



April 2, 2019

The Honorable Kirstjen Nielsen
Secretary of U.S Department of Homeland Security
3801 Nebraska Avenue NW Washington, D.C. 20530

The Honorable L. Francis Cissna
Director of U.S. Citizenship and Immigration Services
111 Massachusetts Avenue NW Washington, D.C. 20008

**RE: ONGOING TEMPORARY PROTECTED STATUS FEDERAL REGISTER NOTICE DELAYS;
RECOMMENDATIONS FOR FORTHCOMING LIBERIA DEFERRED ENFORCED DEPARTURE FEDERAL REGISTER NOTICE**

Dear Secretary Nielsen and Director Cissna,

The Catholic Legal Immigration Network, Inc., or CLINIC, is writing to again register our concerns with the ongoing, unresolved Temporary Protected Status (TPS) Federal Register Notice (FRN) delays as well as with the delay and expected content of the FRN corresponding with the White House decision to postpone the termination of Deferred Enforced Departure (DED) for Liberia. CLINIC supports a network of over 365 immigration legal services organizations across the country, the vast majority of which serve TPS and DED holders. Our network and partners continue to report the serious harm FRN delays are causing to individuals and families who have complied with the law and in some cases paid fees.

I. Ongoing, unprecedented TPS Federal Register Notice delays

The South Sudan TPS FRN is now approximately a month late. The decision was due by statute on March 3, 2019. In addition to the FRN delay, DHS did not announce the decision itself until March 8, 2019, leaving South Sudanese TPS holders in cruel limbo.

The law requires: "At least 60 days before end of the initial period of designation, and any extended period of designation, of a foreign state" DHS "shall provide on a timely basis for the publication of notice of each such determination including the basis for the determination, and, in the case of an affirmative determination, the period of extension of designation...in the Federal Register."¹

Including the recent South Sudan TPS decision, there have now been thirteen TPS decisions under the current administration. Only one FRN, for the first Haiti decision, was published on time. Four out of 13 FRNs have been between 10 and 30 days delayed; 8 out of 13 FRNs have been over 30 days delayed, with the second Haiti FRN published an astonishing 56 days after the decision date.

¹ INA §244 (b)(3)(A).



Congress designed the law to have TPS decisions and FRNs published in advance of the end of a designation period in order to ensure that TPS holders can maintain their work authorization and other benefits, including driver's licenses, that depend on their status. The FRN delays, compounded with extreme TPS and work authorization processing delays at USCIS, have resulted in serious consequences for individuals who have complied with the law and paid fees. Through our affiliate network and partners, CLINIC is aware of TPS holders who have lost income, lost their jobs, cannot renew personal and commercial driver's licenses, faced barriers getting student loans, have had problems accessing their bank accounts, and more.

We have raised this issue repeatedly with both DHS and USCIS during in-person engagements and through correspondence. We have been assured that steps have been taken to resolve these delays and yet they persist, continuing to do harm to an already vulnerable community that has been completely compliant with what is required of them.

We request information on why these delays continue and what actions DHS and USCIS will take to eliminate the delays going forward. As discussed, CLINIC remains committed to providing any assistance necessary in troubleshooting and resolving this issue.

II. Delay and recommendations regarding Liberia DED Federal Register Notice

On March 29, 2019, the White House announced it was postponing the termination of DED for Liberia for one year. The announcement was not accompanied by an FRN. Employment Authorization Documents (EADs) for Liberian DED holders expired on March 31, 2019, leaving people without valid documents starting April 1, 2019.

On the afternoon of April 1, an unpublished FRN was posted in public inspection on the Federal Register website that indicated that EADs will be automatically extended through Sept. 27, 2019. Given that the FRN was not published the day of the announcement, CLINIC recommends that the forthcoming published FRN affirmatively state that the automatic extension began on April 1, 2019.

The unpublished FRN states that USCIS will automatically extend EADs for DED holders for six months and individuals who want work authorization through the entire year will need to apply for a new EAD. Given USCIS backlogs in processing EADs (current approximate processing time is five months), DED holders who apply for a new EAD may not receive their EAD until the end of the termination period, or perhaps not at all if processing times continue to lengthen.

Did USCIS consider current processing times in its decision to issue a six-month automatic extension instead of a 12-month extension until the end of termination period? We are very concerned that customers may pay for an EAD, but not receive it before the end of the termination period. Does USCIS have a process to reimburse customers who may be affected by this issue?



Given these considerations, CLINIC's formal recommendation is that USCIS issue a 12-month extension of current EADs in order to account for current processing times, with an option for DED holders to apply for a new EAD if desired.

We appreciate your consideration of our concerns and requests and look forward to your response. We are at your disposal to discuss issues in more detail, troubleshoot, and work to prevent further harm to TPS and DED holders.

Sincerely,

Jill Marie Bussey

cc:

James McCament, Deputy Under Secretary, DHS Office of Strategy, Policy and Plans
CIS Ombudsman's office