

ALERTS

Immigration Update

03.07.2013

Sequestration & Its Impact on U.S. Immigration

On March 1 "sequestration," took effect. Sequestration does not amount to a total or partial federal government shutdown but may have consequences, especially if it continues for an extended period of time. As such, it is important to prepare for the potential impact that sequestration might have on immigration and visa processes.

Borders and Airport Travel Delays:

CBP is the agency within DHS that is responsible for border security. The Sequester forces over \$500 million in budget cuts and prevents CBP from maintaining its current staffing levels of Border Patrol agents and CBP officers at the nation's ports of entry (POEs). This will also increase wait times at airports and affect security at land POEs, leading to significant delays due to the additional time required to implement screening and entry programs for those seeking admission to the United States. Sequestration decreases CBP resources at the border and requires furloughs and reduced staffing at all POEs. Effective immediately, overtime has been terminated. Furloughs and layoffs will begin after the mandatory 30 day notice period unless a new budget has been passed. This could result in four- to five-hour waiting times for admission to the United States at all POEs serving international travelers. In addition, furloughs of Transportation Security Administration ("TSA") personnel will seriously affect wait times as security gates at the nation's busiest airports.

Work Visa and Green Card Application Processing:

Application processing by USCIS will not be directly affected by the sequester. This is because the funds that enable USCIS to process immigration applications come from the fees that applicants pay to have them processed. However, there are other aspects of the immigration process that depend on the federal budget. These include visa applications processed by the U.S. Department of State ("DOS") and Program Electronic Review Management ("PERM") labor certifications processed by the U.S. Department of Labor ("DOL"). Overtime and hiring has been terminated under the sequester budget cuts. If the sequester continues beyond 30 days, workers will be furloughed or laid off. If this occurs, visa application processing at US Consulates will be slowed and fewer interview appointments will be made available, resulting in longer wait times, both for a visa appointment and for the visa issuance after interview. The DOL impact is also far-reaching. If DOL workers are furloughed or laid off after the 30 day warning period has elapsed, PERM processing can expect significant delays, as well as slower processing time for Prevailing Wage Determinations and certification of

IMMIGRATION UPDATE

Labor Condition Applications (LCA's) for H-1B petitions.

Moore & Van Allen's Global Immigration Group has anticipated the likelihood of the sequester and possible delays in government processing. Labor Condition Applications were prepared last month for every H-1B filing we have been in the process of preparing to ensure the sequester delays did not affect our clients ability to timely file cap-subject H-1B petitions on April 1st.