

October 1, 2013

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## Immigration Law Update

### Current Developments in Immigration

Dear Julie,

*This is the latest installment in our efforts to keep you apprised of the rapidly changing U.S. immigration environment. Some of the most recent changes could have a serious impact on you or your employees, and we urge you to communicate these changes to interested parties.*

### Impact of Government Shutdown on Immigration Services

The federal government's shutdown which began today is impacting several agencies handling immigration benefits, below please find the plans each agency has put into place. While we are hopeful this will be a short-term issue, Rosner, Ortman and Moss Partners urges all foreign nationals with nonimmigrant status, employment authorization documents or U.S. visa stamps set to expire in the next six months to contact Rosner, Ortman and Moss Partners LLC before making international travel plans.

As of October 1, 2013, the following operational procedures are in effect:

**USCIS:** USCIS continues to operate, except for E-Verify, which is currently offline.

**DOS:** The Department will continue as many normal operations as possible, this currently includes issuing passports and visas abroad; operating status and available funding will need to be monitored continuously and closely, and planning for a lapse in

appropriations must be continued.

**CBP:** As inspection and law enforcement are considered "essential personnel," the borders are open, and operating at staffing levels of 88%.

**DOL:** The DOL has ceased processing all labor certification, prevailing wage and labor condition applications.

Throughout the shutdown, Rosner, Ortman and Moss Partners will keep you updated on the operational procedures of key immigration agencies.

### **HR ALERT: Proper Procedures in Light of E-Verify Shutdown**

- Enroll any company in E-Verify
- Verify employment eligibility
- View or take action on any case
- Add, delete or edit any User ID
- Reset passwords
- Edit company information
- Terminate an account
- Run reports
- View 'Essential Resources.' Please note that all essential resources may be found by visiting [www.dhs.gov/e-verify](http://www.dhs.gov/e-verify).

In addition, E-Verify Customer Support and related services are closed. As a result:

- Employees will be unable to resolve Tentative Nonconfirmations (TNCs).
- Telephone and e-mail support will be unavailable. Employers may send e-mails, however, E-Verify cannot respond until reopened.
- E-Verify Self Check is unavailable.

In light of the E-Verify shutdown, the following policies have been implemented by USCIS:

- The 'three-day rule' for E-Verify cases is suspended for cases affected by the shutdown, however, 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 TNCs will be extended. Days the federal government is closed will not count towards the eight federal government workdays the employee has to go to SSA or contact DHS.
- For federal contractors complying with the federal contractor

rule, please contact your contracting officer to inquire about extending deadlines.

- 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.

Today, USCIS provided detailed guidance on how E-Verify employers should proceed in light of the current shutdown. While E-Verify is unavailable, employers will not be able to access E-Verify accounts. As a result, employers will be unable to:

### **Diversity Lottery Opens October 1, 2013**

It's that time of year again. The Diversity Lottery will soon begin! Online registration for the DV 2015 Program will begin on Tuesday, October 1, and conclude on Saturday, November 2, 2013. The Diversity Lottery allows individuals from countries with historically low rates of immigration to the United States to apply for a randomized computer drawing for permanent residency. For fiscal year 2015, 50,000 diversity visas (DVs) will be available. There is no cost to register for the DV Program. See the Diversity Visa webpage for the DV 2015 Instructions and translations at:<http://travel.state.gov/visa/immigrants>. For DV-2015, natives of the following countries are not eligible to apply, because more than 50,000 natives of these countries immigrated to the United States in the previous five years:

Bangladesh, Brazil, Canada, China (mainland-born), Colombia, Dominican Republic, Ecuador, El Salvador, Haiti, India, Jamaica, Mexico, Nigeria, Pakistan, Peru, Philippines, South Korea, United Kingdom (except Northern Ireland) and its dependent territories, and Vietnam.

Please note that Persons born in Hong Kong SAR, Macau SAR, and Taiwan are eligible. Additionally, Diversity Visa applicants may now include same-sex spouses in their initial entries or add spouses acquired after their initial registration.

### **I-9 Audits Making a Comeback**

Employers around the country are once again reporting a spike in random I-9 Audits. I-9 Audits begin with the appearance of an Immigration and Customs Enforcement (ICE) officer at the employer's facility. During these unannounced visits, the ICE officer will present a Notice of Inspection which requires the employer to assemble and submit an employer's original Forms I-9 as well as various supporting documents, typically within 3 business days. In addition, some states have begun conducting their own I-9 audit programs. Employers looking to ensure they are prepared should ICE come knocking are

urged to contact Rosner, Ortman and Moss for guidance on this issue.

### **Visa Bulletin October 2013**

Employment- Based	All Chargeability Areas Except Those Listed	CHINA- mainland born	INDIA	MEXICO	PHILIPPINES
1st	C	C	C	C	C
2nd	C	15SEP08	15JUN08	C	C
3rd	01JUL10	01JUL10	22SEP03	01JUL10	15DEC06
Other Workers	01JUL10	22SEP04	22SEP03	01JUL10	15DEC06
4th	C	C	C	C	C
Certain Religious Workers	C	C	C	C	C

*For additional information about any of the topics presented here, please contact us. If you would prefer not to receive future e-mails of this nature, please unsubscribe on the link below.*

**Sincerely,**  
**Rosner, Ortman & Moss Partners, LLC**

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