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Insights: Options for Haitians in TPS

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In May, the Temporary Protected Status (TPS) program for Haitians was extended for six months, until January 22, 2018. Generally extended in 18-month intervals, then-Secretary of Homeland Security John Kelly had extended the Haitian TPS for six months only because “Haiti has made progress across several fronts since the devastating earthquake . . . [and] [t]he Haitian economy continues to recover and grow, and 96 percent of people displaced by the earthquake and living in internally displaced person camps have left those camps.”

Many have argued that there should be a longer extension because, since the earthquake, Haiti has experienced other disasters, including a cholera outbreak, floods, drought, and Hurricane Matthew. Moreover, there are questions about whether Haiti is prepared economically to absorb the nearly 60,000 individuals who are currently in the U.S. in TPS status.

The DHS [mentioned in its May announcement](#) that “[p]rior to the expiration of this limited six-month period, Secretary Kelly will re-evaluate the designation for Haiti and decide anew whether extension, re-designation, or termination is warranted.” Nevertheless, Haitians in TPS status and those who employ them need to prepare for the likely termination.

There may be some options for retaining status and possibly gaining work authorization before January 22, 2018. For instance, a TPS holder who is an “immediate relative” of a U.S. citizen (a child, spouse, or parent of a U.S. citizen who is over 21 years old) may be able to file an adjustment of status application and thereby be authorized to remain in the U.S. beyond January 22, 2018, and obtain an employment authorization even before obtaining a green card. There also may be some employment-based green card options. These options and others may be possible even for individuals who entered the U.S. without “inspection” because two Circuit Courts of Appeal (the 9th and the 6th Circuits) have held that a grant of TPS is an “admission” for purposes of adjustment of status.

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