

Impact of Potential Government Shutdown on Employer Immigration Processes

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As Congress faces the possibility of a government shutdown on September 30, 2025, employers should be aware of how a shutdown might impact immigration-related services and processes, particularly for employers who may sponsor employees for various immigration benefits. Following is an agency-by-agency analysis:

U.S. Department of Labor (DOL)

All immigration-related processing by the DOL will stop during a shutdown. Affected processes include PERM labor certifications, Labor Condition Applications (LCAs) for H-1B and E-3 petitions, and prevailing wage determinations. The DOL's websites, including the FLAG system, will be deactivated, and personnel will not be available to respond to inquiries. Employers with impending PERM or LCA deadlines should file as soon as possible, if possible before the shutdown begins at 11:59 (ET) on September 30, 2025.

U.S. Citizenship and Immigration Services (USCIS)

Most USCIS operations will continue as usual during a shutdown because the agency is funded by application fees rather than congressional appropriations. However, certain programs that rely on appropriated funds may be suspended or otherwise impacted.

In the situation where a shutdown causes an unavoidable delay that prevents the timely filing of extension or change of status petition (such as due to a delayed LCA), in the past USCIS has accepted late filings when the delay was directly attributable to the shutdown.

Notably, E-Verify could be unavailable during a shutdown, meaning employers will not be able to run new employment verification checks. Absent new guidance from the agency, enrolled employers may continue to use the alternate remote I-9 document review process and delay creating E-Verify cases until it is back online.

U.S. Department of State (DOS)

Visa and passport services are generally unaffected by a government shutdown because they are funded by fees. However, if a consular post exhausts its fee funding, it may limit services to diplomatic visas and true emergencies. Employers should be aware that while most visa processing will continue, there is a risk of disruption and delays at some posts.

Customs and Border Protection (CBP)

Ports of entry will remain open, and inspection and law enforcement personnel are considered essential. Processing of passengers will continue, but employers should expect that applications filed at the border, such as TN applications or L-1 petitions for Canadian applicants, and I-94 corrections may be delayed or otherwise impacted.

Key Takeaways for Employers

- All DOL immigration processes will halt, so employers should plan and file critical applications before a shutdown.
- Most USCIS and DOS operations will continue, but E-Verify and certain special programs may be suspended.
- Essential CBP operations will continue, but delays and postponements are possible for non-essential cases.
- Some congressional offices may be closed or operating with a reduced staff during a government shutdown.

Vorys attorneys are tracking the status of the shutdown and will provide updates as they become available.