

## DEPARTMENT OF HOMELAND SECURITY

### Citizenship and Immigration Services

[CIS No. 2513-11; DHS Docket No. USCIS-2011-0012]

RIN 1615-ZB08

### Designation of Republic of South Sudan for Temporary Protected Status

**AGENCY:** U.S. Citizenship and Immigration Services, Department of Homeland Security.

**ACTION:** Notice.

**SUMMARY:** This Notice announces that the Secretary of Homeland Security (Secretary) has designated the Republic of South Sudan (South Sudan) for Temporary Protected Status (TPS) for a period of 18 months, effective November 3, 2011 through May 2, 2013. Under section 244(b)(1) of the Immigration and Nationality Act (INA), the Secretary is authorized to grant TPS to eligible nationals of designated foreign states or parts of such states (or to eligible aliens having no nationality who last habitually resided in such states) upon finding that such states are experiencing ongoing armed conflict, environmental disaster, or other extraordinary and temporary conditions that prevent nationals from returning safely.

This designation allows eligible South Sudan nationals (and aliens having no nationality who last habitually resided in the region that is now South Sudan) who have continuously resided in the United States since October 7, 2004 to obtain TPS. In addition to demonstrating continuous residence in the United States since October 7, 2004, applicants for TPS under this designation must demonstrate that they have been continuously physically present in the United States since November 3, 2011, the effective date of the designation of South Sudan. The Secretary has established November 3, 2011, as the effective date so that the 18-month designation of South Sudan will coincide with the 18-month extension period of TPS for Sudan, which is also being announced today. Although November 3, 2011, is a future date, applicants may begin applying for TPS immediately.

This designation is unique because on July 9, 2011, South Sudan became a new nation and independent from the Republic of Sudan, which has been designated for TPS since 1997. Some individuals who are TPS beneficiaries under the current designation of Sudan may now be nationals of South Sudan,

calling into question their continued eligibility for TPS under the Sudan designation. These individuals may, however, now qualify for TPS under the South Sudan designation. This Notice sets forth regular procedures and special procedures necessary for nationals of South Sudan (or aliens having no nationality who last habitually resided in the region that is now South Sudan) to register and to apply for TPS and Employment Authorization Documents (EADs) with U.S. Citizenship and Immigration Services (USCIS).

Given the timeframes involved with processing TPS applications, the Department of Homeland Security (DHS) recognizes that individuals who have EADs under Sudan TPS that expire November 2, 2011 may not receive new EADs under South Sudan TPS until after their current EADs expire.

Accordingly, the validity of EADs issued under the TPS designation of Sudan has been automatically extended for 6 months, through May 2, 2012. This automatic extension includes individuals who are now applying for TPS under the designation of South Sudan but were granted TPS and were issued an EAD under the Sudan designation. This Notice explains how TPS beneficiaries and their employers may determine which EADs are automatically extended and how the extension affects employment eligibility verification (Form I-9 and E-Verify) processes. This Notice also describes examples of acceptable evidence of South Sudanese nationality required for TPS registration under the South Sudan designation.

**DATES:** This designation of South Sudan for TPS is effective on November 3, 2011 and will remain in effect through May 2, 2013. The 180-day registration period for eligible individuals to submit initial TPS applications begins October 13, 2011, and will remain in effect until April 10, 2012.

**FOR FURTHER INFORMATION CONTACT:**

- For further information on TPS, including guidance on the application process and additional information on eligibility, please visit the TPS Web page at <http://www.uscis.gov/tps>. You can find specific information about this designation and about TPS for South Sudan by selecting "TPS Designated Country—Republic of South Sudan" from the menu on the left of the TPS Web page. From the South Sudan page, you can select the "South Sudan TPS Questions & Answers" section from the menu on the right for further information.

- You can also contact the TPS Operations Program Manager by mail at

the Status and Family Branch, Service Center Operations Directorate, U.S. Citizenship and Immigration Services, Department of Homeland Security, 20 Massachusetts Avenue, NW., Washington, DC 20529-2060 or by phone at (202) 272-1533 (this is not a toll-free number). **Note:** The phone number provided here is solely for questions regarding this TPS notice. It is not for individual case status inquiries.

- Applicants seeking information about the status of their individual cases can check Case Status Online available at the USCIS Web site at <http://www.uscis.gov>, or call the USCIS National Customer Service Center at 1-800-375-5283 (TTY 1-800-767-1833).
- Further information will also be available at local USCIS offices upon publication of this Notice.

**SUPPLEMENTARY INFORMATION:**

**Abbreviations and Terms Used in This Document**

ASC—USCIS Application Support Center.  
 CPA—Comprehensive Peace Agreement.  
 DHS—Department of Homeland Security.  
 DOS—Department of State.  
 EAD—Employment Authorization Document.  
 Government—U.S. Government.  
 GSS—Government of South Sudan.  
 IDP—Internally Displaced Person.  
 INA—Immigration and Nationality Act.  
 LRA—Lord's Resistance Army.  
 OCHA—United Nations Office for the Coordination of Humanitarian Affairs.  
 OSC—U.S. Department of Justice, Office of Special Counsel for Immigration-Related Unfair Employment Practices.  
 SAF—Sudan Armed Forces.  
 Secretary—Secretary of Homeland Security.  
 South Sudan—Republic of South Sudan.  
 SPLA—Sudan People's Liberation Army.  
 SPLM/A—Sudan People's Liberation Movement/Army.  
 TPS—Temporary Protected Status.  
 UN—United Nations.  
 UNHCR—Office of the United Nations High Commissioner for Refugees.  
 UNMISS—United Nations Mission in the Republic of South Sudan.  
 USAID—U.S. Agency for International Development.  
 USCIS—U.S. Citizenship and Immigration Services.

**What is Temporary Protected Status (TPS)?**

- TPS is an immigration status granted to eligible nationals (or to persons without nationality who last habitually resided in the designated country) of a country designated for TPS under the Immigration and Nationality Act (Act).

- During the TPS designation period, TPS beneficiaries are eligible to remain in the United States and may obtain employment authorization, so long as they continue to meet the requirements of TPS.

- The granting of TPS does not lead to permanent resident status.
- When the Secretary of Homeland Security (Secretary) terminates a country's TPS designation, beneficiaries return to the same immigration status they maintained before TPS (unless that status has since expired or been terminated) or to any other lawfully obtained immigration status that they received while registered for TPS.

#### What authority does the Secretary of Homeland Security have to designate South Sudan for TPS?

Section 244(b)(1) of the INA, 8 U.S.C. 1254a(b)(1), authorizes the Secretary, after consultation with appropriate Government agencies, to designate a foreign state (or part thereof) for TPS.<sup>1</sup> The Secretary can designate a foreign state for TPS based on one of three circumstances. One circumstance is if "there is an ongoing armed conflict within the state and, due to such conflict, requiring the return of aliens who are nationals of that state to that state (or to the part of the state) would pose a serious threat to their personal safety." INA sec. 244(b)(1)(A), 8 U.S.C. 1254a(b)(1)(A). The Secretary can also designate a foreign state for TPS if "there exist extraordinary and temporary conditions in the foreign state that prevent aliens who are nationals of the state from returning to the state in safety, unless the [Secretary] finds that permitting the aliens to remain temporarily in the United States is contrary to the national interest of the United States." INA sec. 244(b)(1)(C), 8 U.S.C. 1254a(b)(1)(C).

Following the designation of a foreign state for TPS, the Secretary may grant TPS to eligible nationals of that foreign state (or aliens having no nationality who last habitually resided in that state). Applicants must demonstrate, among other things, that they have been both "continually physically present" in the United States since the effective date of the designation, which is either the date of the **Federal Register** notice announcing the designation or such later date as the Secretary may determine, and that they have "continuously resided" in the United States since such date as the Secretary may designate. INA secs. 244(a)(1)(A), (b)(2)(A), (c)(1)(A)(i-ii); 8 U.S.C. 1254a(a)(1)(A), (b)(2)(A), (c)(1)(A)(i-ii).

<sup>1</sup> As of March 1, 2003, in accordance with section 1517 of title XV of the Homeland Security Act of 2002 (HSA), Public Law 107-296, 116 Stat. 2135, any reference to the Attorney General in a provision of the INA describing functions transferred under the HSA from the Department of Justice to DHS "shall be deemed to refer to the Secretary [of Homeland Security]." See 6 U.S.C. 557 (codifying HSA, tit. XV, 1517).

#### Why is the Secretary designating South Sudan for TPS through May 2, 2013?

The Secretary has determined, after consultation with appropriate Government agencies, that there is an ongoing armed conflict in the Republic of South Sudan and that requiring the return of South Sudanese nationals to South Sudan would pose a serious threat to their personal safety. Furthermore, there exist extraordinary and temporary conditions in South Sudan that prevent nationals of South Sudan from returning in safety, and the Secretary does not find that permitting the aliens to remain temporarily in the United States is contrary to the national interest of the United States.

On July 9, 2011, South Sudan became the world's newest nation. Formal independence for South Sudan concluded the interim period of the January 2005 Comprehensive Peace Agreement (CPA) that ended more than two decades of civil war between the Government of Sudan in Khartoum and the Sudan People's Liberation Movement/Army (SPLM/A). These groups had been fighting for the autonomy of South Sudan. While some provisions of the CPA were upheld, many contentious issues remain unresolved and present potential for further conflict.

The April 2010 nationwide elections in Sudan did not meet international standards. Reported abuses in South Sudan included security force restrictions on and harassment of the opposition, including widespread human rights abuses. The January 2011 referendum itself, in which an overwhelming majority of registered South Sudanese voters chose independence, was largely peaceful. The CPA-mandated ceasefire between Sudan government forces and the SPLM/A was largely upheld (though outbreaks of violence did occur) until conflicts along the North-South border between Sudan and South Sudan erupted starting in May 2011.

During the past two years, South Sudan has experienced increasing violence related to intercommunal conflict, conflict between the SPLM/A and irregular armed forces, and targeted attacks on civilians by the Lord's Resistance Army (LRA). The transitional areas along the North-South border (Abyei, Blue Nile and Southern Kordofan) continued to suffer from inter-tribal tensions, and are flashpoints for violence involving government troops of both sides as well as irregular armed groups.

According to an early 2011 report by the Office of the United Nations High

Commissioner for Refugees (UNHCR), during the past two years South Sudan has experienced increasing violence, mostly related to armed militia groups, including LRA and inter-tribal clashes. There are also reports of human rights abuses by southern security forces, including the police and the Sudan People's Liberation Army (SPLA). These reported abuses range from arbitrary detention to the killing of civilians. The SPLA also continues to have child soldiers within its ranks. The United Nations (UN) Security Council established the United Nations Mission in the Republic of South Sudan (UNMISS) to assist with "functions relating to humanitarian assistance, and protection and promotion of human rights." As of May 31, 2011, UNMISS had 9,264 troops out of an authorized 10,000 total military personnel. UNMISS troops have sustained 60 fatalities since the mission deployed.

In January 2011, UNHCR reported that LRA violence displaced some 600,000 additional people in the previous 18 months and has brought "a radical shift in patterns of violence [that] points to a clear targeting of women and children." LRA attacks in the western part of South Sudan were reported on a monthly basis throughout 2010. In most cases, these attacks were on vulnerable, isolated communities, with indiscriminate killing, abduction, rape, mutilation, looting, and destruction of property.

According to Human Rights Watch, throughout 2010 "[p]atterns of intercommunal violence stemming from cattle-rustling and other localized disputes across Southern Sudan continued to put civilians at risk of physical violence and killings." In addition to the upsurge in LRA and intercommunal violence, new conflicts have developed between government armed forces, and the ensuing violence has had a significant, negative humanitarian impact.

The transitional areas of Abyei, Blue Nile State, and Southern Kordofan/Nuba Mountains remain potential flashpoints because of their position along the North-South border, much of which remains undemarcated. As part of the CPA, the area of Abyei was to be jointly administered until local residents determined whether they would join the North or South, but the referendum has yet to be held. Reports indicate that in the months leading up to South Sudan's independence, both the Northern and Southern armies reinforced their positions near Abyei. On May 19, 2011, in a move condemned by the UN as a breach of the CPA, Sudanese troops attacked and took control of Abyei. On June 20, 2011, Sudan and South Sudan

reached an agreement on temporary administration measures and demilitarization of the area. As part of that agreement, the UN Security Council ordered a 4,200-strong Ethiopian peacekeeping force into the region to monitor the troops' withdrawal.

Violence has increased in South Kordofan. In June 2011, fighting between the Khartoum-based Sudan Armed Forces (SAF) and the SPLA erupted in the state capital of Kadugli. On June 25, 2011, the UN Office for the Coordination of Humanitarian Affairs (OCHA) reported that the SAF was conducting airstrikes and artillery shelling in the eastern and southern parts of the Nuba Mountains. Eyewitnesses stated that SAF forces killed people in the streets of Kadugli for looking "too black," with no regard for whether they supported the Southern army. According to the British Broadcasting Corporation, satellite imagery has located mass graves in Kordofan. The SAF actions further threaten the fragile peace between the North and South, as SAF bombing raids in Sudan's South Kordofan State have spilled across the border into South Sudan's Unity State.

In addition to the recent violence in Abyei and South Kordofan, there have been other indications that the peace treaty remains fragile. In January and February 2011, factions of the SAF stationed in South Sudan's Upper Nile State engaged in violent clashes. Reports indicated that the soldiers were fighting over weapons and whether they will relocate to the North as ordered after the results of the referendum favored independence. By extension, the failure to demobilize the 180,000 soldiers from both Sudan and South Sudan as required by the CPA is of further concern.

According to information on the UN Web page, "About South Sudan," 35.7 percent of the population in South Sudan is food-insecure and requires assistance, and 50 percent of the population does not have access to drinking water. South Sudan census results indicate that more than 50 percent of the population lives below the poverty line on less than one dollar a day, and 80 percent lack adequate sanitation. In January 2011, the World Food Programme warned of growing signs of drought in the Horn of Africa. As of July 21, 2011, OCHA reported that although the drought has not yet affected South Sudan directly, food security is fragile and the living situation remains uncertain as close to one million people are currently receiving food assistance and at least an additional 400,000 are expected to need

assistance during this season. According to the U.S. Agency for International Development (USAID), mass population displacement caused by conflict in South Sudan since early 2011 caused the loss of lean season food stocks. As a result, most of the displaced are now in crisis and are relying on food assistance. USAID projects that ongoing conflict will likely impact crop cultivation and harvests and that the situation could worsen significantly because of the compounding impacts of insecurity, displacement, high food prices, and returnees from Sudan who increase competition for scarce resources.

Insecurity due to ongoing fighting, and the targeting of civilians for serious human rights abuses, has led to continued displacement of the South Sudanese population. Displacement and factors related to food insecurity—including drought, flooding, and rising food prices—are at the root of the ongoing humanitarian crisis. South Sudan is already considered one of the poorest, least-developed places in the world. The mass influx of South Sudanese returning from Sudan continues to strain limited resources, and high levels of humanitarian needs are reported in areas that have a high concentration of returnees.

According to the UN, approximately two million internally displaced persons (IDPs) and 350,000 refugees have returned to South Sudan since 2005. In late October 2010, the South Sudanese government began an accelerated return program. The number of returnees significantly increased, with an estimated 143,000 persons returning during October to December 2010. The South Sudanese government has been under significant strain trying to reintegrate and provide a safe environment for the existing returnees. Furthermore, there are still an estimated one million South Sudanese in Sudan. The estimated number of civilians killed in South Sudan during 2010 is 980. Between January and July 2011, more than 2,300 civilians were killed. An estimated 215,000 to 220,000 South Sudanese civilians became IDPs in 2010. Between January and July 2011, approximately 264,143 became IDPs.

There are multiple factors impeding delivery of humanitarian aid. It is estimated that there are fewer than 100 km of paved roads in South Sudan, and the accessibility of those roads is compromised during the rainy season. The ability of aid workers to provide much-needed humanitarian assistance is further compromised by dangers to aid workers but also by government prohibitions on operations and access to

certain areas where large populations of persons in need of assistance are located. UNHCR and USAID report that insecurity and logistical concerns as well as weather conditions are likely to continue hindering access to areas of South Sudan.

Based on this review, and after consultation with the appropriate Government agencies, the Secretary has determined that:

- Requiring the return of South Sudanese nationals to South Sudan poses a serious threat to their personal safety due to an ongoing armed conflict. *See* INA sec. 244(b)(1)(A), 8 U.S.C. 1254a(b)(1)(A).
- Nationals of South Sudan cannot return to South Sudan in safety due to extraordinary and temporary conditions. *See* INA sec. 244(b)(1)(C), 8 U.S.C. 1254a(b)(1)(C).
- It is not contrary to the national interest of the United States to permit South Sudanese nationals (and persons without nationality who last habitually resided in the region that is now South Sudan) who meet the eligibility requirements of TPS to remain in the United States temporarily. *See* INA sec. 244(b)(1)(C), 8 U.S.C. 1254a(b)(1)(C).
- The designation of South Sudan for TPS should be for an 18-month period. *See* INA sec. 244(b)(2), 8 U.S.C. 1254a(b)(2).
- The date by which South Sudan TPS applicants must demonstrate that they have continuously resided in the United States is established as October 7, 2004, which is the same date that must be met by re-registering TPS applicants under the extension of TPS for Sudan. *See* INA sec. 244(c)(1)(A)(ii), 8 U.S.C. 1254a(c)(1)(A)(ii).
- The date by which South Sudan TPS applicants must demonstrate that they have been continuously physically present in the United States is November 3, 2011, the effective date of this TPS designation of South Sudan. *See* INA secs. 244(b)(2)(A), (c)(1)(A)(i); 8 U.S.C. 1254a(b)(2)(A), (c)(1)(A)(i).
- There are approximately 340 individuals who currently have TPS under the designation of Sudan. DHS estimates that the combined total of Sudanese and South Sudanese who will be eligible for TPS under this designation and the extension of TPS for Sudan is approximately 340. DHS recognizes that the actual number of registering South Sudanese applicants may be lower than 340, because some of those 340 individuals may re-register for Sudan TPS, while others may qualify to change their registration from TPS for Sudan to TPS for South Sudan.

**Notice of the Designation of South Sudan for TPS**

By the authority vested in me as Secretary of Homeland Security under section 244 of the Act, 8 U.S.C. 1254a, after consultation with the appropriate Government agencies, I designate the Republic of South Sudan for temporary protected status (TPS) under sections 244(b)(1)(A) and (C) of the Immigration and Nationality Act, 8 U.S.C. 1254a(b)(1)(A) and (C), for a period of 18 months from November 3, 2011 through May 2, 2013.

**Janet Napolitano,**  
*Secretary.*

**Required Application Forms and Application Fees to Register for TPS**

To register for TPS, an applicant must submit:

1. Form I-821, Application for Temporary Protected Status,
  - If you are not a TPS beneficiary under the Sudan designation (or have a pending TPS application under TPS Sudan), you must pay the Form I-821 application fee which is \$50. If you are unable to pay the fee, you may submit a fee waiver request with appropriate documentation.
  - If you are currently a TPS beneficiary under the Sudan designation (or you have a pending TPS Sudan application) but you are now a South Sudan national, you should file an initial application for South Sudan TPS. You do not, however, have to pay the Form I-821 \$50 application fee again since you are currently a TPS beneficiary under Sudan (or have a pending TPS application under Sudan) and you have already paid the application fee (or been granted a fee waiver); and
2. Form I-765, Application for Employment Authorization.

- You must pay the Form I-765 application fee if you want an employment authorization document (EAD), Form I-766, or submit a fee waiver request.
  - If you have a pending Form I-765 that you previously submitted with your request for TPS Sudan and you have not yet received your EAD with either a C-19 or A-12 notation, then you do not need to re-pay the I-765 application fee. You should submit a copy of your most recent USCIS fee receipt notice for the Form I-765, or your fee waiver grant notice, with your new I-765 application. Your fee (or fee waiver grant) will be applied to your application for an EAD under the South Sudan designation if your EAD has not been mailed to you yet.
  - You do not pay the Form I-765 fee if you are under the age of 14 or over the age of 65 and you want an EAD since this is an initial registration.
  - You do not pay the Form I-765 fee if you are not requesting an EAD.
- You must submit both completed application forms together. If you are unable to pay, you may apply for application and/or biometrics fee waivers by completing a Request for Fee Waiver (Form I-912) or submitting a personal letter requesting a fee waiver, and providing satisfactory supporting documentation. For more information on the application forms and application fees for TPS, please visit the USCIS TPS Web page at <http://www.uscis.gov/tps> and click on "Temporary Protected Status for South Sudan." Fees for Form I-821, Form I-765, and biometric services are also listed in 8 CFR 103.7(b).

**Biometric Services Fee**

Biometrics (such as fingerprints) are required for all applicants 14 years of age or older. Those applicants must

submit a biometric services fee. As previously stated, if you are unable to pay, you may apply for a biometrics services fee waiver by completing a Form I-912, or a personal letter requesting a fee waiver, and providing satisfactory supporting documentation. If you have a pending TPS application under the Sudan designation and you paid the biometrics fee, or received a fee waiver grant for that pending application, then you do not need to re-pay the biometrics fee. You should submit your USCIS fee receipt notice showing that you paid the fee, or notice of fee waiver, with your Form I-821 when applying under the designation for South Sudan. For more information on the biometric services fee, please visit the USCIS Web site at <http://www.uscis.gov>. You may be required to visit an Application Support Center to have your biometrics captured.

**Refiling of TPS Application Packet After Receiving a Fee Waiver Denial**

If you request a fee waiver when filing your TPS and EAD application forms and your request is denied, you may refile your application packet with the correct fees before the filing deadline April 10, 2012. If you receive the USCIS fee waiver denial and there are fewer than 45 days before the filing deadline, or the deadline has passed, you may still refile your application packet, with the correct fees, within the 45-day period after the date on the USCIS fee waiver denial notice. Your application packet and fees will not be rejected even if the deadline has passed, provided they are mailed within those 45 days and all other required information for the applications is included.

**Mailing Information**

Mail your application for TPS to the proper address in Table 1:

TABLE 1—MAILING ADDRESSES

If . . .	Mail to . . .
You are applying through the U.S. Postal Service .....	USCIS, P.O. Box 8677, Chicago, IL 60680-8677.
You are using a Non-U.S. Postal Service delivery service .....	USCIS, Attn: South Sudan TPS, 131 S. Dearborn 3rd Floor, Chicago, IL 60603-5517.

**E-Filing**

You cannot electronically file your application when applying for initial registration for TPS. Please mail your application to the mailing address listed in Table 1 above.

**Supporting Documents**

*What type of basic supporting documentation must I submit?*

- To meet the basic eligibility requirements for TPS, you must submit evidence that you:
- Are a national of South Sudan or an alien of no nationality who last habitually resided in the region that is now South Sudan. Such documents may

include a copy of your passport if available, other documentation issued by the Government of South Sudan (GSS) showing your nationality (e.g., national identity card, official travel documentation issued by the GSS), and/or your birth certificate with English translation accompanied by photo identification. USCIS will also consider certain forms of secondary evidence

supporting your South Sudanese nationality, such as your voter registration documentation for the January 2011 referendum on South Sudan's independence. If the evidence presented is insufficient for USCIS to make a determination as to your nationality, USCIS may request you to provide additional evidence. DHS recognizes the unique situation regarding the availability of nationality documentation presented by the very recent creation of South Sudan. Therefore, if you do not possess primary evidence, such as a passport, of your South Sudanese citizenship, you should provide as much secondary evidence as you can with your TPS application to demonstrate your citizenship. If you have tried to obtain evidence of your South Sudanese nationality, but have been unsuccessful, you may also submit an affidavit showing proof of your unsuccessful efforts to obtain such documents and affirming that you are a national of South Sudan. However, please be aware that an interview with an immigration officer is required if you do not present any documentary proof of identity or nationality. (See 8 CFR 244.9(a)(1));

- Have continually resided in the United States since October 7, 2004 (see 8 CFR 244.9(a)(2));
- Have been continually physically present in the United States since November 3, 2011, the effective date of the designation of South Sudan; and
- Two color passport-style photographs of yourself.

The filing instructions on Form I-821, Application for Temporary Protected Status, list all the documents needed to establish basic eligibility for TPS. You may also see information on the acceptable documentation and other requirements for applying for TPS on the USCIS Web site at <http://www.uscis.gov> under "Temporary Protected Status for South Sudan."

*Do I need to submit additional supporting documentation?*

If one or more of the questions listed in Part 4, Question 2 of the Form I-821 applies to you, then you must submit an explanation on a separate sheet(s) of paper and/or additional documentation. Depending on the nature of the question(s) you are addressing, additional documentation alone may suffice, but usually a written explanation will also be needed.

**Employment Authorization Document (EAD) (Form I-766)**

*May I request an interim EAD at my local USCIS office?*

No. USCIS will not issue interim EADs to TPS applicants at USCIS local offices.

*Am I eligible to receive an automatic 6-month extension if I have a current EAD under Sudan TPS that expires November 2, 2011?*

You will receive an automatic 6-month extension from November 2, 2011 through May 2, 2012, of your EAD if you:

- Received an EAD under the last extension of TPS for Sudan, and
- Have not had TPS withdrawn or denied.

This automatic extension is limited to EADs with an expiration date of November 2, 2011. These EADs must also bear the notation "A-12" or "C-19" on the face of the card under "Category."

*When hired, what documentation may I show to my employer as proof of employment authorization and identity when completing employment eligibility verification, Form I-9?*

You can find a list of acceptable document choices on page 5 of the Employment Eligibility Verification form, Form I-9. Employers are required to verify the identity and employment authorization of all new employees by using Form I-9. Within three days of hire, an employee must present proof of identity and employment authorization to his or her employer.

You may present any document from List A (reflecting both your identity and employment authorization), or one document from List B (reflecting identity) together with one document from List C (reflecting employment authorization). An EAD is an acceptable document under "List A."

If you received a 6-month automatic extension of your EAD issued under Sudan TPS as described in this **Federal Register** notice, you may choose to present your automatically extended EAD, as described above, to your employer as proof of identity and employment authorization for Form I-9 through May 2, 2012 (see the subsection below titled "How do I and my employer complete Form I-9 (i.e., verification) using an automatically extended EAD for a new job" for further information). To minimize confusion over this extension at the time of hire, you may also show a copy of this **Federal Register** notice regarding the automatic extension of employment

authorization through May 2, 2012 to your employer. As an alternative to presenting your automatically extended EAD, you may choose to present any other acceptable document from List A, or List B plus List C.

*What documentation may I show my employer if I am already employed but my current TPS-related EAD is set to expire?*

You must present any document from List A or any document from List C on Form I-9 to reverify employment authorization. Employers are required to reverify on Form I-9 the employment authorization of current employees upon the expiration of a TPS-related EAD.

If you received a 6-month automatic extension of your EAD as described in this **Federal Register** notice, your employer does not need to reverify until after May 2, 2012. However, you and your employer do need to make corrections to the employment authorization expiration dates in Section 1 and Section 2 of the Form I-9 (see the subsection below titled "What corrections should my employer at my current job and I make to Form I-9 if my EAD has been automatically extended?" for further information). In addition, you may also show this **Federal Register** notice to your employer to avoid confusion about whether or not your expired TPS-related document is acceptable. After May 2, 2012, when the automatic extension expires, your employer must reverify your employment authorization. You may show any document from List A or List C on Form I-9 to satisfy this reverification requirement.

*What happens after May 2, 2012 for purposes of employment authorization?*

After May 2, 2012, employers may not accept the EADs that were automatically extended as described in this **Federal Register** notice. However, USCIS will issue new EADs to TPS re-registrants. These EADs will have an expiration date of May 2, 2013 and can be presented to your employer as proof of employment authorization and identity. The EAD will bear the notation "A-12" or "C-19" on the face of the card under "Category." Alternatively, you may choose to present any other legally acceptable document or combination of documents listed on the Form I-9 to prove identity and employment authorization.

*How do my employer and I complete Form I-9 (i.e., verification) using an automatically extended EAD for a new job?*

When using an automatically extended EAD to fill out Form I-9 for a new job prior to May 2, 2012, you and your employer should do the following:

(1) For Section 1, you should:

- a. Check "An alien authorized to work;"
- b. Write your alien number (A-number) in the first space (your EAD or other document from DHS will have your A-number printed on it); and
- c. Write the automatic extension date in the second space.

(2) For Section 2, employers should:

- a. Record the document title;
- b. Record the document number; and
- c. Record the automatically extended EAD expiration date.

After May 2, 2012, employers must reverify the employee's employment authorization in Section 3 of Form I-9.

*What corrections should my employer at my current job and I make to Form I-9 if my EAD has been automatically extended?*

If you are an existing employee who presented a TPS EAD that was valid when you first started your job, but that EAD has now been automatically extended, you and your employer should correct your previously completed Form I-9 as follows:

(1) For Section 1, you should:

- a. Draw a line through the expiration date in the second space;
- b. Write "May 2, 2012" above the previous date;
- c. Write "TPS Ext." in the margin of Section 1; and
- d. Initial and date the correction in the margin of Section 1.

(2) For Section 2, employers should:

- a. Draw a line through the expiration date written in Section 2;
- b. Write "May 2, 2012" above the previous date;
- c. Write "TPS Ext." in the margin of Section 2; and
- d. Initial and date the correction in the margin of Section 2.

After May 2, 2012, when the automatic extension of EADs expires, employers must reverify the employee's employment authorization in Section 3.

*If I am an employer enrolled in E-Verify, what do I do when I receive a "Work Authorization Documents Expiring" alert for an automatically extended EAD?*

If you are an employer who participates in E-Verify, you will receive a "Work Authorization Documents

Expiring" case alert when a TPS beneficiary's EAD is about to expire. Usually, this message is an alert to complete Section 3 of Form I-9 to reverify an employee's employment authorization. For existing employees with TPS EADs that have been automatically extended, employers should disregard the E-Verify case alert and follow the instructions above explaining how to correct Form I-9. After May 2, 2012, employment authorization needs to be reverified in Section 3. You should never use E-Verify for reverification.

*Can my employer require that I produce any other documentation to prove my status, such as proof of my South Sudanese citizenship?*

No. When completing the Form I-9, employers must accept any documentation that appears on the lists of acceptable documentation, and that reasonably appears to be genuine and that relates to you. Employers may not request documentation that does not appear on the Form I-9. Therefore, employers may not request proof of South Sudanese citizenship when completing Form I-9. If presented with EADs that are unexpired on their face, employers should accept such EADs as valid "List A" documents so long as the EADs reasonably appear to be genuine and to relate to the employee. See below for important information about your rights if your employer rejects lawful documentation, requires additional documentation, or otherwise discriminates against you because of your citizenship or immigration status, or national origin.

#### **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 rules setting forth reverification requirements. For questions, employers may call the USCIS Customer Assistance Office at 1-800-357-2099. The USCIS Customer Assistance Office accepts calls in English and Spanish only. Employers may also call the Department of Justice (DOJ) Office of Special Counsel for Immigration-Related Unfair Employment Practices (OSC) Employer Hotline at 1-800-255-8155.

#### **Note to Employees**

Employees or applicants may call the DOJ OSC Worker Information Hotline at

1-800-255-7688 for information regarding employment discrimination based upon citizenship or immigration status, or national origin, unfair documentary practices related to the Form I-9, or discriminatory practices related to E-Verify. Employers must accept any document or combination of documents acceptable for Form I-9 completion if the documentation reasonably appears to be genuine and to relate to the employee. Employers may not require extra or additional documentation beyond what is required for Form I-9 completion. Further, employees who receive an initial mismatch via E-Verify must be given an opportunity to challenge the mismatch, and employers are prohibited from taking adverse action against such employees based on the initial mismatch unless and until E-Verify returns a final nonconfirmation. The Hotline accepts calls in multiple languages. Additional information is available on the OSC Web site at <http://www.justice.gov/crt/osc/>.

#### **Note Regarding Federal, State, and Local Government Agencies (Such as Departments of Motor Vehicles)**

State and local government agencies are permitted to create their own guidelines when granting certain benefits, such as a driver's license or an identification card. Each state may have different laws, requirements, and determinations about what documents you need to provide to prove eligibility for certain benefits. If you are applying for a state or local government benefit, you may need to provide the state or local government agency with documents that show you are a TPS beneficiary and/or show you are authorized to work based on TPS. Examples are:

(1) Your expired EAD that has been automatically extended, or your EAD that has a valid expiration date;

(2) A copy of this **Federal Register** notice if you have an automatically extended EAD;

(3) A copy of your Application for Temporary Protected Status, Form I-821 Receipt Notice (Form I-797) only if you have an automatically extended EAD;

(4) A copy of your Form I-821 Approval Notice (Form I-797) for this designation; and

(5) If there is an automatic extension of work authorization, a copy of the fact sheet from the USCIS TPS Web site that provides information on the automatic extension.

Check with the state or local agency regarding which document(s) the agency will accept.

Some benefit-granting agencies use the USCIS Systematic Alien Verification for Entitlements Program (SAVE) to verify the current immigration status of applicants for public benefits. If such an agency has denied your application based solely or in part on a SAVE response following completion of all required SAVE verification steps, the agency must offer you the opportunity to appeal the decision in accordance with the agency's procedures. If the agency has completed all SAVE verification and you do not believe the response is correct, you may make an Info Pass appointment for an in-person interview at a local USCIS office.

Detailed information on how to make corrections, make an appointment, or submit a written request can be found at the SAVE Web site at <http://www.uscis.gov/save>, then by choosing "How to Correct Your Records" from the menu on the right.

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## DEPARTMENT OF HOMELAND SECURITY

### Citizenship and Immigration Services

[CIS No. 2512-11; DHS Docket No. USCIS-2011-0013]

RIN 1615-ZB07

#### Extension of the Designation of Sudan for Temporary Protected Status and Automatic Extension of Employment Authorization Documentation for Sudanese TPS Beneficiaries

**AGENCY:** U.S. Citizenship and Immigration Services, Department of Homeland Security.

**ACTION:** Notice.

**SUMMARY:** This Notice announces that the Secretary of Homeland Security (Secretary) has extended the designation of Sudan for temporary protected status (TPS) for 18 months from its current expiration date of November 2, 2011 through May 2, 2013. The Secretary has determined that an extension is warranted because the conditions in Sudan that prompted the TPS designation continue to be met. There continues to be a substantial, but temporary, disruption of living conditions in Sudan based upon ongoing armed conflict and extraordinary and temporary conditions in that country that prevent Sudanese who now have TPS from returning in safety.

This Notice also sets forth procedures necessary for nationals of Sudan (or

aliens having no nationality who last habitually resided in Sudan) with TPS to re-register and to apply for an extension of their Employment Authorization Documents (EADs) with U.S. Citizenship and Immigration Services (USCIS). Re-registration is limited to persons who previously registered for TPS under the designation of Sudan and whose applications have been granted or remain pending. Certain nationals of Sudan (or aliens having no nationality who last habitually resided in Sudan) who have not previously applied for TPS may be eligible to apply under the late initial registration provisions.

USCIS will issue new EADs with a May 2, 2013 expiration date to eligible Sudanese TPS beneficiaries who timely re-register and apply for EADs under this extension. Given the timeframes involved with processing TPS re-registration applications, DHS recognizes that all re-registrants may not receive new EADs until after their current EADs expire on November 2, 2011. Accordingly, this Notice automatically extends the validity of EADs issued under the TPS designation of Sudan for 6 months, through May 2, 2012, and explains how TPS beneficiaries and their employers may determine which EADs are automatically extended and how the extension affects employment eligibility verification (Form I-9 and E-Verify) processes.

In a separate **Federal Register** Notice issued on October 13, 2011, the Secretary designated the newly formed Republic of South Sudan for TPS. Some individuals who are TPS beneficiaries under the current designation of Sudan may now be nationals of South Sudan, calling into question their continued eligibility for TPS under the Sudan designation. These individuals may, however, now qualify for TPS under South Sudan. The South Sudan Notice sets forth regular procedures and special procedures necessary for nationals of South Sudan (or aliens having no nationality who last habitually resided in the region that is now South Sudan) to register and to apply for TPS and EADs with USCIS.

**DATES:** The 18-month extension of the TPS designation of Sudan is effective November 3, 2011, and will remain in effect through May 2, 2013. The 180-day re-registration period begins October 13, 2011, and will remain in effect until April 10, 2012.

#### FOR FURTHER INFORMATION:

• For further information on TPS, including guidance on the application process and additional information on

eligibility, please visit the TPS Web page at <http://www.uscis.gov/tps>. You can find specific information about this extension and about TPS for Sudan by selecting "TPS Designated Country—Sudan" from the menu on the left of the TPS Web page. From the Sudan page, you can select the Sudan TPS Questions & Answers Section from the menu on the right for further information. Additionally, information about TPS for South Sudan can be found at the USCIS TPS Web page under the subheading "South Sudan."

• You can also contact the TPS Operations Program Manager at Status and Family Branch, Service Center Operations Directorate, U.S. Citizenship and Immigration Services, Department of Homeland Security, 20 Massachusetts Avenue, NW., Washington, DC 20529-2060; or by phone at (202) 272-1533 (this is not a toll-free number).

**Note:** The phone number provided here is solely for questions regarding this TPS notice. It is not for individual case status inquiries.

• Applicants seeking information about the status of their individual cases can check Case Status Online available at the USCIS Web site at <http://www.uscis.gov>, or call the USCIS National Customer Service Center at 1-800-375-5283 (TTY 1-800-767-1833).

• Further information will also be available at local USCIS offices upon publication of this Notice.

#### SUPPLEMENTARY INFORMATION:

##### Abbreviations and Terms Used in This Document

CPA—Comprehensive Peace Agreement.  
 DHS—Department of Homeland Security.  
 DOS—Department of State.  
 EAD—Employment Authorization Document.  
 Government—U.S. Government.  
 GOS—Government of Sudan.  
 INA—Immigration and Nationality Act.  
 JEM—Justice & Equality Movement.  
 NCP—National Congress Party.  
 OSC—U.S. Department of Justice, Office of Special Counsel for Immigration-Related Unfair Employment Practices.  
 Secretary—Secretary of Homeland Security.  
 South Sudan—Republic of South Sudan.  
 SPLM—Sudan People's Liberation Movement.  
 SPLM/A—Sudan People's Liberation Movement/Army.  
 TPS—Temporary Protected Status.  
 USAID—U.S. Agency for International Development.  
 USCIS—U.S. Citizenship and Immigration Services.