

December 1, 2025

The Honorable Kristi Noem
Secretary, Department of Homeland Security
C/O Business and Foreign Workers Division, Office of Policy and Strategy,
US Citizen and Immigration Services, Department of Homeland Security
5900 Capital Gateway Drive, Camp Springs, MD 20746 USA

Subj: Removal of the Automatic Extension of Employment Authorization Documents
DHS Docket No. USCIS-2025-0271
RIN 1615-AD05

Dear Secretary Noem:

WERC, formerly known as the Worldwide Employee Relocation Council, is submitting comments in response to the Interim Final Rule (IFR) with Request for Comment for Removal of the Automatic Extension of Employment Authorization Documents, RIN 1615-AD05 published in the *Federal Register* on 30 October 2025.

WERC – the trade association that represents the global talent mobility industry responsible for supporting employers moving their current and potential employees both domestically and across borders – recognizes the need for the U.S. Department of Homeland Security (DHS) to safeguard the American people and the American homeland. However, it is also critical for American national security and economic interests to ensure American businesses can operate within a predictable environment where they can hire and maintain critical talent that they need, regardless of nationality, without risk of employment authorization lapses through no fault of their own. This requires timely adjudication of Employment Authorization Documents (EAD) to prevent disruptions to business continuity and loss of employment and income for employees and their spouses.

WERC urges DHS to modify the IFR in order to convey employment authorization renewals in a manner that does not unintentionally penalize American businesses and their employees with lapses in valid employment authorization status resulting solely from increased workload and decreased staffing at the agency. DHS, in its IFR, correctly flagged this risk, indicating that lapses in employment authorization and/or EADs would occur “[I]f USCIS continues to have a backlog and is unable to adjudicate renewal EAD applications before their expiration.” While the IFR does note that the prior EAD adjudication pipeline will be reduced by “external DHS actions for populations that may have otherwise applied for EADs,” the rule does not account for the impact of other external DHS actions. For example, the new processes for extending the status of students and exchange visitors under the agency’s recent duration of status (D/S) proposed rule. These changes, if implemented, would increase the adjudication workload on USCIS staff and risk re-stretching the agency’s bandwidth to be able to ensure that EAD extension petitions can be consistently processed within existing timeframes and avoid the disruption risk identified by the agency.

If USCIS continues to have a backlog and is unable to adjudicate renewal EAD applications before their expiration, then this IFR, by ending the practice of providing automatic extensions based on the timely filing of an EAD renewal application, would result in temporary lapses in employment authorization and/or EADs.

While an automatic extension as lengthy as the 540-day period implemented in 2022 may no longer be necessary due to the evolution of external circumstances post-pandemic and the agency's internal processing efficiencies in recent years, a simple termination of automatic extension without modifications could prove to hamper the ability for the homeland to thrive by adding avoidable pressure on the agency and creating preventable compliance risk for foreign nationals and their employers.

To follow are WERC's suggested modifications:

- **Narrowed short-term automatic extension.** A move from a 540-day automatic extension for EADs to no extension, when combined with increased agency workload and existing staffing capacity, will very likely result in expanding delays that would result in loss of work authorization and the personal and professional disruption associated with that. Until such time as USCIS fully implements its many ongoing policy and operational changes and can ensure that it has sufficient staffing and bandwidth to meet the increased workload without delays that will cause undue disruption for the American economy, we recommend that the agency remedy the risk of disruptive work authorization delays by reverting to, at minimum, the 180-day automatic extension that existed from 2016 until the agency expanded it in 2022.
- **Enable applicants to apply for a renewal EAD earlier than the current 180 days before expiration.** One of the biggest issues poised to exacerbate the risks of foreign nationals and employers being unable to get EAD applications processed in sufficient time to ensure lapses in authorization do not occur is the fact that an EAD renewal cannot be filed earlier than 180 days before its expiration. WERC members indicate that they frequently see USCIS processing of applications take more than 180 days for properly filed applications, and this aligns with existing agency reporting of its processing times. Currently, USCIS indicates that 80 percent of I-765 Applications for Employment Authorizations are processed (depending on the service center and the type of petitioner) in a period ranging from 3.5 months to over one year.¹ These timelines, as noted above, risk being adversely impacted due to other agency actions such as the D/S proposed rule to a point where most I-765 processing times will potentially exceed the 180-day maximum application window. The result of this would be validity lapses with EADs and employment authorization, despite "proper planning by the alien and the employer" as recommended by DHS in the IFR. Enabling earlier filing would provide

¹ "Case Processing Times," U.S. Citizenship and Immigration Services, Accessed 19 November 2025, <https://egov.uscis.gov/processing-times/>.

USCIS with additional time to process, while decreasing the likelihood of a lapse in EAD validity. WERC recommends enabling the filing of an EAD renewal application up to one year prior to the date of work authorization expiration, this would enable the alien and employer to plan and would provide DHS the time needed to properly and securely process the vast majority of renewals.

- **Concurrent Processing of H-4 Applications and their EAD Applications:** To facilitate planning predictability for foreign nationals and employers, WERC would urge USCIS to return to its prior practice of processing H-4 dependent applications and their EAD applications concurrently with the primary H-1B application/extension.
- **Strengthen USCIS Capacity for Adjudications:** USCIS personnel are at the frontlines of protecting American national security by being able to thoroughly but timely adjudicate immigration-related petitions and ensuring that the agency has sufficient staffing levels and technological resources to achieve this are vital for preserving and promoting America's interests. We urge the agency to work with Congress to approve appropriations that can strengthen USCIS' capacity to consistently facilitate adjudications, both EAD-related petitions and other existing and potential actions associated with various employment-based applications, within established timeframes.
- **Expand premium processing availability.** Expand the available premium processing for I-765 petitions with 30-calendar day processing for those companies and individuals willing to pay for certainty that their documents will be processed in a timely manner. This would expand the availability of premium processing beyond just F-1 Optional Practical Training programs, and our recommendation would be to make premium processing available to all employment-related petitions.

Additionally, we would recommend that I-765 petitions including premium processing be deemed to be conditionally in compliance with their EAD until USCIS completes its adjudication and processing if properly filed petitions are not processed within the 30-day calendar day window.

We urge the agency to modify the IFR to ensure it can meet the newfound demands it faces to avoid inadvertently disrupting American economic activity and unintentionally adversely impacting U.S. national interests. We appreciate the opportunity to submit comments on this IFR and are available to answer any questions you may have.

Sincerely,



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About Worldwide ERC (WERC):

WERC, a Washington, D.C.-based global industry trade association, represents talent mobility professionals representing over 5,000 individuals and 2,750 enterprises. Our members include corporations and government agencies moving employees across the United States and around the world, as well as the various service providers that support these moves. In 2024, our members moved over half a million employees as part of formal company-initiated mobility programs to meet the talent needs of their private and public sector employers.