



IMMIGRATION UPDATE - SEPTEMBER 29, 2025

Posted on September 29, 2025 by Cyrus Mehta

Headlines:

[Employer Tips: What If There's a Federal Government Shutdown?](#) – For employers with foreign national workers, it is important to understand which immigration related functions may be affected in the event of a federal government shutdown. Based on prior shutdowns, this article provides a brief overview of how key agencies' processes may be affected and actions employers can take now.

[Agencies Issue Guidance on President Trump's Proclamation Requiring a \\$100,000 Fee for Certain H-1B Petitions](#) – Following on the heels of President Trump's issuance of a proclamation requiring a \$100,000 fee for certain H-1B petitions where the worker is outside the United States, U.S. Citizenship and Immigration Services released a related frequently asked questions document, and other agencies released related guidance.

[DOL Launches 'Project Firewall' H-1B Enforcement Initiative](#) – The Department of Labor launched "Project Firewall" to ensure that "employers prioritize qualified Americans when hiring workers and employers accountable if they abuse the H-1B visa process."

[DHS Issues Proposed Rule on Weighted Selection for Cap-Subject H-1B Petitions](#) – The Department of Homeland Security published a proposed rule to implement a "weighted selection" process for cap-subject H-1B petitions that "would generally favor the allocation of H-1B visas to higher skilled and higher paid aliens, while maintaining the opportunity for employers to secure H-1B workers at all wage levels."

[DHS Terminates Temporary Protected Status for Syria; Beneficiaries Have 60 Days to Leave the United States; E-Verify Issues Guidance for](#)

[Employers](#) – The Department of Homeland Security announced that Temporary Protected Status for Syrians is terminated and affected Syrian nationals have 60 days to voluntarily depart the United States and return home.

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Employer Tips: What If There's a Federal Government Shutdown?

The 2024-2025 federal fiscal year was marked by multiple threats of government shutdowns, each one narrowly avoided with continuing resolutions to keep the government funded. As the current fiscal year draws to a close, there is speculation that [Republicans and Democrats in Congress may not reach an agreement](#) on annual spending bills by midnight on September 30, 2025. If a budget or continuing resolution is not passed by this deadline, there will be a shutdown, and all but essential personnel will be furloughed. To top it all off, in the event of a shutdown, the Trump administration is [threatening mass firings](#) of employees in federal programs with lapsed funding that are not statutorily required and are "not consistent with the President's priorities"—although commenters have [called into question the feasibility](#) of such impromptu reductions in force.

For employers with foreign national workers, it is important to understand [which immigration related functions may be affected](#). There are no guarantees, but based on prior shutdowns, below is a brief overview of how key agencies' processes may be affected and actions employers can take now.

U.S. Citizenship and Immigration Services

As a fee-based agency that is not dependent on federal appropriations, U.S. Citizenship and Immigration Services (USCIS) is expected to continue processing petitions and applications. New filings, extensions, and USCIS-mandated steps in the green card process can continue to be filed and processed, with some possible processing delays.

However, filings that require a certified Labor Condition Application (LCA) from the Department of Labor, such as requests for H-1B, H-1B1, and E-3 classification, may be delayed if the certification has not been completed before

shutdown. Filings without certified LCAs cannot be approved during the shutdown. USCIS has historically accepted late I-129 filings upon reopening with evidence that the primary reason for the delay was the government shutdown. USCIS has not confirmed, however, whether they will adopt a similar approach this time.

E-Verify, USCIS's system that allows employers to verify work authorization, will be inaccessible during a shutdown because that program requires appropriated funds. Although E-Verify would be suspended during a government shutdown, employers will need to continue to complete Forms I-9 for any new hires in a timely fashion. The information may be input into E-Verify once the government reopens.

Employers should:

- File petitions requiring certified LCAs (H-1B, H-1B1, E-3) before the shutdown.
- Keep evidence of filing delays caused by a shutdown for possible late acceptance.
- Continue timely completion of Forms I-9 for all new hires.
- Plan to update E-Verify once the system reopens.
- Keep an eye out for updates from USCIS indicating whether it will accept filings without or with pending LCAs.

Department of Labor

The Office of Foreign Labor Certification (OFLC), which oversees filings with the Department of Labor (DOL), is normally closed during government shutdowns. OFLC typically does not accept or process any applications or related materials during a shutdown, including LCAs, applications for a prevailing wage determination, applications for permanent employment certification (PERM), and PERM audit responses. OFLC has stated that the Foreign Labor Application Gateway (FLAG) system will be disabled and inaccessible in the event of a shutdown. As a result, users will not be able to access the FLAG system to print approved applications or take any other actions within the system. Additionally, appeals pending with the Board of Alien Labor Certification Appeals (BALCA) will be placed on hold during the shutdown.

Employers should:

- Submit LCAs, prevailing wage requests, and PERM applications before the shutdown.
- Access the FLAG system early to download/print approved applications and certifications.
- Prepare for processing delays upon reopening.

Department of State

Generally, the Department of State (DOS) is not affected by government shutdowns because visa and passport operations are fee-funded. However, during prior shutdowns, DOS has reduced or halted visa issuance. Individuals with scheduled or planned visa stamp appointments should be prepared for delays or disruption to consular services and should monitor the situation closely. If international travel cannot be avoided, individuals should understand that interruptions to consular services can result in prolonged delays and the possibility of being unable to return to the United States for several months.

Employers should:

- Advise employees to expect delays in visa issuance or stamping.
- Review travel plans—avoid non-essential international travel around shutdown dates.

Immigration and Customs Enforcement/Customs and Border Protection

U.S. Immigration and Customs Enforcement (ICE) and U.S. Customs and Border Protection (CBP) personnel are considered essential workers, so these agencies should remain fully operational. Ports of entry at airports or land border crossings will remain open. However, individuals who seek to apply for an immigration benefit at a port of entry or a pre-clearance facility (such as TN and L-1 applications for Canadian nationals) will need to confirm the operational status of the location where they intend to apply.

Employers should:

- Confirm operations at ports of entry or pre-clearance locations for TN/L-1 applications.
- Advise employees on possible variations in processing at different locations.

Employers and sponsored employees are encouraged to monitor the situation

for updates and consult [immigration counsel](#) with questions or concerns.

Executive Office for Immigration Review

Based on [previous actions](#) during a federal government shutdown in 2013, the Executive Office for Immigration Review (EOIR) would be expected to continue to adjudicate detained cases. Court functions that support the detained caseload would continue, but other functions would be suspended. The Board of Immigration Appeals (BIA) would process emergency stay requests as well as cases where the person is detained, including case appeals, motions, federal court remands, and bonds. The BIA Clerk's Office staff would accept all filings. The Office of the Chief Administrative Hearing Officer would maintain its ability to issue subpoenas and accept for filing any complaints that must be filed to comply with statutory deadlines.

Employers should:

- Expect processing delays in non-detained cases.
- Check the EOIR's website for the [operational status](#) of specific immigration courts.

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Agencies Issue Guidance on President Trump's Proclamation Requiring a \$100,000 Fee for Certain H-1B Petitions

Following on the heels of President Trump's issuance of a [proclamation](#) requiring a \$100,000 fee for certain H-1B petitions where the worker is outside the United States, U.S. Citizenship and Immigration Services (USCIS) released a related [frequently asked questions \(FAQ\)](#) document, and other agencies released related guidance.

The USCIS FAQ notes which petitions are included and not included, and states that further steps will be taken, including:

- A rulemaking by the Department of Labor to revise and raise the prevailing wage levels to "upskill" the H-1B program and "ensure that it is used to hire only the best of the best temporary foreign workers."
- A rulemaking by the Department of Homeland Security to "prioritize high-skilled, high-paid aliens in the H-1B lottery over those at lower wage levels."

Additional changes are also under consideration and will be announced in the coming months, USCIS said.

USCIS released additional [guidance](#) regarding the proclamation, as did [U.S. Customs and Border Protection \(CBP\)](#). The Department of State (DOS) released a related [FAQ](#). USCIS said that DOS also sent guidance to all consular offices that is consistent with the guidance from USCIS and CBP. CBP's guidance, posted on X, states that the "updated H-1B visa requirement applies only to new, prospective petitions that have not yet been filed. Petitions submitted prior to September 21, 2025 are not affected. Any reports claiming otherwise are flat-out wrong and should be ignored."

The White House also released a related [fact sheet](#) on September 19, 2025.

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DOL Launches 'Project Firewall' H-1B Enforcement Initiative

On September 19, 2025, the Department of Labor (DOL) [launched](#) "Project Firewall," to ensure that "employers prioritize qualified Americans when hiring workers and employers accountable if they abuse the H-1B visa process."

DOL said that it will conduct investigations of employers through Project Firewall "to maximize H-1B program compliance. To achieve this goal, the Secretary of Labor will personally certify the initiation of investigations for the first time in the department's history." Violations may result in "the collection of back wages owed to affected workers, the assessment of civil money penalties, and/or debarment from future use of the H-1B program for a prescribed period of time," DOL noted.

Additionally, DOL said it "will share information and coordinate with relevant government agencies, as permitted by law, to combat discrimination against American workers and ensure the law is properly enforced by leveraging the full force of the federal government."

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DHS Issues Proposed Rule on Weighted Selection for Cap-Subject H-1B Petitions

On September 24, 2025, the Department of Homeland Security (DHS) published a [proposed rule](#) to implement a "weighted selection" process for cap-subject H-1B petitions that "would generally favor the allocation of H-1B visas to higher

skilled and higher paid aliens, while maintaining the opportunity for employers to secure H-1B workers at all wage levels."

Under the proposed process, DHS said, registrations for unique beneficiaries or petitions would be assigned to the relevant Occupational Employment and Wage Statistics wage level and entered into the selection pool as follows:

registrations for unique beneficiaries or petitions assigned wage level IV would be entered into the selection pool four times, those assigned wage level III would be entered into the selection pool three times, those assigned wage level II would be entered into the selection pool two times, and those assigned wage level I would be entered into the selection pool one time. Each unique beneficiary would only be counted once toward the numerical allocation projections, regardless of how many registrations were submitted for that beneficiary or how many times the beneficiary is entered in the selection pool.

Comments on the proposed rule must be submitted by October 24, 2025, using the instructions in the [notice](#). Comments on the associated information collections must be submitted by November 24, 2025.

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DHS Terminates Temporary Protected Status for Syria; Beneficiaries Have 60 Days to Leave the United States; E-Verify Issues Guidance for Employers

On September 19, 2025, the Department of Homeland Security (DHS) [announced](#) that Temporary Protected Status (TPS) for Syrians is terminated and affected Syrian nationals have 60 days to voluntarily depart the United States and return home. "After the 60 days have expired, any Syrian nationals admitted under TPS who have not begun their voluntary removal proceedings will be subject to arrest and deportation. Any alien who forces DHS to arrest and remove them will never be allowed to return to the United States," DHS warned.

DHS said that those leaving the United States are encouraged to use U.S. Customs and Border Protection's [CBP Home app](#) to "report their departure from the United States and take advantage of a safe, secure way to self-deport that includes a complimentary plane ticket, a \$1,000 exit bonus, and potential future opportunities for legal immigration."

Meanwhile, E-Verify issued related [guidance](#) on September 22, 2025, noting

that Syria's TPS designation and related benefits terminate on November 21, 2025, at 11:59 p.m. The guidance states that Form I-766, Employment Authorization Documents (EADs), with a category A12 or C19 and a Card Expires date of September 30, 2025; March 31, 2024; September 30, 2022; or March 31, 2021, issued under a prior TPS designation of Syria, expire on November 21, 2025. "Employers must reverify TPS Syria beneficiaries who presented these EADs before they start work" on November 22, 2025, the guidance notes.

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Firm in the News

[Cyrus Mehta](#) was quoted by *Newsweek* in [Trump's H1-B Visa Move Sparks Alarm for Thousands of U.S. Businesses](#). He said, "The \$100,000 supplemental fee will completely eviscerate the H-1B program, and it would just impede and discourage employers from hiring H-1B workers." He noted that the combination of the fee and the Trump administration's proposal to weight selection by salary "would be a total disincentive for graduates to get hired in the U.S." He also pointed to the chaos immediately following the proclamation: "A lot of people tried to rush back to the U.S. ... and that was completely unwarranted. We also heard about H-1B workers who were on a flight leaving the U.S. ... they came out of the flight ... after hearing the news in the cabin itself." Mr. Mehta also echoed frustrations about the lack of guidance. He said attorneys have been inundated with client questions but cannot provide definitive answers: "It was done so incompetently that there was no clarity at all. We are getting all kinds of tricky questions, and it's very hard to give advice with certainty." He added, "I just don't see how an employer would be willing to hire a grad and pay the \$100,000 filing fee."

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