



Post-Election DALE Updates: November 2024

With a new Trump presidency beginning on January 20, 2025, many people have concerns and questions about deferred action for labor enforcement (DALE) applications. This update reflects our current understanding of the status of the DALE process and is focused on workers who may still be seeking to apply or have pending applications. Conditions may change in the weeks ahead, and this information may become outdated. We encourage you to follow the updates shared on the Labor-DA listserv (see details below to join). We hope to provide additional guidance for workers who have been granted DALE in early 2025.

What is the status of DALE and current processing times?

Applications for DALE can still be filed, processed and adjudicated. The average adjudication time has been around 60 days for individuals with no ICE contact and around 120 days for people with orders of removal or who are in removal proceedings. This is an average; there are some recent cases that have been pending longer. **Although USCIS has stated it will make its best effort to adjudicate cases filed in November 2024 or earlier by January 20, 2025, they are receiving a high volume of cases, making it increasingly risky for workers to apply.** Workers whose DALE requests are still pending at USCIS on January 20, 2025, risk being put into removal proceedings through the issuance of a “Notice to Appear.” Workers whose cases fall under ICE jurisdiction are unlikely to have an application for DALE adjudicated by January 20, 2025, and could face enforcement action.

Should workers still file first-time requests for DALE?

Only in limited circumstances. The risks of applying for DALE have increased significantly given the election results. Based on processing times and other factors, it may still be worthwhile to file for a limited number of workers:

- DALE applicants who are not in removal proceedings and do not have removal orders – **No.** Based on the current average of 60 days for adjudication of first-time DALE requests at USCIS, these applications should not be filed after November 20, 2024, because they are unlikely to be adjudicated before January 20, 2025.
- DALE applicants who are in removal proceedings – **Maybe.** Based on processing times, we believe it is very unlikely that ICE will process new applications fast enough for approval before the inauguration. That said, if a new Trump administration does not halt DALE right away or if DHS speeds up adjudications, workers could get approvals. Individuals already in removal proceedings are unlikely to be increasing their enforcement risk by applying since they are already in proceedings and on the government’s radar and there may be possible strategic advantages to their removal case to have an affirmative application pending. Given the lower risks, we think applications for these individuals can be filed into December 2024 – though workers should be advised that it remains unlikely their cases will be adjudicated in time and the processing fee will not be refunded.



- DALE applicants with removal orders **No.** Again, based on processing times, it is unlikely that ICE will process new applications fast enough for an approval before the inauguration. A DALE application may provide the applicant's current address (although see below) and will alert DHS that they are still in the US. These workers should **not** take the risk of applying because we know that people with removal orders will be at very high risk of enforcement, detention and deportation under a new Trump administration.

Should workers with DALE still apply for extension?

Yes! For people with 2-year EADs, we have seen it take approximately a month for a new 4-year EAD to be issued. Extensions currently have the shortest processing times of 30-40 days.

How should advocates counsel DALE-eligible workers on the risks of applying?

As before, by applying for DALE workers are consenting to having their information shared with the immigration agencies. However, the risk of that information being used for enforcement has increased significantly given the election results. As noted above, cases that are still pending after inauguration could be summarily denied and applicants could be referred to immigration court for removal proceedings. Individuals with prior removal orders could have immediate enforcement action taken against them (arrest, detention, removal, etc.). Although we do not have reason to think the Trump administration will specifically target DALE applicants, applicants whose applications remain pending on or after January 20, 2025, will be vulnerable to a variety of enforcement actions even if they are not explicitly directed at these workers.

Do workers have to reveal their current address?

Some advocates have reported that DALE applications have been approved using confidential addresses. This entails filling out the fields for current and physical addresses with the word "confidential" on immigration forms and using a safe address (often the address of an attorney or organization providing legal assistance) as the mailing address. However, this strategy may not fully address confidentiality concerns and does not resolve the concern of DALE applications remaining pending on January 20, 2025, which could make workers vulnerable to being placed in proceedings or subject to other enforcement actions.

Should advocates continue to request Statements of Interest (SOIs) from a labor agency?

We are not aware of any labor agencies that have stated explicitly that they will no longer issue Statements of Interest. However, most agencies will be unable to issue a Statement of Interest in time for workers to use it to apply for DALE and have their application adjudicated (see above).

Accordingly, seeking new SOIs is generally not advisable at this time. If you have pending requests for SOIs to which a labor agency has not yet responded, we recommend withdrawing those requests with the labor agency to avoid the labor agency sending the SOI to DHS and thereby notifying DHS as to the presence of undocumented employees at that worksite.

What if a case is taking longer than the processing times or has some other processing issue?



Given the short timeframe and high stakes, addressing processing issues in a timely way will be critical in the coming weeks. Please feel free to reach out to the NILC or MRNY at the emails below for suggested strategies and/or for instructions on joining the Labor-DA listserv where many advocates raise questions and share helpful tips.

Are workers who have already received DALE at risk under Trump?

We are hopeful that a grant of DALE will protect people from removal throughout the duration of the grant of deferred action and work authorization. Although DHS has the authority to terminate grants of deferred action and revoke work authorization, we are hopeful that it is unlikely that Trump would take these measures given their resource-intensity and the relatively small number of workers who currently hold this status. However, workers should be aware that they could become entangled in other ICE enforcement actions in their communities. Further, DALE recipients should be advised to carry proof of their status (their EADs and/or approval notices) at all times in case of encounters with law enforcement.

Can a worker withdraw a pending DALE application?

Yes. DHS recently added specific instructions to its [website](#) in Q.21 of the FAQs. Workers can send signed written notice requesting the withdrawal of their application to the same Montclair filing locations directed to Deferred Action – Labor Investigations – Withdrawal.

Will the program end under Trump?

Unfortunately, yes. The DALE program will likely end under Trump administration, either because it is explicitly rescinded or because other risk factors make it inadvisable to apply and/or impossible to be approved. However, it is possible that it could be revived by a future administration.

What precautions should current DALE recipients take?

As noted above, we are hopeful that workers who have already received DALE protections are unlikely to have their status revoked. Nonetheless, workers with DALE should carry proof of their status (their work permits and/or approval notices letters of deferred action) at all times. Workers should also be aware of their rights regardless of presidential administration--these posts in [English](#) and [Spanish](#) with Know Your Rights info can be shared with workers via text.

What will happen when a worker’s DALE status expires?

When a worker’s two- or four- year grant of deferred action expires, they will revert back to their undocumented status. While they will not automatically be subject to enforcement action under current DHS policies, it is too soon to predict what procedures DHS may have in place in the future for individuals whose status expires.

Can workers seek other immigration relief or status in the meantime?

Yes! Having DALE does not preclude applying for other immigration benefits and ideally all



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workers should seek a full consultation by an experienced immigration practitioner to learn if they are eligible for any longer-term immigration relief.

More questions? Please reach out to daforworkers@maketheroadny.org for advocates in the NY area or to daforworkers@nilc.org for those in other parts of the US. To join the Labor DA Cases listserv, fill out this form: <https://tinyurl.com/f7nfc6jz>.