



# Coming USCIS Furloughs Expected to Further Delay Petition Processing

Insights

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Due to a dramatic decrease in revenue during the coronavirus pandemic, roughly 13,400 U.S. Citizenship and Immigration Services (USCIS) employees will receive notice of administrative furlough on or before July 2. USCIS has announced that it expects the first furloughs to begin when its current funding is exhausted around August 3. As explained below, employers should anticipate further delays with applications and in processing petitions due to this situation, which has been brewing for several years.

## A Crisis Created by Stricter Immigration Standards

Unlike other federal agencies, the USCIS is a majority self-funded agency, relying on fees collected from petitions and applications to fund its work rather than from congressional appropriations. This fiscal year, the agency has seen its immigration examinations fee collections decrease 62% compared to projections. While the service attributes a 50% drop in recent applications to the COVID-19 pandemic, a deeper look reveals that the current administration's focus on enforcement, termination of certain programs, and new standards has caused a decrease in the number of applications with USCIS. This, coupled with increased spending on vetting and enforcement, offers a deeper explanation for USCIS' revenue and budget problems that predated the COVID-19 pandemic. Further, immigration attorneys across the country have reported more applications are being rejected due to the new standards, thus creating an additional burden on the workforce without collecting revenue.

In May, USCIS advised Congress that it would require \$1.2 billion in emergency supplemental funding over a two-year period to continue its operations. This emergency relief comprises 25 percent of USCIS' current FY 2020 budget, where its budget covered by congressional appropriations has held steady at 5 percent or less since 2007, utilizing cash reserves and carryovers to cover any deficiencies in revenue from year to year. The emergency budget request, which USCIS submitted to Congress in mid-May, also includes a proposed 10% surcharge to the agency's application fees, which would be utilized to repay the \$1.2 billion in supplemental funding. Congress has not granted the request.

Despite claimed efforts to keep expenses low, USCIS has announced that without additional funding it will need to take drastic measures to continue operations, albeit at a reduced capacity. With these furloughs looming, regulations require USCIS to provide its employees 30 days of advance notice before their expected date. USCIS has not advised how long the furloughs will continue but has

before their expected date. USCIS has not advised how long the furloughs will continue but has indicated it anticipates they will last between 30 to 90 days. It advised that additional notices will be issued should furloughs need to continue beyond 90 days..

### **What Does this Mean for Employers and their Employees?**

Significant reductions in the USCIS workforce will likely further delay petition processing times, which have already risen sharply over the last two years because of misallocated USCIS resources. These delays are also likely to be increased by the additional workload created by the recent presidential proclamation terminating the issuance of any new H-1B, H-2B, L-1A, L-1B, and J-1 visas. Individuals who would have typically processed extensions through a U.S. consulate abroad must now process petitions through USCIS, which will increase the number of applications pending with USCIS through the end of 2020.

Employers should expect additional wait times for processing of standard petitions with USCIS and should be prepared to address possible gaps in work authorization for some employees whose applications are subject to extensive processing times with the Service. Where available, employers may also wish to consider using Premium Processing, which is available to expedite the processing of certain applications for an additional fee of \$1,440. In addition to delays in processing non-immigrant petitions, petitions for Permanent Residence and Naturalization are facing significant increases in processing times, leaving many in limbo and creating uncertainty for both immigrants and the companies that employ them. Increased fees and extensive wait times are likely to create tremendous hardships for both companies and immigrants.

We will continue to monitor further developments and provide updates on this situation as necessary.

### ***Service Focus***

Immigration