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**This Immigration Update<sup>®</sup> from FosterQuan, LLP contains important information regarding the following:**

## **WHAT HAPPENS WITH IMMIGRATION IF THE U.S. GOVERNMENT SHUTS DOWN?**

With the failure to reach a budget agreement both yesterday, and the failure to reach agreement on one-week extension this morning, the U.S. Federal Government is close to a “shutdown.” Various Government departments and agencies are involved in handling U.S. immigration matters, and each will be impacted to a degree by a shutdown. While operations and services essential to national security would continue, non-essential operations would be impacted.

### **Department of State**

The U.S. Department of State interviews visa applicants and adjudicates visa applications abroad. It is likely that visa applications will be impacted by a shutdown, though essential U.S. Citizen services and higher level diplomatic functions would continue uninterrupted.

### **Department of Labor**

The U.S. Department of Labor plays a key role in the adjudication of Applications for Permanent Employment Certification (PERM) as well as Labor Condition Applications which are a prerequisite for filing certain nonimmigrant visa petitions, including H-1B and E-3 nonimmigrant visa petitions. As of this morning, Thursday, April 07, 2011, the DOL website portals for filing PERM Applications for Permanent Employment Certification and Labor Condition Applications are no longer functional. Although originally thought to be due to preparations for a government shutdown, the DOL has confirmed that the department is working to resolve the issue with the website. Nevertheless, today’s disruption may be a brief glimpse of the types of disruptions that could occur in the event of a government shutdown.

### **Department of Homeland Security—U.S. Citizenship & Immigration Services**

U.S. Citizenship & Immigration Services adjudication functions are funded by the filing fees associated with petitions and applications for immigration benefits. Due to the independent source of operational funds for CIS operations, it is expected that most CIS adjudication activities should continue unabated, though perhaps with delays.

Because H-1B and E-3 petitions require a Labor Condition Application filing and certification by U.S. Department of Labor before a petition can be filed, the U.S. DOL shutdown of LCA adjudications would cause a ripple effect in delaying petitioners’ ability to file these petitions.

Additionally, individuals with H-1B and E-3 approval notices already in hand, but for which visa application abroad is required before returning to the United States, should be advised of the likely delay in H-1B and E-3 reentry due to delays or unavailability of visa application appointments abroad.

### **U.S. Department of Homeland Security—U.S. Immigration & Customs Enforcement**

U.S. Immigration & Customs Enforcement (ICE) is charged with interior enforcement of U.S. immigration laws. ICE is expected to continue operations, though lower-priority activities and new investigations or enforcement actions may be delayed.

**U.S. Department of Homeland Security—U.S. Customs & Border Protection**

U.S. Customs & Border Protection (CBP) is charged with enforcement of U.S. immigration and customs laws along the U.S. borders and at U.S. airports and seaports of entry. CBP officers will continue enforcement activities as well as the inspection of foreign nationals entering the United States through the ports of entry.

As always, FosterQuan will continue to monitor the likelihood and impact of a government shutdown and will make additional information available via FosterQuan Immigration Updates<sup>®</sup> and on our firm's website at [www.fosterquan.com](http://www.fosterquan.com).

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