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# DHS Extends Temporary Protected Status (TPS) for Sudan and Designates South Sudan for TPS

## DHS Extends Temporary Protected Status (TPS) for Sudan and Designates South Sudan for TPS <sup>[1]</sup>

Submitted by Editor on Oct 14th 2011

Fact Sheet

Released Oct. 13, 2011

### Introduction

Secretary of Homeland Security Janet Napolitano extended the Temporary Protected Status (TPS) designation for Sudan for 18 months. She also designated the new Republic of South Sudan for TPS for 18 months. Both the extension and the new designation are effective Nov. 3, 2011, and will continue through May 2, 2013.

U.S. Citizenship and Immigration Services (USCIS) strongly encourages nationals of Sudan and South Sudan (and persons with no nationality who last habitually resided in either country) to review the *Federal Register* notices for the extension <sup>[2]</sup> and the new designation <sup>[3]</sup>, and follow the instructions on how to file either a TPS re-registration application or an initial application for TPS. Given the unique circumstances surrounding the secession of South Sudan from Sudan and the creation of the new Republic of South Sudan, the Department of Homeland Security (DHS) is providing the same six-month registration period, from Oct. 13, 2011 through April 10, 2012, for the nationals of both countries to file their TPS applications. DHS is also automatically extending the validity of employment authorization documents (EADs) issued under the last extension of Sudan TPS for an additional six months, through May 2, 2012. This automatic EAD extension covers any individual who currently has a valid TPS Sudan EAD, including individuals whom USCIS may ultimately register for TPS under the new South Sudan designation following adjudication of their applications.

TPS application procedures described in the Federal Register notices cover individuals filing

under either the [Sudan extension](#) [2] or the South Sudan designation. All individuals seeking to obtain or maintain their TPS must file their application packages no later than April 10, 2012.

## **Background**

During the past year, DHS and the State Department have reviewed the conditions in Sudan and in South Sudan, which became an independent nation on July 9, 2011. Based on this review, Secretary Napolitano has determined that an 18-month extension of Sudan is warranted due to the ongoing armed conflict and the extraordinary and temporary conditions that prompted the last TPS designation of Sudan on Oct. 7, 2004. Secretary Napolitano also designated South Sudan for TPS due to similar ongoing armed conflict and extraordinary and temporary conditions in that country that prevent its nationals from safely returning.

TPS only applies to Sudanese or South Sudanese nationals (or persons having no nationality who last habitually resided in either of those countries) who have continuously resided in the United States since Oct. 7, 2004, and also meet all other TPS eligibility requirements. There are approximately 340 nationals of Sudan and South Sudan who may be eligible for TPS.

TPS is an immigration status granted under the Immigration and Nationality Act (INA). During the TPS designation period, beneficiaries may remain in the United States and obtain work authorization, so long as they continue to meet the terms and conditions of TPS status. TPS beneficiaries may also be granted travel authorization, as a matter of discretion. See section 244 of the Immigration Nationality Act (INA) title 8 of the Code of Federal Regulations (CFR).

TPS is a temporary benefit that does not lead to lawful permanent resident status or to any other immigration status. However, registration for TPS does not prevent you from applying for:

- nonimmigrant status;
- adjustment of status based on an immigrant petition; or
- any other immigration benefit or protection for which you may be eligible.

In addition, an application for TPS does not affect an application for asylum or any other immigration benefit, and vice versa. Denial of an application for asylum or any other immigration benefit does not affect your ability to register for TPS, although the grounds of denial of that application may also lead to denial of TPS.

## **General Eligibility Requirements**

### **For Sudan**

To qualify for TPS under the Sudan extension, you must:

- currently be a TPS beneficiary under the Sudan designation or meet one of the requirements in 8 CFR 244.2(f)(2) that allow you to file a late initial application. For example, if you were in valid nonimmigrant status or you had a pending asylum application during one of the initial registration periods for TPS Sudan since Sudan was first designated in 1997? or when Sudan was later re-designated in 1999 and 2004? you may be eligible to submit a late application. There are a few other circumstances in the regulation that will allow you to submit a late initial application for TPS Sudan;
- file your TPS application packet in a timely manner, during the six-month re-registration period from Oct. 13, 2011, through April 10, 2012;
- pay all required fees or be granted a fee waiver;

- be a national of Sudan (as defined under the nationality laws of Sudan), or a person without nationality who last habitually resided in Sudan;
- have continuously resided in the United States since Oct. 7, 2004; and
- have been continuously physically present in the United States since Oct. 7, 2004, the effective date of the last re-designation of Sudan for TPS.

### **For South Sudan**

To qualify for TPS under the South Sudan designation, you must:

- file your initial TPS application packet in a timely manner during the 180-day registration period from Oct. 13, 2011, through April 10, 2012;
- pay all required fees or be granted a fee waiver. If you are currently a TPS Sudanese beneficiary or still have a pending initial TPS Sudan application, *and* you are now filing for TPS under the South Sudan designation, special fee rules apply in your case. Please see the section below on fees and fee waivers;
- be a national of South Sudan (as defined under the nationality laws of South Sudan), or a person without nationality who last habitually resided in the region that is now South Sudan;
- have continuously resided in the United States since Oct. 7, 2004; and
- be continuously physically present in the United States since Nov. 3, 2011, the effective date of the designation of South Sudan.

### **For Both Sudan and South Sudan**

To qualify for TPS, you must also:

- meet certain immigrant admissibility requirements, as described in section 244(c)(1)(A)(iii) of the INA and 8 CFR 244.3;
- meet other TPS eligibility requirements specified in section 244 of the INA and 8 CFR part 244; and
- complete all TPS application procedures as described in the *Federal Register* notice for Sudan or South Sudan, the TPS application (Form I-821) <sup>[4]</sup> instructions, and applicable regulations.

Individuals may **NOT** be eligible for TPS if they:

- have been convicted of any felony or two or more misdemeanors committed in the United States;
- are found inadmissible as an immigrant under applicable grounds in INA section 212(a),\* including non-waivable criminal and security-related grounds; or
- are subject to any of the mandatory bars to asylum. These include participating in the persecution of another individual or engaging in or inciting terrorist activity.

\*Some grounds of inadmissibility may be waived for humanitarian, public interest or family reunification reasons. See 8 CFR 244.3(b).

### **The Application Process for TPS**

Once you file your application, your case will go through several processing steps. It is important to understand what these steps are so you can monitor the progress of your application and know when and how to ask for help. You may also check your case status [online](#) [5].

1. **Intake:** When you file your TPS application with the USCIS Lockbox facility, the Lockbox facility will review your application for completeness as well as submission of the proper fees or a properly documented fee waiver request. If your case meets the basic acceptance criteria, your application will be received into the USCIS's system, and you will receive a receipt notice. If you do not receive your receipt notice within three weeks of filing, you can call Customer Service at 1-800-375-5283 to request assistance. If your application is rejected at the initial Lockbox stage, you may re-file within the registration period after correcting the problems described in the USCIS notification.
2. **ASC Scheduling Appointment and Biometrics Collection:** After accepting your application, you may be scheduled for an appointment at an [Application Services Center](#) [6](ASC) for your biometrics to be collected as stated on your receipt notice. Every TPS applicant age 14 and older must have 10-point fingerprints taken. In some cases, USCIS may be able to reuse the biometrics that were collected at an ASC when you previously applied for TPS, and you will not need to return to the ASC.

All initial applicants who wish to have an EAD must go to the ASC to have a photograph taken and signature and fingerprints collected. USCIS has the discretion to waive the fingerprints and/or signature requirement.

Biometrics are required for identity verification, background checks and if requested, the production of an EAD. If you are required to go to the ASC, you must bring the following to your appointment:

- Receipt notices;
- ASC appointment notice;
- Current EAD (if you have one); and
- Photo identification document.

You should bring your passport to the biometric appointment for your photo identification, even if the passport has expired. If you do not have a passport (or in the case of South Sudan nationals, your country has not yet issued you a passport), you may bring other photo identification such as a previously issued EAD, a driver's license, a state- or school-issued identification card, or an identification document from your country. If you do not have any photo identification, please bring your original birth certificate, your original baptismal certificate, or nationality documentation that was issued by the Government of Sudan or South Sudan (this includes the Embassy or Consulate in the U.S.).

If you cannot appear at your scheduled ASC appointment, you may reschedule. To reschedule an ASC appointment, make a copy of your appointment notice to retain for your records and then mail the original notice with your rescheduling request to the ASC address listed on the notice. You should submit your request for rescheduling as soon as you know you have an unavoidable conflict on your scheduled ASC date. A new appointment notice will be sent to you by mail. Please note that rescheduling a biometrics appointment may cause the adjudication of your application packet to be delayed.

If you fail to appear for your ASC appointment without rescheduling, or if you repeatedly miss scheduled ASC appointments, your TPS application could be denied for abandonment.

**3.Adjudication:** USCIS will review your case initially to determine whether you have TPS now and continue to be eligible for an EAD, if you have requested one, or whether you are a first-time applicant for TPS and qualify for an EAD prior to a final decision on your TPS application. If you have not submitted biometrics or if USCIS needs to update your biometrics, you will receive an EAD, if you are eligible, after you have appeared for your biometrics appointment at an ASC.

If you are a new applicant for TPS and you also request an EAD, USCIS will normally provide the EAD prior to final adjudication of your TPS application, provided that you demonstrate that you are prima facie eligible for TPS. See 8 CFR 244.5(b). To be prima facie eligible, it must appear to USCIS that you are eligible for TPS on the face of your application and that there is no known, potentially disqualifying information resulting from your background checks. See 8 CFR 244.1 for more regarding the definition of prima facie eligibility.

After this initial review of your TPS application, USCIS will make a decision on your request for TPS. During this phase, we may ask you for additional documents to establish your eligibility for TPS. If you receive a request for evidence (RFE) or a notice of intent to deny, it is extremely important that you respond immediately to avoid processing delays and possible denial for failure to respond in a timely manner. USCIS will notify you that it has granted or denied your request for TPS upon completion of your case. If one of the grounds of inadmissibility that may be waived applies to you, USCIS will give you an opportunity to submit a Form I-601, Application for Waiver of Grounds of Inadmissibility. Please submit this form within the time frame specified in the USCIS notice, or your case will be denied. If you are aware at the time you apply for TPS that a waivable ground of inadmissibility applies to you, please include a Form I-601, with fee or fee-waiver request, with your TPS application package.

## Forms and Cost

### Forms

The forms used to register and re-register for TPS are:

- [Form I-821, Application for Temporary Protected Status](#) [4], and
- [Form I-765, Application for Employment Authorization](#) [7].

These forms are available for free on the Forms section of the USCIS website, [www.uscis.gov/forms](http://www.uscis.gov/forms) [8], or by calling the toll-free USCIS Forms Hotline at 1-800-870-3676.

### *Cost for Registering for TPS for the First Time Under Either TPS Sudan or TPS South Sudan*

Applicant Age	I-821 Fee	Biometrics Fee	Requesting EAD	I-765 Fee	Total
0 - 13	\$50	\$0	Yes	\$0	\$50
0 - 13	\$50	\$0	No (You still must file Form I-765)	\$0	\$50

14 ? 65	\$50	\$85	Yes	\$380	\$515
14 ? 65	\$50	\$85	No (You still must file Form I-765)	\$0	\$135
66+	\$50	\$85	Yes	\$0	\$135
66+	\$50	\$85	No (You still must file Form I-765)	\$0	\$135

#### *Cost for TPS Re-registrants under TPS Sudan*

If you are re-registering under the Sudan TPS extension, there is no fee required to submit Form I-821. A biometric services fee of \$85 is required if you are age 14 or older. You must include the fee of \$380 for the Application for Employment Authorization (Form I-765) if you wish to receive an EAD, regardless of age. If you are not seeking an EAD, you must still submit Form I-765 without the fee.

#### *Cost for Current TPS Sudan Beneficiaries and Pending TPS Sudan Applicants Who Now Apply Under TPS South Sudan*

If you are a current Sudan TPS beneficiary but are now filing under South Sudan TPS because you are now a national of South Sudan, you do not need to pay the \$50 application fee for the TPS application (Form I-821). You do need to pay the \$85 biometrics services fee if you are age 14 or older. You must also pay the \$380 EAD fee, if you want an EAD.

If you still have an initial pending TPS application under the Sudan TPS designation for which you paid the \$50 Form I-821 fee and the biometrics services fee (if age 14 or older), or you have been granted a waiver for those fees, or your fee-waiver request is pending, then you do not need to pay those particular fees again. USCIS will credit those fees to your newly filed South Sudan TPS application. If, however, you requested an EAD with your prior TPS Sudan application *and* you have received that EAD, you need to pay the \$380 EAD fee if you want a new EAD under the South Sudan designation.

If you have a pending Form I-765 requesting an EAD under Sudan TPS and you are now registering under South Sudan TPS, you do not have to pay the \$380 EAD fee again, provided that USCIS has not sent you the EAD yet. You must still submit the Form I-765 with the Form I-821, but do not check any of the boxes at the top of the Form I-765. You must also submit a letter explaining that you have a pending Form I-765 under Sudan TPS. USCIS will then automatically pair the pending Form I-765 with the Form I-821 you submit for South Sudan TPS.

All fees above may be waived. See below for more information.

#### *Fee Waivers*

If you cannot afford the costs associated with filing, please make sure to include a fee waiver request. USCIS encourages you to use Form I-912, Request for Fee Waiver, but you may also submit a properly documented written request without using the form. Failure to submit the required application and biometric fees, or a properly documented fee waiver request, will result in the rejection of any TPS-related application. For information on fee waivers, visit the [Fee Waiver Guidance](http://www.uscis.gov) <sup>[9]</sup> Web page at [www.uscis.gov](http://www.uscis.gov) <sup>[10]</sup>.

## **Evidentiary Requirements**

USCIS requires individuals filing for TPS to provide evidence of nationality. Such documents may include a copy of your passport if available, other documentation issued by the governments of Sudan or South Sudan showing your nationality (e.g., national identity card, official travel documentation issued by the governments of South Sudan or Sudan), and your birth certificate with English translation, among others. See 8 CFR 244.9 for a description of acceptable documentation.

USCIS will also consider certain forms of secondary evidence supporting your nationality. For example, if you are South Sudanese, you may present your valid 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 that you provide additional evidence.

USCIS 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.

As provided by regulation, if you have no documents evidencing your identity and nationality, you must provide an affidavit showing proof of your unsuccessful efforts to obtain such documents. The affidavit must explain why you could not obtain the documents and affirm that you are a national of South Sudan. Please be aware that if you provide no evidence of nationality and identity, you will be required to attend an interview with an immigration officer. You may also present secondary evidence of your nationality and identity at that interview. This interview may occur at an ASC or other USCIS office. See 8 CFR 244.9(a)(1).

You must provide a complete word-for-word English translation with any document that is not in English. Persons translating the document must certify that they are competent both in English and the foreign language used in the document. They must also certify that the translation is true and correct to the best of their ability, knowledge, and belief.

If you are applying for TPS for the first time, you must also provide evidence that you meet the requirements for continuous residence and continuous physical-presence in the United States since the dates established for your country. (See above for the dates for Sudan and South Sudan). Such evidence may include the following:

- Employment records (such as pay stubs);
- Utility records;
- School records from schools the applicant or applicant's children attend or have attended;
- Tax receipts; and/or
- Passport entries.

More examples can be found at 8 CFR 244.9(a)(2).

## **Where to File Your Application Package**

You must register for TPS by filing a Form I-821, Application for Temporary Protected Status,

and a Form I-765, Application for Employment Authorization, with any appropriate fees or fee-waiver requests, and supporting documentation. Please mail to:

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<i>U.S. Postal Service</i>	<i>Non-U.S. Postal Service delivery</i>
USCIS	USCIS
P.O. Box 8677	Attn: TPS Sudan (or South Sudan)
Chicago, IL 60680-8677	131 S. Dearborn 3rd Floor
	Chicago, IL 60603-5517

These forms are available for free on the Forms section of the USCIS website, [www.uscis.gov/forms](http://www.uscis.gov/forms) [11], or by calling the toll-free USCIS Forms Hotline at 1-800-870-3676.

## **Change of Address**

If your address changes after you file your application, you must complete and submit Form AR-11, Change of Address, by mail or electronically.

Form AR-11 can be filed electronically by following the directions on the USCIS website at [www.uscis.gov](http://www.uscis.gov) [10]. To facilitate processing your address change on your TPS application, you may call the USCIS National Customer Service Center at 1-800-375-5283 (TTY 1-800-767-1833) to request that your address be updated on your application. Please note that you must properly file a Form AR-11 with USCIS. Even if you call the USCIS National Customer Service Center, it does not relieve you of your burden to properly file a Form AR-11 with USCIS.

The mailing address for Form AR-11 is:

U.S. Citizenship and Immigration Services  
Attn: Change of Address  
1344 Pleasants Drive  
Harrisonburg, VA 22801

## **Travel**

If you have TPS and need to travel abroad temporarily, you **must** obtain approval from USCIS before you travel if you wish to reenter the United States in your existing TPS status or you want to continue pursuing your pending request for TPS.

USCIS exercises discretion when evaluating applications for travel authorization and is not required to grant approval. To obtain travel authorization, you must file a [Form I-131, Application for Travel Document](#) [12], with the appropriate fee. This fee cannot be waived. Please follow the filing instructions for Form I-131. Please be aware that if you fail to respond to any requests for evidence, an ASC biometrics notice, or other notices from USCIS while your TPS re-registration application remains pending and you are out of the United States, you may lose your TPS and your TPS re-registration application may be denied for abandonment. It is your responsibility to respond to all such notices, even if you are temporarily out of the United States on authorized travel.

If you need to travel abroad while your initial TPS application is still pending with USCIS, you may also receive approval to travel as a matter of USCIS's discretion. However, if your TPS application is denied while you are out of the United States, you may not be able to reenter if you have no other immigration status. Please see additional warnings below.

**Travel Warning:** If you have been unlawfully present in the United States and then leave,

even on an approved advance parole document, you may become inadmissible for three or 10 years, depending on how long you were unlawfully present before you left. In addition, you may become ineligible for certain other immigration benefits that you may seek in the future, such as permanent resident status. If adjudication of your TPS application has not been completed, you may also risk missing important USCIS notices (such as RFEs) and your application may be denied while you are out of the country. We encourage you to read and understand the travel warning on Form I-131 before you ask for advance parole, regardless of whether you have been granted TPS. Before requesting advance parole for travel, you may also want to seek legal advice if you have been unlawfully present in the United States for any period of time.

### **TPS Granted by an Immigration Judge or the Board of Immigration Appeals**

If an immigration judge (IJ) or the Board of Immigration Appeals (BIA) granted you TPS, you must provide USCIS with proof of the TPS grant (such as a final order from the IJ or final decision from the BIA) when you apply for your first TPS benefit (such as an EAD or travel authorization). You should also submit a copy of the I-821 TPS application that the IJ or the BIA approved.

If you are applying for an EAD, you must file Form I-765 with required fee(s) or fee-waiver request. You must also submit a cover sheet that states "DO NOT REJECT?TPS GRANTED BY IJ/BIA."

File your Form I-765 at:

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<i>U.S. Postal Service</i>	<i>Non-U.S. Postal Service delivery</i>
USCIS	USCIS
P.O. Box 8677	Attn: TPS Sudan (or South Sudan)
Chicago, IL 60680-8677	131 S. Dearborn 3rd Floor
	Chicago, IL 60603-5517

If you previously applied for TPS with USCIS and were denied, please make sure to explain that the IJ or BIA granted you TPS based on the I-821 that USCIS previously denied, and make sure to explain that you were granted TPS based on a de novo review. (Note: A de novo review is when the IJ adjudicates your TPS request anew, as if your request had not previously been adjudicated.)

If you are applying for travel authorization, you must file Form I-131 with the required fee. File your Form I-131 at the appropriate filing location based on the state where you live.

After following the instructions above, we will send you a receipt notice (Form I-797). When you get the receipt notice, you must immediately send an email to the Vermont Service Center (VSC), which is adjudicating all applications under both the Sudan extension and South Sudan designation. The email address for VSC is [TPSijgrant.vsc@dhs.gov](mailto:TPSijgrant.vsc@dhs.gov) <sup>[13]</sup>.

Your email must include:

- your name;
- your date of birth;
- your A-number; and
- the date the IJ or BIA finally granted you TPS. (Note: To be final, your IJ order granting TPS must not be subject to further appeal, or your BIA decision granting TPS must not

be subject to further review.)

Only individuals who were granted TPS by an IJ or the BIA who are requesting an EAD or travel authorization will receive responses from the above email address. This email address is not for individual case status inquires.

## **Appealing a Denial**

If USCIS denies your initial application, you will be informed in the denial notice whether you have 30 days to appeal to the USCIS Administrative Appeals Office (AAO) pursuant to the TPS regulations in 8 CFR part 244. If USCIS denies your re-registration application and withdraws your current TPS, you will also be informed as to whether you may appeal to the AAO. In some cases, such as when TPS is denied or withdrawn on certain mandatory criminal or security grounds, you may not have AAO appeal rights, although you can request that an immigration judge review your TPS request if you are in removal proceedings (see below). See 8 CFR 244.10 and 244.18. You may also choose to file a motion to reconsider with the USCIS Service Center that adjudicated your TPS application.

You may file your motion or appeal to the AAO by submitting a Form I-290B, Notice of Appeal or Motion. The fee for filing a Form I-290B is \$630; however you may request a fee waiver if you are unable to pay. If your TPS application is denied by the USCIS Service Center, we recommend that you consult with an accredited legal representative to determine whether you should pursue an appeal or motion. If you have been placed in removal proceedings, you may request that the immigration judge adjudicate your TPS application, and the judge will review the application. If an immigration judge denies your request for TPS, you may file an appeal with the BIA.

## **Need Help Filing a TPS Application?**

Please be aware that some unauthorized practitioners <sup>[14]</sup> may try to take advantage of you by claiming they can file TPS forms. These same individuals may ask that you pay them to file such forms. We want to ensure that all potential TPS applicants, including re-registrants, know how to obtain legitimate, accurate legal advice and assistance. A list of accredited representatives and free or low-cost legal providers is available on the USCIS website on the finding legal advice <sup>[15]</sup> Web page.

## **Additional Information**

USCIS strongly encourages TPS-eligible Sudanese and South Sudanese nationals to review the *Federal Register* notices for the extension <sup>[2]</sup> and the new designation <sup>[3]</sup> published today on how to file an initial application for TPS or to re-register for TPS.

To learn more about TPS, please go to USCIS's TPS <sup>[16]</sup> Web page at www.uscis.gov <sup>[10]</sup>. For further questions, please contact the USCIS National Customer Service Center at 1-800-375-5283 or 1-800-767-1833 (TTY).

Last updated:10/13/2011

## **Agency:**

DHS <sup>[17]</sup>

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**Links:**

[1] <https://immigration.com/news/dhs/dhs-extends-temporary-protected-status-tps-sudan-and-designates-south-sudan-tps>

[2] <http://www.gpo.gov/fdsys/pkg/FR-2011-10-13/html/2011-26538.htm>

[3] <http://www.gpo.gov/fdsys/pkg/FR-2011-10-13/html/2011-26537.htm>

[4] <http://www.uscis.gov/i-821>

[5] <https://egov.uscis.gov/cris/Dashboard/CaseStatus.do>

[6] [https://egov.uscis.gov/crisgwi/go?action=offices.type&OfficeLocator.office\\_type=ASC](https://egov.uscis.gov/crisgwi/go?action=offices.type&OfficeLocator.office_type=ASC)

[7] <http://www.uscis.gov/i-765>

[8] <http://www.uscis.gov/forms>

[9] <http://www.uscis.gov/feewaiver>

[10] <http://www.uscis.gov/>

[11] <http://www.uscis.gov/form>

[12] <http://www.uscis.gov/i-131>

[13] <mailto:TPSijgrant.vsc@dhs.gov>

[14] <http://www.uscis.gov/avoidscams>

[15]

<http://www.uscis.gov/portal/site/uscis/menuitem.e8b24a3cec33ca34c48bfc10526e0aa0/?vgnextoid=03be051e2286b>

[16] <http://www.uscis.gov/tps>

[17] <https://immigration.com/agencies/agency/dhs>