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Employer Relevant Developments in the EAD Revocation Process

Since taking office in January 2025, the Trump Administration has aggressively worked through administrative and legal action to terminate a number of humanitarian immigration programs. The Administration professed these programs to have been over-extended by prior administrations. For example, the Administration has taken action to end Temporary Protected Status (TPS) for nationals of multiple countries including Haiti, Venezuela and Nicaragua where it deemed that conditions in those countries no longer warranted such status. Although the Administration's efforts have caused significant angst amongst the individual beneficiaries of such programs. The efforts have only recently created additional obligations for employers.

Many of the impacted programs allow a program participant to receive employment authorization as a benefit. Employment authorization is reflected in an Employment Authorization Document (EAD). The employer uses the EAD to comply with its I-9 and E-Verify employment authorization confirmation obligations. The EAD is valid for a limited time and the employer is obligated to reverify the employee's employment authorization if the EAD expires during employment.

Rather than allow the programs referenced above to expire at the end of each program's previously approved term, the Administration has terminated the programs in the middle of the approved term. Any employment authorization associated with the beneficiary's participation in the program was or will likewise be revoked as of the termination date of the program. An employer generally had no way of knowing that the authorization had been terminated until recent changes by the Department of Homeland Security.

Effective June 20, 2025, an employer's E-Verify account began to generate a Status Change Report. The Status Change Report includes a list of employees who have had their EAD revoked as a result of the termination of one of the referenced programs. An employer is required to take action based on the Status Change Report. The Status Change Report includes the document number for the revoked document. Employers must initially compare that document number to the number of the document used for employment verification. If the employee used a different document (e.g., a different EAD) to establish employment authorization, no further action is required and the employee can continue employment until the termination date associated with that document. If the revoked EAD was used to establish employment authorization, the employer cannot immediately terminate employment. Rather, the employer is required to reverify employment eligibility using Supplement B of the I-9 form. Of course, reverification must be completed without using the revoked EAD. Importantly, no new E-Verify case is to be opened and doing so would likely violate the Memorandum of Understanding that the employer entered regarding the E-Verify program.

What the employer's exact obligations are to take action that would reveal the revoked EAD is unclear. The guidance issued by DHS indicates that employers "should regularly generate the Status Change Report to identify E-Verify cases that may have been created with an EAD that is now revoked" but the guidance is not controlling and, further, does not indicate what constitutes "regularly". Employers must also continue to be mindful of their obligation not to discriminate against persons based on national origin, immigration status, etc.

We anticipate that further guidance will be forthcoming from the Administration as multiple programs are scheduled to terminate during the next sixty (60) days. For example, TPS designation for Haiti effective September 2, 2025, and that all EADs issued with an A12 or C19 (i.e., TPS) category will expire September 2, 2025. Similarly, the TPS status for Honduras and Nicaragua will both terminate effective September 8, 2025. Although these actions will likely be subject to legal challenges, each action will result in the revocation of a significant number of EADs.

If you have any questions or would like additional information, please contact Mike Thompson at 205-323-9278 or mthompson@lehrmiddlebrooks.com.