October 1, 2013

Impact of Government Shutdown on Workplace-Monitoring Agencies

The U.S. government's fiscal year ended at midnight last night without congressional agreement regarding appropriations, resulting in a partial government shutdown, which will affect the federal agencies that monitor the workplace. This includes:

National Labor Relations Board (NLRB): All NLRB field offices will be shut down. Services affected include: representation and unfair labor practice charge docketing, investigations, hearings, complaints, and settlements; injunctions and enforcement actions; and administrative law judge and board decisions. Eleven employees (the five board members, the acting general counsel, and a few others who hold senior leadership positions with the agency) are the only individuals the agency currently exempted from furlough. Additional staff may be called to handle emergencies during the shutdown.

Equal Employment Opportunity Commission (EEOC): The EEOC will continue to function with 107 (out of 2,164) staff members nationwide. During the temporary shutdown, the agency will continue to docket new charges and federal sector appeals. It will also litigate lawsuits where continuances are not granted by the court and will seek injunctive relief as necessary. While the EEOC is accepting new charges during the shutdown, it will not investigate those charges. The EEOC also will not conduct mediations or process FOIA requests during the shutdown.

Occupational Safety and Health Administration (OSHA): OSHA will temporarily cease all operations except for those that relate to "emergencies involving the safety of human life or protection of property." Two hundred and thirty staff members will continue to work at the agency through the shutdown and will be able to respond to safety and health complaints that involve potentially hazardous conditions that "present a high risk of death or serious physical harm."

Department of Labor Wage and Hour Division (WHD): The WHD will suspend operations and will furlough all but six employees.

U.S. Citizenship and Immigration Services (USCIS) and Employment and Training Administration (ETA): Fee-for-service activities performed by the USCIS are expected to continue, because they are funded by sources other than appropriated funds. During the temporary shutdown, USCIS expects to furlough only 353 of 12,558 employees. Consular operations run by the State Department will remain 100 percent operational only as long as there are fees to support those operations. However, E-verify temporarily will be shut down, and the ETA will not process any foreign labor certifications needed for some employment-based visas during the period of a temporary shutdown.

For links to each agency's contingency plan, please go to the Office of Management and Budget at http://www.whitehouse.gov/omb/contingency-plans.