



Shutdown City - What the Federal Shutdown Means for Employers

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Daniel P. Johnson, Director
Labor & Employment Practice Group
Member
daniel.johnson@crowedunlevy.com

Chairs

Randall J. Snapp, Director
randall.snapp@crowedunlevy.com

Adam W. Childers, Director
adam.childers@crowedunlevy.com

Members

Gayle L. Barrett, Of Counsel
gayle.barrett@crowedunlevy.com

Tanya S. Bryant, Director
tanya.bryant@crowedunlevy.com

Leonard Court, Director
leonard.court@crowedunlevy.com

Bruce W. Day, Director
bruce.day@crowedunlevy.com

Arlen E. Fielden, Director
arlen.fielden@crowedunlevy.com

Michael J. Gibbens, Director
michael.gibbens@crowedunlevy.com

Linda K. Greaves, Of Counsel
linda.greaves@crowedunlevy.com

Craig W. Hoster, Director
craig.hoster@crowedunlevy.com

Allen L. Hutson, Associate
allen.hutson@crowedunlevy.com

Tara A. LaClair, Director
tara.laclair@crowedunlevy.com

Michael P. Pacewicz, Director
michael.pacewicz@crowedunlevy.com

Mary P. Snyder, Of Counsel
mary.snyder@crowedunlevy.com

Christina F. Toon, Associate
christina.toon@crowedunlevy.com

With Congress failing to pass a continuing resolution necessary to fund the federal government's operations, the government formally shutdown at midnight on Tuesday, October 1, 2013. Of course, those government functions that are deemed "essential" will continue to operate, but what about the Equal Employment Opportunity Commission (EEOC), Occupational Safety and Health Administration (OSHA) or United States Citizenship and Immigration Services (USCIS)?

Less than 20 percent of the Labor Department's workers will be permitted to work during the shutdown, according to a plan released by the agency. This means that ongoing EEOC investigations into workplace discrimination will cease, although the agency will continue to process discrimination claims (it will not, however, have the staff available to investigate). Additionally, only those workplace inspections that involve immediate danger or death will continue to be investigated by OSHA.

For those employers that participate in E-Verify, that system is unavailable, and employers are not able to access their accounts or contact customer support. Because the USCIS recognizes that E-Verify's unavailability may have a significant impact on a company's operations, it has issued the following policies to minimize employer burdens:

- The "three-day rule" for E-Verify cases is suspended for cases affected by the shutdown. The USCIS will provide additional guidance once it reopens. This does not affect the Form I-9 requirement – employers must still complete the Form I-9 no later than the third business day after an employee starts work for pay.
- The time period during which employees may resolve Tentative Nonconfirmations will be extended.
- Employers may not take any adverse action against an employee because of an E-Verify interim case status, including while the employee's case is in an extended interim case status due to a federal government shutdown.

If you have any questions about how the government shutdown will affect your company, please contact Daniel P. Johnson or any other member of Crowe & Dunlevy's Labor and Employment practice group.

Contact:

Daniel P. Johnson
405.234.3255
daniel.johnson@crowedunlevy.com

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[Courtney K. Warmington](#), Director
courtney.warmington@crowedunlevy.com

[Madalene A.B. Witterholt](#), Director
madalene.witterholt@crowedunlevy.com

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Oklahoma City
20 North Broadway
Suite 1800
Oklahoma City, OK 73102
(405) 235-7700

Tulsa
500 Kennedy Building
321 South Boston Avenue
Tulsa, OK 74103
(918) 592-9800

crowedunlevy.com