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Immigration related consequences of the government shutdown

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Submitted by Rajiv S. Khanna on Jan 20th 2018

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21 January 2018

USCIS has provided the following update:

The current lapse in annual appropriated funding for the U.S. government does not affect USCIS' fee-funded activities. **Our offices will remain open, and all applicants should attend interviews and appointments as scheduled.**

However, several USCIS programs will either **expire or suspend operations, or be otherwise affected**, until they receive appropriated funds or are reauthorized by Congress. These include:

EB-5 Immigrant Investor Regional Center Program. Regional centers are a public or private economic unit in the United States that promote economic growth. USCIS designates regional centers for participation in the Immigrant Investor Program.

E-Verify. This free internet-based system allows businesses to determine the eligibility of their employees to work in the United States.

Conrad 30 J-1 doctors. This program allows J-1 doctors to apply for a waiver of the two-year residence requirement after completing the J-1 exchange visitor program. The expiration only affects the date by which the J-1 doctor must have entered the United States; it is not a shutdown of the Conrad 30 program entirely.

Non-minister religious workers. This special immigrant category allows non-ministers in religious vocations and occupations to immigrate or adjust status in the United States to perform religious work in a full-time, compensated position.

20 January 2018

As of Friday night, 19 January 2018, the federal government has shut down until an appropriations agreement can be reached. There are two parts to funding the operation of the federal government: the budget and the appropriations. The budget creates the framework within which money will be spent and the appropriations then actually take the money and put it in the hands of various government agencies. Currently we have a budget, but we do not have appropriations.

Those government operations that are funded by your fees or those functions that are necessary to protect life or property are not to be interrupted.

Here are some thoughts and ideas on how to cope with the shutdown.

First, the takeaways

1. Any government services that are funded by charging fees from the users will continue.
2. Entry into and exit from the United States at all its borders is not affected.
3. Those federal employees considered to be "essential," will continue to work.
4. Any of the services that continue could nevertheless also be delayed either because of part shutdown or because of dependencies upon other government agencies that might in turn themselves be affected.

Government agencies and operations

Entry/Exit - Continues

the Department of Homeland Security operations will continue, including those of its agencies: Customs and Border Protection (CBP), Immigration and Customs Enforcement (ICE) and the USCIS.

International Student Services - Continue

For international students, the Student and Exchange Visitor Program (SEVP) offices should continue their operations.

Immigration Courts - Operational

The immigration courts should be able to remain open at least for a few days, but are likely to see some slowdown.

DOL Services - Suspended

The US Department of Labor (DOL) in relation to the immigration services such as LCA, PERM, and prevailing wages requests (PWD) will not be operational, because these services are not funded by fees. The DOL online services are also likely to be unavailable. Similarly, operations of the Board of Labor Certification Appeals (BALCA) and Office of the

Administrative Law Judges (OALJ) will be suspended.

Passports and Visas - Continue

It is expected that the State Department issuance of visas and passport processing may be delayed, but remain operational because they are funded by the fees collected.

SSA/SSN ? Partly Operational

The Social Security Administration (SSA) will remain operational but may not accept applications or process applications for Social Security numbers.

What should you do?

1. If you are **traveling** outside or entering the USA, you should experience no substantial impact.
2. If you are applying for a **visa** to the USA, please check ahead with the consulate. The services should continue but you may experience some delays.
3. If you have a **deadline** for any filing, go ahead and comply with it to the best of your ability. Placing filings in the mail, properly tracked, should be sufficient to meet the requirements of any deadlines. Note that under federal rules, if a deadline falls on a weekend or a federal holiday, it is automatically pushed to the next business day.
4. If you are filing for benefits **applications** such as extension of stay, you should go ahead and send the filing in. The USCIS adjudications should continue as usual. Processing of applications at the borders, such as Canadian TN and L-1 processing should continue to be available.
5. **E-Verify**, being funded by appropriations, will probably be unavailable. If you need to prepare documents such as forms **I-9**, please go ahead and do so as usual, even if the online services are interrupted. In all compliance matters, aim for your best efforts.
6. If you need documents from the US Department of Labor, such as a Labor Certification Application (**LCA**), you will have to wait. The USCIS might accept H-1B, E-3, Mexico TN, etc. petitions without LCA, **ONLY** if they so choose and make an official announcement to that effect. Otherwise, the filings without an LCA will be rejected.
7. We should be getting formal notifications from the various government agencies on specific regulatory changes as the situation unfolds further.

We will keep updating this article as more information becomes available.

Immigration Law :

Policy and Research ^[2]

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