



IMMIGRATION UPDATE - OCTOBER 04, 2023

Posted on October 4, 2023 by Cyrus Mehta

Headlines:

[Shutdown Averted for Now; DHS Releases Fact Sheet on Potential Impact](#) –

Shortly before the deadline on September 30, 2023, Congress passed and President Biden signed H.R. 5860, a short-term funding bill to keep the federal government funded for 45 days. Also, the Department of Homeland Security released a fact sheet on the impact of a potential shutdown on its workforce.

[DHS Releases Advance Copy of TPS Extension/Redesignation for Venezuela, Details on EADs](#) – The Department of Homeland Security (DHS) has released an advance copy of its notice extending the designation of Venezuela for Temporary Protected Status (TPS) until September 10, 2025. DHS is also redesignating Venezuela for TPS. DHS said re-registrants should timely re-register during the registration period and not wait until their Employment Authorization Documents expire.

[EAD Validity Period Increased for Certain Categories](#) – U.S. Citizenship and Immigration Services is increasing the maximum validity period to five years for initial and renewal Employment Authorization Documents (EADs) for certain noncitizens who are employment-authorized incident to status or circumstance, including those admitted as refugees, paroled as refugees, and granted asylum, as well as recipients of withholding of removal. USCIS is also increasing the maximum validity period to five years for initial and renewal EADs for certain noncitizens who must apply for employment authorization.

[Biometric Services Fee Exempted for All Form I-539 Applicants](#) – U.S. Citizenship and Immigration Services (USCIS) is exempting the biometric services fee for Form I-539, Application to Extend/Change Nonimmigrant Status. Beginning October 1, 2023, applicants do not need to pay the \$85 biometric services fee if their applications are postmarked October 1 or later.

[USCIS Continues Fee Exemptions and Expedited Processing for Afghan Nationals](#) – U.S. Citizenship and Immigration Services is extending and expanding filing fee exemptions and expedited application processing for certain Afghan nationals through September 30, 2024.

[FY 2025 Diversity Visa Lottery Begins Soon, Embassy Releases Tips](#) – The online registration period for the DV-2025 diversity visa program begins on Wednesday, October 4, 2023, at 12 noon ET, and concludes on Tuesday, November 7, 2023, at 12 noon ET. DV 2025 instructions and tips are now available.

[Israel Added to Visa Waiver Program](#) – Eligible Israeli citizens, nationals, and passport holders from Israel may apply for admission to the United States at U.S. ports of entry as nonimmigrant visitors for a period of 90 days or less for business or pleasure without first obtaining a B-1/B-2 nonimmigrant visa stamp in their passports.

[Comments Requested on Proposed Revisions to Immigrant Petition for Alien Workers](#) – Comments will be accepted until October 27, 2023, on proposed revisions to Form I-140, Immigrant Petition for Alien Workers.

[Comments Requested on Proposed Revisions to Trusted Traveler Programs and U.S. APEC Business Travel Card](#) – Comments will be accepted until October 27, 2023, on proposed revisions to Trusted Traveler Programs and the U.S. Asia-Pacific Economic Cooperation (APEC) Business Travel Card.

[ABIL Global: United Kingdom](#) – The government of the United Kingdom is implementing a full-scale digitalization project and seeks to enhance the efficiency of immigration procedures by harnessing advanced technology.

Firm in the News

Details:

Shutdown Averted for Now; DHS Releases Fact Sheet on Potential Impact

Shortly before the deadline on September 30, 2023, Congress passed and President Biden signed H.R. 5860, a short-term funding bill to keep the federal government funded for 45 days. A shutdown is still possible after November 17.

On September 28, 2023, the Department of Homeland Security released a fact

sheet on the impact of a potential shutdown on its workforce. The fact sheet noted that if there is a shutdown, nearly three in four DHS employees—more than 185,000 people—would be required to continue working through a shutdown without receiving a paycheck during that time. Those working without pay would include law enforcement officers, analysts, investigators, and disaster response officials. DHS said a shutdown would result in, among other things:

- More than 19,000 unpaid U.S. Border Patrol agents and 25,000 unpaid Office of Field Operations officers, including CBP agents and officers working at more than 300 ports of entry and guarding more than 6,000 miles of border.
- Stopped funding to border communities and interior cities, including funding to cover costs that border and interior communities incur associated with sheltering migrants in their cities. "Recipients may be unable to draw down on a portion of the funds, and no new awards will be made under a shutdown," DHS said.
- Short- and long-term effects on hiring and onboarding, including a pause in processing of nearly 2,500 tentative job offers to DHS candidates for employment.

Details:

- [White House press release](#) (Sept. 30, 2023).
- [Biden statement](#) (Sept. 30, 2023).
- [R. 5860](#) (Sept. 30, 2023).
- [DHS Fact Sheet](#) (Sept. 28, 2023).

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DHS Releases Advance Copy of TPS Extension/Redesignation for Venezuela, Details on EADs

The Department of Homeland Security (DHS) has released an advance copy of its notice extending the designation of Venezuela for Temporary Protected Status (TPS) for 18 months, beginning on March 11, 2024, and ending on September 10, 2025. Existing TPS beneficiaries who wish to extend their status through September 10, 2025, must re-register during the 60-day re-registration period, which runs from January 10, 2024, through March 10, 2024. DHS also

released information about Employment Authorization Documents (EADs) for Venezuela TPS beneficiaries.

DHS is also redesignating Venezuela for TPS. DHS explained that the redesignation of Venezuela allows additional Venezuelan nationals (and individuals having no nationality who last habitually resided in Venezuela) who have been continuously residing in the United States since July 31, 2023, to apply for TPS for the first time during the initial registration period, which begins on October 3, 2023, and will remain in effect through April 2, 2025. In addition to demonstrating continuous residence in the United States since July 31, 2023, and meeting other eligibility criteria, initial applicants for TPS under this designation must demonstrate that they have been continuously physically present in the United States since October 3, 2023.

Employment Authorization Documents. DHS said re-registrants should timely re-register during the registration period and not wait until their Employment Authorization Documents (EADs) expire.

U.S. Citizenship and Immigration Services (USCIS) announced on September 29, 2023, that it has automatically extended the validity of EADs previously issued under the TPS Venezuela designation. USCIS noted:

EADs covered by this extension are valid **through March 10, 2025**, as evidence of permission to work, and will list:

1. An expiration date of March 10, 2024, or September 9, 2022, on the EAD, and
2. A category code of A-12 or C-19.

Details:

- [Extension and Redesignation of Venezuela for Temporary Protected Status](#) (advance copy, to be published in the Federal Register on October 3, 2023). The official version of the Federal Register notice will also be posted on USCIS's [TPS Venezuela page \(en español\)](#).
- [DHS news release](#) (Sept. 29, 2023).

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EAD Validity Period Increased for Certain Categories

U.S. Citizenship and Immigration Services (USCIS) announced on September 27,

2023, that it is increasing the maximum validity period to five years for initial and renewal Employment Authorization Documents (EADs) for certain noncitizens who are employment-authorized incident to status or circumstance, including those admitted as refugees, paroled as refugees, and granted asylum, as well as recipients of withholding of removal.

USCIS is also increasing the maximum validity period to five years for initial and renewal EADs for certain noncitizens who must apply for employment authorization, including applicants for asylum or withholding of removal, adjustment of status under INA § 245, and suspension of deportation or cancellation of removal.

The agency noted that its updated guidance also explains the categories of noncitizens who are automatically authorized to work (also known as being employment-authorized incident to status or circumstance) and provides information on who can present a Form I-94, Arrival/Departure Record, to an employer as an acceptable document showing employment authorization under List C of Form I-9, Employment Eligibility Verification. The guidance also clarifies that certain Afghan and Ukrainian parolees are employment-authorized incident to parole.

USCIS noted that whether the noncitizen maintains employment authorization remains dependent on their underlying status, circumstances, and EAD filing category. For example, USCIS said, "if an individual received an EAD under the (c)(9) category based on a pending adjustment of status application for the maximum validity period of 5 years, and the adjustment application is then denied, their ancillary employment authorization may be terminated before the expiration date listed on their EAD."

Details:

- [USCIS alert](#) (Sept. 27, 2023).

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Biometric Services Fee Exempted for All Form I-539 Applicants

U.S. Citizenship and Immigration Services (USCIS) announced on September 25, 2023, that it is exempting the biometric services fee for Form I-539, Application to Extend/Change Nonimmigrant Status. Beginning October 1, 2023, applicants do not need to pay the \$85 biometric services fee.

Certain filers who filed before October 1 will still be scheduled for, and should attend, an ASC appointment. In most cases, after October 1, applicants will not be scheduled to attend a biometric services appointment. However, if USCIS determines that biometrics are required, the applicant will receive a notice with information about appearing for their biometric services appointment, the agency noted.

USCIS warned:

If you mistakenly submit the biometric services fee and the payment is submitted separately from the Form I-539 fee, we will return the biometric services fee and accept the Form I-539. If you mistakenly submit the biometric services fee and the payment is combined with a paper-based Form I-539 filing fee, this is considered an incorrect filing and we will reject the Form I-539. If you mistakenly authorize a credit card payment that combines the biometric services fee with the Form I-539 application fee, we will accept the application, and only charge the application fee.

USCIS said the biometric services fee exemption will apply to all applicants filing on or after October 1, 2023, including those applicants filing Form I-539 requesting an extension of stay in, or change of status to, H-4, L-2, or E nonimmigrant for whom USCIS had previously suspended the biometrics requirement through September 30, 2023.

Details:

- [USCIS alert](#) (Sept. 27, 2023).

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USCIS Continues Fee Exemptions and Expedited Processing for Afghan Nationals

U.S. Citizenship and Immigration Services (USCIS) announced on September 29, 2023, that it is extending and expanding [previously announced](#) filing fee exemptions and expedited application processing for certain Afghan nationals through September 30, 2024.

USCIS said these actions "will help Afghan nationals resettle, and in many cases, reunite with family in the United States by enabling USCIS to more quickly process their requests for employment authorization and/or Employment Authorization Documents (EADs), long-term status, status for immediate

relatives, and associated services." Details are included in the USCIS alert.

Details:

- [USCIS alert](#) (Sept. 29, 2023).
- [Information for Afghan Nationals](#) (updated Sept. 22, 2023).

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FY 2025 Diversity Visa Lottery Begins Soon, Embassy Releases Tips

The online registration period for the DV-2025 diversity visa program begins on Wednesday, October 4, 2023, at 12 noon ET, and concludes on Tuesday, November 7, 2023, at 12 noon ET. DV 2025 instructions are now available.

Also, on September 29, 2023, the U.S. Embassy in Barbados released "[10 Tips for the 2025 Diversity Visa Lottery](#)." (As of press time, some of the links mentioned in the tip sheet did not yet include the DV-2025 updates, but the tips may be useful otherwise.)

Details:

- DV Program [application steps](#).
- DV-2025 Program [instructions](#).

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Israel Added to Visa Waiver Program

Effective September 29, 2023, Israel has been designated eligible for participation in the Visa Waiver Program (VWP). This means that eligible Israeli citizens, nationals, and passport holders from Israel may apply for admission to the United States at U.S. ports of entry as nonimmigrant visitors for a period of 90 days or less for business or pleasure without first obtaining a B-1/B-2 nonimmigrant visa stamp in their passports.

The Electronic System for Travel Authorization (ESTA) is expected to be updated by November 30, 2023, to facilitate this change.

Details:

- [DHS final rule](#), 88 Fed. Reg. 67073 (Sept. 29, 2023).

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Comments Requested on Proposed Revisions to Immigrant Petition for Alien Workers

Comments will be accepted until October 27, 2023, on proposed revisions to Form I-140, Immigrant Petition for Alien Workers. Those wishing to review the revisions and submit comments may access the information collection instrument with instructions, or additional information, by visiting the Federal eRulemaking Portal site at <https://www.regulations.gov> and entering USCIS-2007-0018 in the search box.

Details:

- [USCIS notice](#), 88 Fed. Reg. 66498 (Sept. 27, 2023).

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Comments Requested on Proposed Revisions to Trusted Traveler Programs and U.S. APEC Business Travel Card

Comments will be accepted until October 27, 2023, on proposed revisions to Trusted Traveler Programs and the U.S. Asia-Pacific Economic Cooperation (APEC) Business Travel Card.

U.S. Customs and Border Protection (CBP) said it intends to update the Trusted Traveler Programs to align with the Department of State's passport options. Specifically, CBP will modify the Trusted Traveler Program application by adding a third "X" gender marker for applicants identifying as non-binary, intersex, and/ or gender non-conforming (in addition to the existing "male" and "female" gender markers). The "X" marker will be categorized as "Unspecified or Another Gender Identity" in the document sections of the electronic Trusted Traveler Programs application.

In addition, CBP's new Global Entry (GE) portals and the new Global Entry (GE) Mobile application are replacing legacy kiosks, CBP said. The portal or app will take the traveler's facial image and match it with the existing image from the application process. The questions previously asked by the legacy kiosk will now be a verbal attestation when exiting the area, CBP noted.

Details:

- [CBP notice](#), 88 Fed. Reg. 66465 (Sept. 27, 2023).

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ABIL Global: United Kingdom

The government of the United Kingdom is implementing a full-scale digitalization project and seeks to enhance the efficiency of immigration procedures by harnessing advanced technology.

Technological developments in the United Kingdom (UK) are intended to expedite the submission and processing of visa applications and other immigration-related paperwork and modernize border operations by automating digital border processes. This initiative aims to enable Border Force and UK Visas and Immigration personnel to streamline current workflows, concentrating their resources on application categories that demand more time and effort due to their intricate legal aspects. The digital transformation of the UK immigration system is intended to bring the border management system and broader government in line with the demands of the 21st century.

Transition to Digital Immigration Status

By late 2024, the UK government intends to fully transition to a digital system for managing immigration status. This will enable individuals to apply for and verify their immigration status and cross borders without the need for physical travel vignettes or Biometric Residence Permits (BRPs). Some migrants have already begun receiving digital status as the default option. All BRPs are set to expire by December 31, 2024, in anticipation of these forthcoming changes.

Electronic Travel Authorisation Scheme

In March 2023, the government introduced the Electronic Travel Authorisation (ETA) scheme. Under this program, travelers from countries currently exempt from the requirement to apply for prior UK visa clearance before visiting the UK must obtain an ETA before their journey. The primary goals of the ETA scheme are to enhance border security in the UK and streamline the travel process. The ETA scheme will be slowly introduced, first with selected Middle Eastern nationals. Beginning November 15, 2023, Qatar nationals traveling to the UK will require an ETA. Nationals of the following countries traveling to the UK will need an ETA beginning February 22, 2024:

- Bahrain
- Jordan

- Kuwait
- Oman
- Saudi Arabia
- United Arab Emirates

More countries on the non-visa national list (those countries whose nationals do not require prior UK visa clearance before visiting the UK) will be added to the ETA scheme, with the aim for it to be fully in place by the end of 2024 for all relevant non-visa nationals traveling to the UK. As details of the ETA are still to be finalized for non-Gulf countries, multinational corporations with frequent business travel should stay vigilant for updates and make necessary preparations for its implementation.

Sponsorship System Reforms

In response to calls for a simplified sponsorship system following Brexit, the Home Office unveiled a sponsorship roadmap in August 2021. This roadmap outlines proposed changes to the current process of hiring foreign nationals to make it more straightforward and efficient. The plan includes:

- Various IT improvements;
- Enhancements in customer service;
- Modifications to compliance procedures; and
- Strategies for engaging stakeholders.

These reforms aim to create a more user-friendly system that reduces the time required to sponsor a migrant worker. The IT transformation will be implemented in three phases, with the Home Office anticipating full operational capability by Q1 2024. All sponsors are expected to transition to the new system by this deadline.

Online Verification of Right to Work and Rent

As of April 2022, employers and landlords are now legally obligated to conduct online checks to verify an individual's right to work and rent status for most migrants. With limited exceptions, manual right-to-work verification for these individuals is no longer permitted. The Home Office has also introduced a digital service allowing British and Irish nationals to confirm their right to work and rent status online. Employers and landlords can opt to use an Identity Service Provider (IDSP) for these checks. However, manual checks of physical

identity documents are still permitted for British and Irish nationals.

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