

BURR ALERT

Government Shutdown *by Anna L. Scully*

Here is some preliminary information about what to expect while the government shutdown is in effect:

E-VERIFY

The E-Verify system is not accepting cases and will cease processing pending cases for the duration of the shutdown. Your employees who have E-Verify accounts should be receiving an automated message stating that E-Verify is unavailable. This message states that the “three-day rule,” which requires an E-Verify case for new employees to be submitted within three days of the first date on the payroll, is suspended for the duration of the shutdown. This message also states that the 8-day period for employees to resolve Tentative Non-Confirmations will be extended. Days the government shutdown is in effect will not count.

We recommend keeping a copy of this message in the file for each employee for whom you would normally start a new E-Verify case or who has a pending TNC for the duration of the shutdown. Bear in mind that Form I-9 procedures should continue normally during this time.

IMMIGRATION ISSUES AND OTHER INTERNATIONAL FUNCTIONS

The status of government agencies that play a part in approving immigration petitions is as follows:

- United States Citizenship and Immigration Services: USCIS will continue to operate during the shutdown. Any pending petitions for work visas, green cards, and other benefits should continue, though delays are a possibility. USCIS can continue to function as it is funded by filing fees primarily rather than government appropriations.
- Department of State: DOS has stated that it will continue to process visa applications normally while its existing funding holds out. Currently, there is no way to tell how long this funding will hold out. If you have employees who need visas processed at a consulate abroad, those employees may experience delays. If you have employees who need U.S. passports to travel for business, those employees may encounter delays as well.
- United States Customs and Border Protection: CBP will continue to operate, as it is deemed an “essential function” according to administrative guidelines. Employees entering the United States at air, sea, or land ports of entry should be admitted

according to normal procedures, though delays may occur if CBP has to adjust staffing to account for lack of funds.

- Department of Labor: Parts of DOL, such as Wage and Hour and Occupational Health and Safety, will completely close for the duration of the shutdown. This includes the Employment & Training Administration, which handles Labor Certification Applications for green card applications and some temporary work visas. DOL will not accept any new applications or continue to process pending applications for the duration of the shutdown. Even though USCIS continues to operate, DOL's shutdown may mean an inability to file petitions with USCIS when those petitions require an application approved by DOL.

SOCIAL SECURITY ADMINISTRATION

The SSA will continue to issue checks regularly to current recipients. However, its doors are closed to applicants for new or replacement Social Security cards and to disability recipients. During the shutdown, if you encounter new hires that do not have access to their Social Security information, know that it may be several weeks before those hires will be able to provide you with a card or number. Contact us if you have questions about how to proceed with payroll, tax, I-9 and other new hire procedures.

DEPARTMENT OF JUSTICE

While criminal and law enforcement activities within the DOJ are expected to continue, many of its civil activities, including litigation, EEOC investigations, and several Offices of Special Counsel, are suspended for the duration of the shutdown. The EEOC states that it will continue to accept new charges and those time limits for filing will not be suspended or tolled due to the shutdown.

FOR MORE INFORMATION, CONTACT:



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