



U.S. GOVERNMENT SHUTDOWN DELAYS H-1B & E-3 FILINGS

As the U.S. Federal Government shutdown continues, employers are beginning to see the impact of the shutdown on some of the most common types of nonimmigrant visa petitions.

Although U.S. Citizenship & Immigration Services (CIS) continues to receive and adjudicate petitions and applications for immigration benefits, some CIS filings are being delayed due to the impact of the shutdown on U.S. Department of Labor (DOL) functions. The DOL adjudicates Labor Condition Applications (LCA), which must be certified by the DOL before H-1B petitions can be filed with the CIS and before E-3 petitions and applications can be filed with the CIS or with the U.S. Consulate abroad.

The DOL website for filing Labor Condition Applications has been inoperable since shortly after the Government shutdown began. Each day the site is down, LCA filings are delayed, and a front-log of LCAs accumulates for filing as soon as the website becomes available again. As a result, an end to the Government shutdown likely will not bring an immediate end to the delays in H-1B filings.

Without a certified LCA, employers are not able to file H-1B petitions with the CIS. The interruption in filing H-1B petitions will result in delays in the ability of H-1B workers to move from one H-1B employer to another. It could also result in inadvertent periods of being “out of status” if an H-1B extension petition cannot be filed before the expiration of a worker’s current period of H-1B status. Extension delays may impact the renewal of other benefits, such as driver’s license renewals in states that require proof of lawful status before issuance of new or renewed driver’s licenses.

Similarly, E-3 visa applicants will not be able to apply for E-3 visas at the U.S. Consulate without a certified LCA. Applicants who have already scheduled visa appointments may wish to reschedule their appointments until such time as the complete E-3 visa application package, including the certified LCA, is available.

For information on how best to manage the impacts of the Government shutdown on your company’s immigration matters, contact your FosterQuan immigration attorney. Your attorney can work with you to identify any steps that may be taken to minimize the impact on your workforce. As always, when further information becomes available regarding the continuity or disruption of immigration-related government services, we will provide additional updates via [our firm’s website](#) and in future Immigration Update® email bulletins.