

One Minute Memo®



Immigration Processing to Continue During a Potential DHS Shutdown

By *Dyann DelVecchio Hilbern, Michelle Gergerian and Brian Potter*

Congress is currently at a stalemate on a current bill to fund the Department of Homeland Security (“DHS”). The deadline to pass the bill is Friday, February 27, 2015. Despite the potentially devastating effects on divisions of the DHS, immigration application processing is likely to continue in spite of a shutdown.

U.S. Citizenship and Immigration Services and U.S. Customs and Border Protection

U.S. Citizenship and Immigration Services (“USCIS”) will likely continue to process applications and petitions, as these operations are fee-based. Although there is a possibility for delays or an increase in processing times, it is expected that the agency will process cases (including FY 2016 H-1B cap petitions) in the usual fashion.

In addition, U.S. Customs and Border Protection (“CBP”) will continue to inspect and admit international travelers at the U.S. ports of entry.

U.S. Department of Labor and U.S. Department of State

As the Departments of Labor and State are not included among the agencies of DHS, a shutdown of DHS should have no impact on these departments. The Department of Labor’s processing of Labor Certifications (PERMs) and Labor Condition Applications (LCAs) should continue as usual. Also, the Department of State, which runs the U.S. embassies and consulates around the world, should continue to process visa applications.

USCIS Website and E-Verify Operations

The USCIS website, which allows employers and individuals to track the status of their cases, will likely be shut down if Congress were unable to reach an agreement on DHS funding. The E-Verify system will also likely be taken offline during this time. In spite of a potential shutdown, employers will still remain subject to their I-9 obligations.

Conclusion

The inability of Congress to pass a bill to fund DHS should not affect USCIS and CBP’s power to process immigration applications and petitions. The Department of Labor and the Department of State will continue to operate in their normal capacity. Seyfarth Shaw LLP will continue to monitor this situation and will send updates as they occur.

Dyann DelVecchio Hilbern is a Partner in Seyfarth’s Boston office, *Michelle Gergerian* is an Associate in the firm’s Boston office and *Brian Potter* is a Senior Business Immigration Specialist in the firm’s Boston office. If you would like further information, please contact your Seyfarth Shaw LLP attorney, Dyann DelVecchio Hilbern at ddelvecchio@seyfarth.com, Michelle Gergerian at mgergerian@seyfarth.com, or Brian Potter at bpotter@seyfarth.com.

www.seyfarth.com

Attorney Advertising. This One Minute Memo is a periodical publication of Seyfarth Shaw LLP and should not be construed as legal advice or a legal opinion on any specific facts or circumstances. The contents are intended for general information purposes only, and you are urged to consult a lawyer concerning your own situation and any specific legal questions you may have. Any tax information or written tax advice contained herein (including any attachments) is not intended to be and cannot be used by any taxpayer for the purpose of avoiding tax penalties that may be imposed on the taxpayer. (The foregoing legend has been affixed pursuant to U.S. Treasury Regulations governing tax practice.)

Seyfarth Shaw LLP One Minute Memo® | February 20, 2015

©2015 Seyfarth Shaw LLP. All rights reserved. “Seyfarth Shaw” refers to Seyfarth Shaw LLP (an Illinois limited liability partnership). Prior results do not guarantee a similar outcome.