

USCIS Issues Fact Sheet and Guidance on Automatic Extensions of EAD and I-9 Compliance

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Among the last rules issued during the Obama Administration, [Retention of EB-1, EB-2, and EB-3 Immigrant Workers and Program Improvements Affecting High-Skilled Nonimmigrant Workers](#) went into effect on January 17, 2017. One of its provisions allows for automatic extensions of the validity periods of certain Employment Authorization Documents (EAD) for up to 180 days if the EAD application is timely filed and in the same category as the previous EAD.

On January 30, 2017, USCIS issued a six-page Fact Sheet with guidance on automatic extensions of EADs and Form I-9 compliance. Highlights include:

- The 180-day automatic extension begins the day the EAD expires and continues for 180 days, unless the application is denied.
- Employees with a pending EAD application may qualify for the automatic extension even if the application was filed prior to the January 17th effective date of the rule.
- “Timely filed” means the application is received by the USCIS before the expiration date.
- The eligibility category code on the face of the EAD must be the same as the code on the receipt notice received for the renewal.
- The expired EAD in combination with the Form I-797 receipt notice for the renewal showing it was timely filed and in the same category as the expired EAD is an acceptable List A document (unexpired EAD). The expiration date is 180 days from the date the card expired.
- Current employees must update their I-9 Forms with the newly extended expiration date, but the automatic extension does not trigger a Section 3 Reverification.

The USCIS Fact Sheet has specific instructions about completing automatic EAD extension I-9 Forms, dealing with E-Verify and dealing with EADs based on Temporary Protected Status (TPS) along with annotated document samples.

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