

EL SALVADOR TPS GETS A LAST-MINUTE REPRIEVE: WHAT SHOULD EMPLOYERS DO WHILE WAITING FOR THE DETAILS?

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El Salvador TPS Gets a Last-Minute Reprieve: What Should Employers Do While Waiting for the Details?

Employers with Salvadoran workers relying on Temporary Protected Status (TPS) received some welcome news at the eleventh hour last week when US Citizenship and Immigration Services (USCIS) announced the very day their designation was scheduled to expire that they will retain their protections, including work authorization. However, calling the September 9 announcement an “extension” might be generous, as the government has not announced a new expiration date, explained how long the continuation will last, or provided updated instructions for employers completing or updating Forms I-9. In fact, the agency’s El Salvador TPS page still lists September 9, 2026, as the date through which TPS was continued, even while a new alert at the top of the page says protections remain in place. Here is what employers need to know – and do – while we wait for DHS to fill in the blanks.

Quick Background

TPS provides temporary immigration protection to nationals of designated countries experiencing conditions that prevent their safe return, such as armed conflict, natural disasters, or other extraordinary circumstances. Eligible TPS beneficiaries can remain in the United States and obtain employment authorization while the designation remains in effect.

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David S. Jones

Regional Managing Partner

901.526.0431

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El Salvador has been designated for TPS since 2001. In January 2025, the Biden administration extended the designation for 18 months, from March 10, 2025, through September 9, 2026. Existing beneficiaries were required to re-register during a 60-day period running from January 17 through March 18, 2025.

As September 9 approached, employers and Salvadoran TPS holders had every reason to believe another announcement was coming. On September 3, federal employment verification guidance still stated that El Salvador's TPS designation and related benefits were "set to terminate on Sept. 9, 2026," and employers were instructed to use September 9 as the applicable expiration date for Form I-9 and E-Verify purposes. September 9 arrived without the expected formal announcement.

What Just Happened?

USCIS instead posted the following short notice on [its TPS pages](#):

"An announcement on El Salvador's TPS will be made at the appropriate time. Until such announcement is made, Salvadoran individuals present in the U.S. under TPS retain protection including work authorization."

That same alert now appears on USCIS's general TPS page, its El Salvador TPS page, and I-9 Central.

Beyond the fact that Salvadoran TPS beneficiaries remain protected and retain work authorization for now, almost everything beyond that remains unclear.

- USCIS has not provided a new TPS expiration date. It has not announced a specific six-, 12-, or 18-month extension. The El Salvador country page still identifies September 9, 2026, as the date through which TPS was continued and still lists March 9, 2026, as the date through which certain EADs were automatically extended by Federal Register notice.
- The agency also has not issued updated instructions identifying a new expiration date employers should enter when completing or updating a Form I-9.

What This Means for Employers

The most important point for employers is that September 9 should not be treated as the end of employment authorization for an employee covered by the USCIS announcement. USCIS expressly says Salvadoran individuals who are present in the United States under TPS continue to have work authorization while the government prepares its next announcement.

Where things remain uncertain is when it comes to documentation. While USCIS has now said those workers remain authorized, it has not supplied a replacement date or detailed instructions explaining how employers should document the continuation on Form I-9. Immigration organizations have likewise noted the absence of updated expiration dates and I-9 guidance.

4 Things Employers Should Do Now

1. Do Not Treat September 9 as an Automatic Loss of Work Authorization

Employers should not take adverse employment action against an otherwise eligible Salvadoran TPS beneficiary solely because the previously announced September 9 expiration date has passed. USCIS now expressly states that TPS protection and work authorization remain in effect pending a further announcement.

2. Preserve the Current USCIS Guidance

Employers with affected workers should retain a dated copy of the current USCIS EI Salvador TPS alert with their compliance records. The agency's webpage is likely to change again once DHS announces its next step, so retaining the guidance on which you relied could be useful in documenting decisions made during this interim period.

3. Be Careful With Form I-9 Updates

You should avoid inserting a speculative expiration date on the Form I-9 or demanding documents beyond what the employment verification rules require. If you have affected workers, you should monitor I-9 Central and USCIS guidance closely for the anticipated update.

4. Expect Another Announcement

This is plainly an interim measure. USCIS itself says another announcement will be made "at the appropriate time."

Employers with Salvadoran TPS beneficiaries should therefore continue tracking developments rather than assuming the current continuation provides protection through any particular future date. The administration could provide considerably more clarity through a subsequent DHS announcement, Federal Register notice, or updated USCIS and I-9 guidance. Until then, work from what USCIS has actually said: qualifying Salvadoran TPS beneficiaries remain protected and authorized to work pending further announcement.

Conclusion

We will continue to monitor developments and provide updates through [Fisher Phillips' Insight System](#), so make sure you are subscribed to receive the latest information. If your business employs workers under TPS or has questions about employment verification or workforce planning, contact your Fisher Phillips attorney, the authors of this Insight, or any member of our [Immigration Practice Group](#).