



What Happens to Immigration if the US Federal Government Shuts Down?

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As of the time of this publication, none of the 12 required spending bills to fund the government beyond September 30, 2023, have been approved by Congress, nor have they been signed by President Biden. Without the passage of these appropriations bills or an agreement on a temporary continuing resolution (CR), federal agency funding is at risk of expiring at midnight (Eastern Time) on October 1, 2023. This potential funding lapse could lead to a partial government shutdown affecting certain government agencies.

US Citizenship and Immigration Services

US Citizenship and Immigration Services (USCIS) is a fee-funded agency generally not affected by a government shut down. The exception to this is programs that receive appropriated funds such as E-Verify, the EB-5 Immigrant Investor Regional Center Program, Conrad 30 J-1 doctors, and non-minister religious workers. In the event of a shutdown, these programs will be suspended or otherwise impacted until the shutdown ends. However, the EB-5 Immigrant Investor Regional Center Program should not be impacted by a shutdown on October 1, 2023, as it was authorized through September 30, 2027. Although USCIS is fee-funded, other agencies involved with immigration will be affected and, in turn, can affect the timely filing of petitions and applications.

The Department of Labor

A government shutdown will affect the Department of Labor (DOL). In the event of a government shutdown, the Office of Foreign Labor Certification (OFLC) would halt the processing of all applications, and staff members would not be reachable to address emails or other inquiries. Access to OFLC's web-based systems, including FLAG and PERM, would be unavailable, and BALCA case dockets would be suspended. As a result, OFLC will not be able to accept any applications during this period nor will users be able to access the FLAG system to print out any

previously approved applications. Delays with H1-B visa applications and employment green card processing can therefore be expected.

In the event that there is a shutdown, OFLC is considering issuing guidance about flexibilities for employers with filing deadlines. However, historically, when the government resumed operations after a shutdown, USCIS would consider I-129 filings submitted after the deadline if the petitioner could demonstrate that the primary reason for the delay in filing an extension of stay or change of status request was the government shutdown.

Department of State

Like USCIS, the Department of State (DOS) visa and passport operations are fee-funded and will overall not be affected by a government shutdown. However, consular operations can still be affected if there are inadequate fees to sustain operations at a specific diplomatic post and slowdowns can be expected if support staff are not working. In such situations, these posts typically prioritize handling diplomatic visas and addressing "life or death" emergencies.

Customs and Border Protection

Although not fee-funded, Customs and Border Protection (CBP) inspection and law enforcement personnel are considered "essential." As such, ports of entry will be open, and processing of passengers will continue. Nevertheless, it's likely that the processing of applications submitted at the border, such as L-1, TN, or eSafe waiver applications, will experience disruptions, leading to anticipated delays.

U.S. Immigration and Customs Enforcement

U.S. Immigration and Customs Enforcement (ICE) enforcement and removal operations will continue during a shutdown, with ICE attorneys primarily concentrating on cases within the detained docket. The ICE Student and Exchange Visitor Program (SEVP) offices will remain unaffected, as SEVP is fee funded.

The DHS Office of the CIS Ombudsman

The DHS Office of the CIS Ombudsman serves as a liaison between the public and USCIS, helping to resolve problems, respond to inquiries, and provide information on immigration-related matters. During a government shutdown, the office would close and would not accept any inquiries through its online case intake system.

E-Verifying employees during a shutdown

USCIS has confirmed that in the event of a government shutdown causing a temporary unavailability of E-Verify, employers are permitted to maintain the use of the new [alternate document review process](#) for remote verification of Form I-9 documents.