Haitian parents inherits his or her parents' Haitian nationality. However, while dual nationality does not preclude an applicant from meeting the nationality requirement for TPS, USCIS may determine that the child was firmly resettled in his/her birth country as described in Question 19.

21. Does having TPS count as an “inspection” and lawful admission to the U.S.?

No. On June 7, 2021, the Supreme Court issued a decision in *Sanchez v. Mayorkas*, 593 U.S. ___ (2021) clarifying that having TPS does not count as an “inspection” and lawful admission to the U.S., which is generally required by law for somebody to “adjust status” and get a green card from within the U.S. instead of having to apply for it abroad. This means that individuals who were not inspected or admitted when coming to the U.S. cannot get their green card from within the U.S. However, if a TPS holder was granted advance parole – travel authorization issued by the government – and traveled prior to August 20, 2020,² they may be able to get a green card from within the United States.

22. Can someone with TPS travel? Are there risks?

A TPS beneficiary can travel, but there may be risks. A TPS beneficiary can travel if they apply for and are granted an advance parole document, which gives beneficiaries permission to leave the United States and return during a specified period of time. If a TPS beneficiary leaves and reenters the United States during the validity period of their advance parole document, they will not break the continuous physical presence requirement for maintaining their TPS. Please note, however, that if they have a TPS or another application pending and they leave the United States on advance parole, they may miss important notices from USCIS regarding their application, including requests for additional evidence. If they do not respond timely to these notices, USCIS may deem their application abandoned and, in that event, they will not receive the benefit they seek.

If they attempt to return to the U.S. after the allotted advance parole time expires, they could be denied entry into the U.S., and it is also possible that their TPS will be considered abandoned due to a failure to maintain continuous residence in the United States.

² USCIS, *Matter of Z-R-Z-C*, <https://www.uscis.gov/sites/default/files/document/ao-decisions/Matter-of-Z-R-Z-C-Adopted-AAO-Decision.pdf>, (Aug. 20, 2020).

3. INA § 244(c)(2)(B)(ii); INA § 208(b)(A)(vi).

Note: While a departure based on advance parole for an individual granted TPS may trigger the unlawful presence bars, depending on the amount of unlawful presence accrued before the departure, the individual remains eligible for TPS and does not need to apply for a waiver in order to register or re-register for TPS.

Helpful links:

- Federal Register Notice: <https://www.federalregister.gov/documents/2023/01/26/2023-01586/extension-and-redesignation-of-haiti-for-temporary-protected-status>
- USCIS: <https://www.uscis.gov/humanitarian/temporary-protected-status/temporary-protected-status-designated-country-haiti>
- CPCS:
 - Advisory on Criminal Bars to TPS: <https://www.publiccounsel.net/iiu/wp-content/uploads/sites/15/TPS-Criminal-Bars-Aug-2021.pdf>
 - If attorneys have a particularly complicated case or specific questions about criminal bars after reviewing the advisory, they can email iiu@publiccounsel.net
- DOJ TPS Extension: <https://www.justice.gov/crt/page/file/1106681/download>
- CLINIC:
 - Advisory on TPS Extension: <https://cliniclegal.org/resources/humanitarian-relief/temporary-protected-status-and-deferred-enforced-departure/jan-26>
 - Dealing with TPS problems at work or the RMV: <https://cliniclegal.org/resources/humanitarian-relief/temporary-protected-status-and-deferred-enforced-departure/current-4>
- ILRC: https://www.ilrc.org/sites/default/files/resources/temporary_protected_status_-_final_dec_2021.pdf