

REQUIREMENTS FOR TPS

Basic Requirements - 8 C.F.R. §1244.2.

1. Is a national of a foreign state TPS eligible country.
2. Has been continuously physically present in the United States since the effective date of the most recent designation of that Country.
3. Has continuously resided in the United States since such date as the Attorney General may designate.
4. Is admissible as an immigrant except as provided under section 1244.3 (conviction of a felony or two or more misdemeanors, or has been persecutor of others, has committed a particularly serious crime, has committed a serious nonpolitical crime, or is a danger to the security of the United States)
5. Is not ineligible for TPS under section 1244.4 (a felony, two misdemeanors, or essentially the same bars as to asylum).

In-depth Description of Requirements

1. Is a national of a foreign state TPS eligible country, or last habitually resided there. 8 C.F.R. § 1244.2(a).
 - a. Acceptable evidence in descending order of preference: passport, birth certificate accompanied by photo identification, or national identity document from alien's country of origin bearing phot and/or fingerprint. If none of these are available, may accept an affidavit showing proof of unsuccessful efforts to obtain such documents, explaining why the consular process is unavailable, and affirming that s/he is a national of the designated country. 8 C.F.R. § 1244.9(a)(1).
2. Has been continuously physically present in the United States since the effective date of the most recent designation of that country. 8 C.F.R. § 1244.2(b).
 - A. May submit any of the following to proof: employment records, rent receipts, utility bills, school records, hospital or medical records, attestations by churches, unions, or other organizations evidencing residence, or other documents such as money order receipts, birth certificates of USC children, passport entries, correspondence, social security card, selective service card, automobile records, property records (purchase or rents), tax receipts, insurance records, or "any other relevant document." 8 C.F.R. § 1244.9(a)(2).
3. Must have continuously resided in the United States since such date as the Attorney General may designate. 8 C.F.R. 1244.2(c).

a. Absence must be of short duration and reasonably calculated to accomplish the purpose(s) for the absence. 8 C.F.R § 1244.1.

b. Absence was NOT the result of an order of deportation, an order of voluntary departure, or an administrative grant of voluntary departure without the institution of deportation proceedings. 8 C.F.R. § 1244.1.

c. Purpose for absence or actions while outside of United States must not be contrary to law. 8 C.F.R. § 1244.1.

4. Must be admissible as an immigrant under 8 C.F.R. § 1244.3 (see INA § 244(c)(2)(A) for exceptions to the regular grounds of inadmissibility listed in section 212) and not ineligible for TPS under 8 C.F.R. § 1244.4. 8 C.F.R. § 1244.2(d), (e).

a. Exceptions to inadmissibility. 8 C.F.R. § 1244.3.

i. Sections 212(a)(4) (regarding public charge) 212(a)(5) (regarding labor certification and qualifications) and 212(a)(7)(A)(i) (regarding documentation requirements) shall not apply. 8 C.F.R. § 1244.3(a).

ii. AG may waive any other provision of section 212(a) in the case of individual aliens for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest. 8 C.F.R. § 1244.3(b).

iii. May NOT waive section 212(a)(2)(A)(i), 212(a)(2)(B) (regarding criminal acts), 212(a)(2)(C) (regarding drug offenses) unless it is a single offense of simple possession of 30 grams or less of marijuana, or 212(a)(3)(A), (B), (C), (D) and (E) (regarding national security, participation in Nazi persecutions, and engaging in genocide). 8 C.F.R. 1244.3(c).

b. Ineligible for TPS. 8 C.F.R. § 1244.4.

i. Convicted of any felony or two or more misdemeanors committed in the United States, 8 C.F.R. 1244.4(a); or

ii. Described in section 208(b)(2)(A) (regarding persecution of others, particularly serious crime, and danger to society). 8 C.F.R. 1244.4(b).

5. Must register for TPS during the initial registration period, 8 C.F.R. § 1244.2(f)(1); OR

6. Must register for TPS during any subsequent extension period if, at the time of the initial registration period, 8 C.F.R. § 1244.2(f)(2):

a. Applicant is a nonimmigrant or has been granted voluntary departure status or any relief from removal, 8 C.F.R. § 1244.2(f)(2)(i);

b. Applicant has an application for change of status, adjustment of status, asylum, voluntary departure, or any relief from removal which is pending or subject to further review or appeal, 8 C.F.R. § 1244.2(f)(2)(ii);

c. Applicant is a parolee or has a pending request for reparole, 8 C.F.R. § 1244.2(f)(2)(iii); or

d. Applicant is a spouse or child of an alien currently eligible to be a TPS registrant, 8 C.F.R. § 1244.2(f)(2)(iv).