



## **February 2013 Special Immigration Alert: The Effect of Sequestration on Immigration**

Unless Congress acts quickly, the Budget Control Act, including those sections that mandate the budget cuts known as “sequestration,” will take effect on March 1, 2013. On February 14, 2013, Janet Napolitano, Secretary of the U.S. Department of Homeland Security (“DHS”), testified before the Senate Committee on Appropriations regarding the impact of sequestration on DHS’s activities. The DHS includes U.S. Citizenship and Immigration Services (“USCIS”), Customs and Border Protection (“CBP”), and Immigration Customs Enforcement (“ICE”)—the three agencies involved in various aspects of immigration application processing, foreign travel, and worksite enforcement. Thus, it is instructive to consider Secretary Napolitano’s remarks to prepare for the potential impact that sequestration might have on the immigration process and related immigration activities.

### International and Domestic Travel Delays:

Secretary Napolitano noted that CBP staffs and operates 329 ports of entry (“POEs”) across the country that service millions of visitors and foreign travelers. She advised that sequestration would decrease CBP resources at the border and require furloughs and reduced staffing at all POEs. This could result in four- to five-hour waiting times for admission to the United States at all POEs serving international travelers. In addition, furloughs of Transportation Security Administration (“TSA”) personnel would affect all airline travel and could increase wait times by as much as one hour at the nation’s busiest airports.

### Immigration Application Processing:

Secretary Napolitano did not address application processing by USCIS. This may be because the funds that enable USCIS to process immigration applications come from the fees that applicants pay to have them processed. However, there are other aspects of the immigration process that depend on the federal budget. These include visa applications processed by the U.S. Department of State (“DOS”) and Program Electronic Review Management (“PERM”) labor certifications processed by the U.S. Department of Labor (“DOL”). Those submitting visa applications and involved in the PERM process should expect significant delays, as the diminished resources funding these services require layoffs and furloughs.

Immigration and Worksite Enforcement:

ICE is the principal agency that performs worksite investigations of possible Form I-9 violations and enforces the immigration laws. Employers can expect a reduction in worksite investigations and a slowdown in the process for resolving those that already have been initiated. At the same time, Secretary Napolitano indicated that the sequestration would force ICE to reduce current detention and deportation operations.

Border Security:

CBP also is the agency within DHS that is responsible for border security. Secretary Napolitano indicated that CBP faced over \$500 million in budget cuts and that this would prevent it from maintaining its current staffing levels of Border Patrol agents and CBP officers at the nation's POEs. As we indicated, this will also increase wait times at airports and affect security at land POEs, leading to significant delays due to the additional time required to implement screening and entry programs for those seeking admission to the United States.

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