



GMS Flash Alert

Immigration Edition

2023-216 | November 17, 2023



United States - Federal Government Shutdown Temporarily Averted

As of November 15, 2023, the U.S. Senate and U.S. House have passed a stop-gap spending bill (H.R. 6363) to keep the U.S. federal government operational beyond November 17, 2023.¹ This is the second stop-gap spending bill passed in relation to FY2024 government funding. The bill was signed into law by President Joe Biden on November 16, 2023.²

All U.S. immigration-related programs will be funded until February 2, 2024.

WHY THIS MATTERS

Although government operations will continue as usual for now, Congress has little time to reach a government-wide spending agreement before the temporary funding will expire. A shutdown would have significant impact on U.S. immigration, especially cases requiring a certified Labor Condition Application or Permanent Labor Certification from the U.S. Department of Labor (DOL).

Employers and employees requiring U.S. immigration government services should be mindful of potential delays and, in certain cases, cessation of case processing.

Congress Acts on Government Funding

The new continuing resolution passed by Congress will fund the following four areas of the U.S. federal government until January 19, 2024:

- Agriculture, Rural Development and the Food and Drug Administration;
- Energy and Water Development;

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- Military Construction and Veterans Affairs; and
- Transportation, Housing and Urban Development.

The short-term spending bill, which does not include foreign aid to Israel or Ukraine, will fund the other remaining eight areas of the federal government until February 2, 2024:

- Defense;
- Commerce, Justice and Science;
- Financial Services and General Government;
- Homeland Security;
- Interior, Environment, and related agencies;
- Labor, Health and Human Services and Education; and
- The Legislative Branch.³

As noted above, all U.S. immigration-related programs will be funded until February 2, 2024.

The bifurcated approach to short-term funding is not typical, as prior continuing resolutions have funded the entire U.S. federal government.

What Immigration Professionals Are Watching For: Consequences of a Potential Government Shutdown

The effects of a potential shutdown include:

- **DOL Operations:** All DOL immigration-related processes would be suspended if the government were to shut down. All Labor Condition Applications (LCAs), Prevailing Wage Requests (PWRs), and Applications for Permanent Labor Certification (PERMs) would be put on hold. Notably, the FLAG system used to electronically file LCAs, PWRs, and PERMs would be offline during a shutdown.
- **U.S. Citizenship and Immigration Services (USCIS) Adjudications:** It is expected that USCIS will continue regular operations in the event of a government shutdown because the applications and petitions that the agency adjudicates are fee-based. However, any USCIS filings that require a DOL labor condition application or certification would be impacted, as these could not be filed until DOL operations resume.
- **Visa Processing:** Department of State visa application processing is expected to be impacted if visa application fees used to fund consular processes dwindle to the point that they cannot cover operational costs. Depending on the length of a potential shutdown, visa processing could be impacted due to reduced consular staffing and/or limited hours of operation at certain consulates and embassies.
- **Customs and Border Protection (CBP) Operations:** CBP employees are considered “essential” government personnel. As such, enforcement of exit/entry border processes would continue during a shutdown, but it is expected that there would be limited availability of certain additional CBP services (e.g., I-94 corrections).
- **E-Verify:** The E-Verify system would not be available during a U.S. government shutdown, but employers would not be relieved of their obligations to complete Form I-9, *Employment Eligibility Verification*.

KPMG INSIGHTS

While the current stop-gap spending bill, which is now law, will avert another government shutdown for the time being, employers should be mindful of the possibility of a government shutdown affecting immigration operations after February 2, 2024. We encourage employers to consult with immigration counsel and plan accordingly.

KPMG Law LLP in Canada is tracking this matter closely. We will endeavor to keep readers of *GMS Flash Alert* posted on any important developments as and when they occur.

FOOTNOTES:

- 1 See "[H.R. 6363: Further Continuing Appropriations and Other Extensions Act, 2024](#)" on the govtrack.us website. Also track the legislation (H.R. 6363) as it moves through the Senate by clicking [here](#).
- 2 See The White House "[Press Release: Bill Signed: H.R. 6363](#)."
- 3 For text of H.R. 6363, see the Congress.gov website by clicking [here](#).

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The information contained in this newsletter was submitted by the KPMG International member firm in Canada.

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