

ALERTS

Immigration Update

GOVERNMENT SHUTDOWN AND ITS IMPACT ON U.S. IMMIGRATION SERVICES

Immigration Practice Team

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With the anticipated shutdown of the federal government, we would like to provide some information as to how the shutdown could potentially affect immigration-related services. Generally, the government is likely to stop all non-essential, all non-self-funded and all non-contractually funded services. There are several federal government agencies that would continue to operate, some would close partially and some would close almost completely. The full impact of a shutdown is unknown at this point, however we can anticipate some disruptions to government services affecting our clients, as explained below. The shutdown would also create a significant increase in the processing time backlogs for almost all immigration cases.

Citizenship and Immigration Service (CIS):

Since USCIS is funded primarily through application fees, it is expected that most of its services and centers would operate normally, perhaps with slightly diminished staff. Because USCIS is a government agency which relies on other government agencies to perform its services, there may be certain disruptions; however, overall, case processing at USCIS is expected to resume. Border processing of immigrants and border enforcement activities would continue as they are deemed "essential." U.S. businesses will not be able to access E-verify

Department of State (DOS):

It is expected that DOS will cease non-emergency visa services and non-US citizen services at U.S. Consular Posts abroad. This could significantly slow visa applications currently in process and potentially halt all visa application interviews. It is unknown at this time whether the November 2013 Visa Bulletin will be issued mid-month as per usual. The National Visa Center, which performs initial review of immigrant visas (family- and employment-based) cases, is funded through fees and therefore it is anticipated that these services will continue. According to the DOS's current shutdown plan, U.S. passport services will continue because they generate enough in fees to support their operation; however any passport offices located in a federal building affected by the shutdown may not be able to open.

Department of Labor (DOL):

Services at DOL could be significantly impacted as they are not fee-generating. This may mean that ETA Form 9035 LCA filings, used most often in connection with H-1B filings, could be put on hold therefore impeding the filing of H-1B petitions. ETA Form 9089 PERM labor certifications are expected to be similarly affected. It is unclear whether the system allowing new LCA and PERM labor certification filings would be shut down;

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however, should filings be allowed to continue, processing of those applications would most likely be halted.

Customs and Border Patrol (CBP):

The borders will be open as inspection and law enforcement are considered "essential personnel," however staffing may be more limited than usual. This could mean delays at airports and border crossing stations which could impact the processing of applications filed at the border such as TN application.

We will continue to provide updates on developments in immigration reform as they become available. If you have questions regarding this update, please contact a member of the Moore & Van Allen Global Immigration Team.