Preface to the 2026–2027 Edition

The 2026–2027 Edition of the *Immigration Employment Compliance Handbook* reports on the latest developments on enforcement of immigration laws barring employment of unauthorized workers, mandating verification of an employee's work authorization in the United States, and prohibiting citizenships status discrimination.

Elimination of 540-Day EAD Auto-Extension

A Department of Homeland Security (DHS) regulation issued in October 2025 eliminates the maximum 540-day automatic extension of employment authorization documents (EADs) for certain foreign nationals who timely file EAD renewal applications on or after October 30, 2025. See 90 Fed. Reg. 48799 (Oct. 30, 2025). The prior DHS regulation provided for the automatic extension of work authorization of up to 540 days from EAD expiration for certain EAD renewal applicants who timely file for EAD renewal in the same work authorization category. The list of EAD categories eligible for this auto-extension included adjustment of status applicants (C09); refugees and asylees (A3 and A5); noncitizens who have properly filed applications for asylum and withholding of deportation or removal (C08); approved self-petitioners under the Violence Against Women Act (VAWA) and their qualified children (A31); H-4 spouses with an unexpired H-4 I-94 (C26); and temporary protected status (TPS) holders (A12 or C19).

Those affected by the revised policy will no longer receive any automatic extension of their EAD upon the timely filing of a renewal application. In addition, their work authorization will expire the day after the expiration date on their EAD card and will not resume again until the start date of any newly issued EAD (unless the foreign national has a separate basis for work authorization to cover the gap).

U.S. Citizenship and Immigration Services (USCIS) has issued detailed Form I-9 guidance related to changes implemented over the last year in EAD validity and auto-extensions, including TPS terminations, the elimination of the maximum 540-day auto-extensions for many EAD renewals, and the TPS EAD limitation provisions contained in legislation enacted in July 2025. Note these key points: (1) persons who file(d) their EAD renewal applications on or after October 30, 2025, are not eligible to receive an automatic extension of their employment authorization and/or EAD unless otherwise authorized by law or Federal Register notice, (2) TPS beneficiaries with a pending EAD renewal application filed after July 22, 2025, but before October 30, 2025, are eligible for an automatic extension for a one-year period past the "Card Expires" date shown on their EAD or the duration of TPS, whichever is shorter, (3) TPS beneficiaries with pending TPS-related EAD renewal applications filed before July 22, 2025, may have their EAD automatically extended for up to 540 days from the card's expiration date, but the maximum extension period is one year from July 22, 2025, or the duration of the beneficiary's TPS status, whichever is shorter, and (4) all other persons with pending EAD renewal applications that were filed before October 30, 2025, will continue to be eligible for the full 540-day extension provided that they are otherwise eligible for the automatic extension under prior rules (for H-4 (C26), E (A17), and L-2 (A18) dependent spouses, their automatic extension period cannot last longer than the expiration date listed on their I-94 form).

USCIS Reduces Maximum Validity Period for Several Categories of EADs

USCIS has updated its Policy Manual to reduce the EAD maximum validity period to 18 months for several categories of EAD applications, down from a five-year maximum validity period under the agency's prior policy, which took effect in September 2023. See 10 USCIS-PM

A.4. The change applies to both initial and renewal EAD applications in the affected categories and is in effect for Forms I-765 that are pending on or filed on or after December 5, 2025. Existing EADs remain valid through their expiration date. According to USCIS, the change is being implemented to allow for more frequent vetting of foreign nationals applying for work authorization.

The new policy covers a range of EAD applicants. Most notably, foreign nationals with pending adjustment of status applications who apply and qualify for an adjustment-based EAD—including employment-based and family-based adjustment applicants—will receive a maximum 18-month EAD validity period under the new policy, down from a previous five-year maximum validity under the prior policy. USCIS is also applying the new 18-month maximum validity period to EAD applicants admitted as refugees, granted asylum, or granted withholding of deportation or removal and to those with pending applications for asylum, withholding of removal, suspension of deportation, cancellation of removal, or relief under the Nicaraguan Adjustment and Central American Relief Act (NACARA), Pub. L. No. 105-100, 111 Stat. 2160 (Nov. 19, 1997).

Adjustment of status applicants and other foreign nationals impacted by the new, reduced EAD validity periods are required to renew their EADs more frequently than under prior policy. This change will also result in an increase in the overall number of EAD renewal applications filed with USCIS, which is likely to increase EAD processing times. In addition, the shorter validity periods, coupled with the recent elimination of EAD auto-extensions for timely filed EAD renewals (see above), may increase the risk of gaps in work authorization. For employers, the change means that they will need to conduct more frequent I-9 work verifications and potentially suspend employees who cannot present renewed EADs as a result of USCIS processing delays.

Affected foreign nationals—including adjustment of status applicants—should ensure that they file EAD renewal applications as early as possible to avoid or minimize potential gaps in work authorization. In general, EAD renewal applications can be filed six months prior to the EAD expiration date, though USCIS EAD processing times can extend beyond six months.

TPS Terminations

As part of the Trump Administration's mass deportation agenda, DHS has either terminated or declined to extend the TPS designations for a number of countries in the past 20 months, including the TPS designations for Afghanistan, Burma (Myanmar), Cameroon, Ethiopia, Haiti, Honduras, Nepal, Nicaragua, Somalia, South Sudan, Syria, Venezuela, and Yemen. In some cases, DHS provided a transition period (typically 60 days) during which beneficiaries would remain work-authorized. At the end of the transition period, however, TPS status and work authorization automatically terminated.

Multiple lawsuits were filed challenging the legality behind these actions. This litigation ultimately led to the issuance of a Supreme Court ruling that upheld the President's authority to terminate TPS designations. See *Mullin v. Doe*, 609 U.S. 324, 146 S. Ct. 2121, 225 L. Ed. 2d 594 (2026). Prior to the Supreme Court's ruling, lower courts had issued rulings delaying terminations of TPS for Burma (Myanmar), Ethiopia, Haiti, Somalia, South Sudan, Syria, Venezuela, and Yemen.

In its 2026 ruling, the Court overturned two district court orders that had temporarily prevented DHS from ending TPS for Haiti and Syria. In a 6–3 decision, the Court held that the federal law establishing the TPS program does not permit a court to review TPS determinations by DHS on non-constitutional grounds. The Court also held that a claim that the termination of TPS for Haiti was racially biased was unlikely to succeed. The decision meant that DHS could proceed with termination of TPS designations for the two countries and end beneficiaries' employment authorization and protection from removal. More broadly, the decision affected the outcome of all ongoing TPS litigation involving other designations.

Only five countries are currently designated for TPS (as of October 2026)—El Salvador, Lebanon, Sudan, Ukraine, and Venezuela—and most of these designations will expire shortly

unless extended. For employers, the termination of the designations (and related work authorization) means that they can no longer employ these workers unless the workers have documents to establish their work eligibility other than the TPS EADs.

E-Verify Status Change Reports Expanded

USCIS recently announced that the E-Verify status change report, available to employers to identify E-Verify cases submitted with an EAD later invalidated by DHS, now includes additional categories for individuals granted an EAD, including adjustment, asylum, and TPS applicants, as well as persons granted TPS.

In June 2025, USCIS developed the report to notify E-Verify user organizations of E-Verify cases created with an EAD that has since been revoked and invalidated. Only E-Verify user organizations receive such reports. The report lists the document revocation date, case number, A-number, and EAD document number for each affected case. E-Verify employers have an obligation to review these reports to identify current workers whose EADs have been revoked and must take steps within a reasonable period to reverify the work authorization of these workers. The employer cannot accept the revoked EAD during reverification.

Initially, status change reports only covered invalidated category C11 (parolee) EADs. In August 2026, DHS expanded the coverage of these reports. The status change report now includes invalidated EADs with category C08 (asylum applicant with a pending asylum application), C09 (adjustment of status applicant under INA § 245), A12 (granted TPS) and C19 (TPS applicant). DHS has the authority to invalidate C08 and C09 EADs based on the withdrawal, approval, or denial of the applicant's adjustment of status application (Form I-485) or asylum application (Form I-589). In addition, DHS has the authority to invalidate A12 and C19 EADs following applicable procedures based on the termination of the designation for TPS for designated countries. USCIS will now use these reports to notify employers of their E-Verify cases that relate to EADs with categories A12, C08, C09, C11, and C19 that have since been invalidated by DHS.

This expansion is important because DHS has terminated the work authorization of hundreds of thousands of TPS recipients in the past 20 months (see above). Presumably, status change reports may be generated for any E-Verify case that utilized a now invalidated TPS EAD.

Employers must take appropriate follow-up action if they receive one of these reports on a current employee. USCIS instructions state that E Verify employers with an employee whose EAD is included in the status change report must reverify that employee's Form I 9 using Supplement B. The employee must provide unexpired documentation from List A or List C on the Lists of Acceptable Documents.

An employer has an affirmative duty to conduct reverification in these cases since it has been placed on notice by DHS that the employee's existing basis for work authorization is no longer valid. Continuing to employ such workers without reverifying the worker's status would almost certainly constitute a continuing to employ violation under INA § 274A(a) [8 U.S.C.A. § 1324a(a)]. In addition, the failure to receive the status change report may not be accepted as a defense because USCIS has stated that E-Verify employers have an obligation to monitor their accounts to check for status change reports that indicate cases that were created with an EAD that has since been revoked by DHS. While the agency has not specified how often employers should check for such reports, USCIS has indicated that it posts an updated status change report approximately every two weeks.

Current Worksite Enforcement Strategies

The Trump Administration has implemented an aggressive worksite enforcement strategy as part of its mass deportation agenda. The first 20 months of the second Trump Administration have seen the return of high-profile, massive-show-of-force worksite raids that were common in his first administration and which often result in the arrest of unauthorized workers

identified during the operation. In fact, given the ambitious goals on removals and the massive increase in U.S. Immigration and Customs Enforcement (ICE) appropriations included in the reconciliation bills enacted in July 2025 and June 2026, this trend has only continued at a larger scale.

With the goal of identifying undocumented workers for removal, the ICE worksite enforcement strategy has focused on industries that historically have employed the largest numbers of these workers, including food and agriculture, manufacturing, clothing production, health and beauty services, childcare and cleaning services. The unannounced worksite enforcement actions often begin with tips from local law enforcement or members of the public and are often conducted in collaboration with other federal, state, and local authorities. Any undocumented workers are certain to be detained, and the government has even arrested and detained workers in lawful status, including permanent residents, during these worksite actions for minor convictions, for minor immigration infractions, or for work activity alleged to be unauthorized under a temporary visa. This strategy is consistent with the administration's mass deportation agenda.

The administration has stated that it will also aggressively pursue criminal and civil penalties against employers, but criminal charges against business owners have been brought only in the most egregious cases, such as those involving human smuggling, document fraud, human rights abuses, and other crimes linked to the employment of undocumented workers. The administration's clear focus has been on identifying the largest of undocumented workers for removal with the arrests often occurring outside the business premises, in parking lots, or on roads leading to business locations.

For employers, the raids mean major disruptions to their businesses on the days of the raid and months beyond as businesses struggle to continue with operations with a reduced workforce—these actions often lead to the loss of portions of their workforce, including key employees. The enforcement operation itself can last days or weeks as an investigation involves surveillance and intelligence gathering which may culminate in a raid on the business premises and arrests on roads or parking lots near plants, factories, and other business locations in the days or weeks before the raid. There are public relations costs for companies that are the targets of these well-publicized and massive show of force worksite actions. The raids also have a chilling effect on the legal workforce, including citizens, with many employees missing work to avoid interaction with law enforcement, causing further disruption to business operations.

An ICE worksite operation in September 2026 illustrates these problems. ICE conducted raids in Texas, Oklahoma, and Kansas pursuant to investigations of businesses in the cattle industry. The raids were conducted without collaboration or notice to local law enforcement. The arrest of undocumented workers were widespread, and the operations were less targeted at individual businesses, with many of the arrests occurring on roads leading to meatpacking plants, causing shifts to be adjusted because of employees who were either already arrested or afraid to drive to work. Many of the employees who failed to appear for work had legal status and documentation authorizing their employment. The raids received a strong rebuke from an industry association already affected by high fuel costs and other economic headwinds. The association indicated that the ICE operations significantly impacted the supply chain, citing the massive chilling effect on the legal, documented, skilled workers employed in the industry. The enforcement actions delayed the shipment of thousands of cattle to processors, resulting in millions of dollars in lost revenue and additional costs as well as workforce disruptions at feed yards, dairies, feed and grain companies, and transportation hubs. Businesses affected include major companies that employ more than 10,000 workers.

Administration Relaunches Protecting U.S. Workers Initiative

The Trump Administration re-launched its Protecting U.S. Workers Initiative, which focuses on enforcement against companies that unlawfully discriminate against U.S. workers

by demonstrating a preference for hiring foreign workers. Enforcement against companies that are perceived to have such a preference is a top priority of the Immigrant and Employee Rights Section (IER). The IER has in particular focused on job postings and ads that contain discriminatory language stating a preference for noncitizens seeking permanent residence, H-1B workers, F-1 students on optional practical training (OPT), or other workers on temporary visas (e.g., "ONLY OPTs who can work" and "Looking for OPT, CPT, H4 EAD, and H-1B transfer").

Violations may lead to substantial fines and other penalties. For example, in a September 2025, IER secured a $200,000 settlement against an IT recruitment and staffing service to address allegations that the company discriminated against U.S. workers. The IER's investigation found that a majority of the company's job postings stated a preference for candidates with H-1B employment visas. Similarly, in April 2026, the IER finalized a $313,000 settlement agreement against a New Jersey-based professional services provider to resolve the IER's determination that the company engaged in citizenship status discrimination. In its investigation, the IER found that some of the company's recruiters posted job advertisements included explicitly discriminatory language that excluded U.S. citizens and permanent residents from consideration while favoring those with H-1B or other temporary visas.

Apart from these facially discriminatory practices, the Department of Justice (DOJ) has also taken the position that recruitment campaigns conducted pursuant to foreign labor certification programs administered by the Department of Labor (DOL) may also be found unlawful under INA § 274B [8 U.S.C.A. § 1324b] if they demonstrate a preference for foreign workers. The DOJ's position is that, when recruitment is required to comply with immigration law, employers must still be careful to guard against demonstrating a preference for foreign workers. Such an unlawful preference may be found even if the required job postings and ads do not include overt discriminatory language.

In August 2026, for example, OpenAI entered into a $3.2 million settlement with the IER relating to alleged discrimination against U.S. workers in the PERM recruitment process. As in earlier cases against Facebook and Apple (in 2021 and 2023), the IER focused on alleged deviations in the company's normal recruitment practices that it viewed as intended to discourage U.S. workers from applying for PERM openings, including (1) failing to post PERM ads on the company's website even though its standard practice was to do so with other jobs, (2) requiring applications for PERM positions to be submitted by mail rather than allowing electronic submission as it permitted for other positions, and (3) discouraging U.S. workers from applying, including by advertising PERM positions via late-night radio ads. OpenAI agreed to pay $1.2 million in civil penalties and establish a back-pay fund of $2 million to compensate victims of the alleged discriminatory practices. In addition, the company agreed to post PERM positions on its website and accept electronic applications. The agreement also requires the company to train its hiring personnel on the INA's anti-discrimination requirements, revise its employment policies, and be subject to departmental monitoring and reporting requirements.

For employers, the settlement means that significant deviations from standard hiring procedures in PERM cases may invite DOJ scrutiny. Companies with large PERM programs whose PERM recruitment deviates in certain respects from their standard methods of recruitment may face increased scrutiny by the IER.

Other Key Developments

Note these other developments:

- DHS has issued a proposed regulation that would (1) require all EAD applicants to undergo biometrics, (2) prohibit issuance of EADs to foreign nationals who have been arrested, charged, or convicted of any criminal act absent significant countervailing public interest, and (3) provide for the automatic revocation of an EAD if the underlying basis for employment authorization is terminated or denied. If finalized, the rule can lead to increased processing delays for EADs and more denials and automatic revocations.

- USCIS has reaffirmed that expired driver's licenses cannot be accepted for I-9 purposes even if they are automatically extended by state law. In some cases, driver's licenses may be extended by operation of state law beyond the expiration date listed on the card itself. For example, a North Carolina law enacted in 2025, Senate Bill 391, allows driver's licenses expiring on or after July 1, 2025, to remain valid for driving purposes within the state for up to two years beyond the printed expiration date. USCIS clarified that employers should not accept these expired North Carolina driver's licenses for Form I-9 purposes even if they were automatically extended for driving purposes under this provision.
- New USCIS Policy Manual guidance reaffirms that there are serious repercussions for the employee if the employee falsely attests to being a "citizen of the United States" on the I-9 form. Employees may be subject to removal from the United States for making this false statement, and the government is not required to show intent. Instead, the act of making a false representation is sufficient for removability. USCIS may use a false claim to U.S. citizenship on a Form I-9 to deny and revoke immigration benefits (including lawful permanent residence and naturalization).
- Government shutdowns continue to impact E-Verify employers. During a shutdown affecting DHS operations, E-Verify may go offline. As a result, employers are unable to access their accounts, create a case, view or take action on any pending case, or resolve tentative nonconfirmations. Employers impacted by the E-Verify suspension are usually provided with additional time to comply with deadlines on resumption of services.
- USCIS continues its roll-out of its next generation verification system, E-Verify+. The service streamlines the I-9 and verification process for E-Verify employers, and E-Verify employers have the option of using it to conduct verification of work status. E-Verify+ is employee-centric—employees must establish their own myUSCIS accounts through which to enter their own information and document uploads. Employers would then complete Section 2, and E-Verify will attempt verification. Mismatch information will be sent directly to the employee for resolution. The new system essentially serves as a government-approved electronic Form I-9.

These and other developments are covered in detail in the 2026–2027 edition of the *Handbook*.

The Authors