

**Policy Topics****1. Employment Authorization; E2 Visa – Kevin Stevens**

Email from lender- Should we decline FHA loan requests whenever an applicant does not have an actual EAD card?

**ANSWER:** If the Visa allows the borrower to work it is not enough. Policy requires the actual Employment Authorization Document which is an actual form from USCIS. So even though these individuals are authorized to work in the US with a Visa, it is only for one employer and from a risk standpoint it is different than someone who has an EAD who can work for any employer. So if they lost their job they can go find another job just like any other citizen or a permanent resident alien. Where a Visa holder with an E-2 or H-1-2 similarly it is just one employer and they don't meet our policy for legal residence.

**2. Employment Authorization; Expiration Date– Kevin Stevens**

PDCC Question: EAD

(1) Since each Country's TPS has an expiration date, how can we establish that the borrower's EAD card is likely to be renewed? The renewal of the EAD is dependent on the renewal of the TPS. In most cases, the borrower takes the necessary steps to obtain actual Non-Permanent Resident Alien status (so they no longer need the TPS in order to remain in the US), but there is no way to be certain if they will apply or if it will be granted.

**ANSWER:** Somewhat related to that is the expiration date of the EAD and we do have some guidance in the same section of the HB: The Employment Authorization Document is required to substantiate work status. If the Employment Authorization Document will expire within one year and a prior history of residency status renewals exists, the Mortgagee may assume that continuation will be granted. If there are no prior renewals, the Mortgagee must determine the likelihood of renewal based on information from the USCIS, but we don't go in to detail as to what that needs to be. The lender needs to do their due diligence and provide whatever they did on their due diligence in the case binder and you must have an explanation why. I want to make it clear that it is does not have to be any particular item to determine the likelihood of continuance of employment.

The other hot button item - are individuals that are here under the DACA protections eligible for FHA loans? That answer is no because while they have the authority to work in the US they are not legal residents. I am sure you have all heard of the Dream Act and then it would change because it would grant them legal status and then would be eligible. We are actually drafting an FAQ on that. OGC signed off on it and it will go to the Resource Center.