

Blog Post

Who Turned Out the Lights? The Impact of a Prolonged Government Shutdown on Private Employers

October 30, 2025

By [Andrew C. Karter](#)

We are several weeks into a federal government shutdown, which might be on pace to be the longest in U.S. history. Time will tell whether this shutdown is record-breaking. In the meantime, the impact on federal employees is plain; some are furloughed, while other essential workers are left to work without pay. But less obvious — though very real — is the ripple effect of a shutdown on private employers. Many administrative and even judicial matters may have come to a halt; however, employers should devise their own contingency plans and use this time to regroup and be ready for when the lights go back on.

Federal Investigations Are Delayed

While the shutdown persists, federal agencies are largely operating with a skeleton crew of essential workers. For instance, the U.S. Department of Labor's (DOL) shutdown [Contingency Plan](#) reflects that approximately 90 percent of its staff have been furloughed. Similarly, the U.S. Equal Employment Opportunity Commission's (EEOC) [Contingency Plan](#) communicated that the agency anticipated retaining no more than 5 percent of its total workforce during the shutdown. The National Labor Relations Board's (NLRB) [Lapse Plan](#) likewise shows

Related People

[Andrew C. Karter](#)

Related Work

[Employee Benefits and Executive Compensation](#)
[Employment Administrative Claims Defense](#)
[Employment Training and Compliance](#)
[Labor and Employment](#)

Related Offices

[New York](#)

HR Defense

[Akerman Perspectives on the Latest Developments in Labor and Employment Law](#)

[Visit this Akerman blog](#)

that the Board planned to furlough all but fourteen of its nearly 1,200 employees.

As a result, these agencies have an extremely limited capacity to pursue investigations. As a general rule, agency functions are now limited to emergency matters, or matters that would be at risk absent continued involvement. For instance, the DOL has stated that it will prioritize investigations of claims that would otherwise lapse due to the applicable statutes of limitations, or as otherwise ordered by a court. The EEOC's plan similarly advises that it will continue to accept charges and internal complaints where those actions must be filed to "preserve the rights of a claimant," but they "will not be investigated." Nor will the EEOC pursue litigation, unless a court denies the EEOC's request for a stay of proceedings. Likewise, the NLRB plan calls for the discontinuation of "all but emergency NLRB functions," and that case handling would be limited to continuation of only "necessary court actions" where those matters would otherwise be at risk.

Of course, this does not mean that private employers are free to ignore existing or threatened actions. When the agencies eventually return to full capacity, investigations will resume. Additionally, state and local agencies may continue to pursue their own investigations and enforcement actions. Thus, employers are well-advised to take advantage of the ongoing pause to fully prepare for, address, investigate, and possibly resolve pending claims.

Impacts on Federal Courts

Judiciary operations are also limited as a result of the shutdown. Until funding is restored, the Administrative Office of the U.S. Courts announced that "federal courts will maintain limited operations necessary to perform the Judiciary's constitutional functions." Thus, while federal judges will remain active, court staff is limited in the services that they will be able to provide. The federal Anti-Deficiency Act permits

activities that are: (1) necessary for the courts to perform constitutional functions under Article III of the Constitution; (2) necessary for the safety of human life and protection of property; and (3) otherwise authorized by federal law.

It will be up to the individual appellate, district, and bankruptcy courts to determine how to manage their cases during this time. For example, the U.S. District Court for the District of Columbia announced that it would furlough non-essential staff and only engage in certain “excepted” activities.

Employers with pending matters (and their attorneys) should review the relevant court’s website and monitor their matters’ dockets to learn how a particular proceeding may (or may not) be impacted, and whether they may need to factor in a contingency plan of their own based upon potential delays.

Impact on Small Businesses

The U.S. Small Businesses Administration (SBA) provides small businesses with access to funding through government-backed loans, among other services. Businesses use those loans for a variety of purposes, including for starting, growing, or otherwise aiding operations.

Like other agencies, the SBA is impacted by the current shutdown. Its website acknowledges that many of its services are currently unavailable, and the agency estimates that the shutdown has prevented it from delivering approximately \$170 million to 320 businesses each day. This disruption in funding could lead to delayed hiring, furloughs or required use of paid or unpaid leave, layoffs, and other cost-cutting measures as businesses relying on these funds strive to stay afloat. In more extreme cases where mass layoffs are required, this might implicate WARN Act considerations (or their state equivalents).

Impact on Federal Contractors

Federal contractors are directly exposed to the effects of a government shutdown. The White House's [Shutdown FAQ page](#) explains that, although performance under an already-issued contract or grant is not impacted by a lapse in appropriations (e.g., where funds have been provided which represent the entire value of a contract), normally "routine, ongoing operational and administrative activities relating to contract or grant administration cannot continue when there is a lapse in funding." In other words, whether or not a contractor is paid during this time can depend on the already-existing funding status of a contract, which can be a determination that is made by the Contracting Officer administering the contract.

For example, the federal Anti-Deficiency Act generally prohibits agencies from taking on new obligations in advance or in excess of appropriations. This is subject to limited exceptions, such as for emergency circumstances. The Shutdown FAQ page gives the example of a contract that is still awarded to "support an emergency activity, such as the minimal necessary guard services to protect a facility." However, it also clarifies that contractors cannot be paid until appropriations are enacted.

By extension, subcontractors can also be impacted where performance and payment are dictated by the terms of a primary contract. Employers should consult the provisions of the relevant contracts for further guidance on whether, for example, a prime contractor is still required to pay a subcontractor in the event of a funding pause.

Suspended Visa Petitions Could Mean a Delay in Hiring

The DOL also handles certain immigration-related services, such as the Labor Condition Application (LCA) that employers file on behalf of applicants seeking work authorization for nonimmigrant

workers, under visa programs such as H-1B. Those forms are required to be submitted through the DOL's Foreign Labor Application Gateway system, or FLAG. However, as of the date of this writing the FLAG website is offline due to the shutdown.

On the other hand, the U.S. Citizenship and Immigration Services (USCIS) is funded largely by application and petition fees from users, rather than by congressional appropriation. As a result, a shutdown has less of an impact on USCIS than it does on other agencies such as the DOL, EEOC, or NLRB. Even so, the shutdown does still impact several of its services that do rely on federal funding. One such service is E-Verify, a web-based system through which employers electronically confirm the employment eligibility of their employees.

E-Verify was suspended during the first week of the current shutdown, disrupting employers' ability to verify employment eligibility. However, its services were restored on October 9th. It is currently unclear whether the service will remain online for the duration of the shutdown, but if it does pause again (which would become more likely the longer the shutdown persists), employers should anticipate facing related delays.

Employers should also take note that the shutdown does not impact I-9 (Employment Eligibility Verification) requirements; employees must still complete Section 1 of Form I-9 by the first day of their employment, and employers must complete Section 2 within the first three days.

COBRA Entitlement

Workers who have lost their jobs or otherwise suffered reduced hours can maintain health coverage through the Consolidated Omnibus Budget Reconciliation Act (COBRA). Thus, as the current shutdown continues to result in furloughs or layoffs for federal contractors, subcontractors, and other

private employers, those employers must offer continued coverage to eligible workers.

Employers should therefore be aware that COBRA obligations will be triggered when employees lose coverage due to a furlough or layoff.

Takeaway for Employers

Although agencies are operating at a reduced capacity and enforcement actions have been delayed, employers should not use the shutdown as an excuse to lapse on their obligations to comply with legal requirements. Indeed, state and local regulatory agencies have remained open (even if their operations are tangentially impacted by the federal shutdown, such as in the case of a discrimination charge that was dual-filed with the EEOC).

Until a resolution is reached, employers — particularly federal contractors, subcontractors, and businesses relying on federal loans — will continue to face mounting pressure due to ongoing funding shortages. Additionally, individual employees may experience hardships in their personal lives; for example, reduced access to federally funded food assistance programs may prompt some workers to seek more stable employment elsewhere. In sum, a hallmark of a government shutdown is economic uncertainty, which disrupts business planning and undermines overall economic growth until normal government operations resume.

For guidance or review of policies or procedures in light of the ongoing shutdown, contact your Akerman attorney.

This information is intended to inform firm clients and friends about legal developments, including recent decisions of various courts and administrative bodies. Nothing in this Practice Update should be construed as legal advice or a legal

opinion, and readers should not act upon the information contained in this Practice Update without seeking the advice of legal counsel. Prior results do not guarantee a similar outcome.