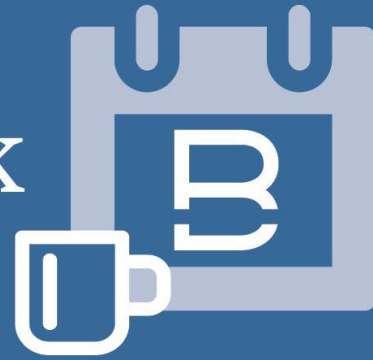


The Work Week

Bassford Remele Employment Practice Group



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Welcome to another edition of *The Work Week with Bassford Remele*. Each Monday morning, we will publish and send a new article to your inbox to hopefully assist you in jumpstarting your work week.

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Leading Through Limbo: Employer-Side Strategies to Manage Compliance and Workforce Disruption During a Federal Government Shutdown

[Wynne C. S. Reece](#) and [Rachel A. Ball](#)

On October 2, 2025, Wynne Reece, Chair of the Corporate Group and Co-Chair of the Intellectual Property Group at Bassford Remele, wrote a resonant article titled, "[Leading Through Limbo: How Companies Can Navigate a Federal Shutdown](#)." Over three weeks later, with no obvious end to the shutdown in sight, we revisit her article through the lens of Bassford's Employment group.

As the federal shutdown persists, employers must stabilize operations amid stalled approvals, uneven agency activity, and cash-flow pressure. Essential services continue while many nonessential functions pause or slow, and the split is not aligned to private-sector timelines. If left unmanaged, these pauses or slow downs increase HR, compliance, and operational risk.

Duration remains the key variable: a short pause is friction; a longer one strains cash, labor availability, and supply chains, with backlogs persisting even after agencies fully reopen. Employers face a unique set of risks and uncertainties. Although many of the immediate impacts are often thought of in terms of the furloughing of federal workers, the ripple effects on private employers — through labor-law enforcement, contracting relationships, immigration filings, and workforce planning — can be significant. This article outlines the key developments and what employers should be doing now to stay compliant and maintain workforce stability.

Operational Impacts on Employers

Most federal labor and employment law compliance and enforcement activities have been suspended. The agencies tasked with such responsibilities (e.g., Department of Labor and its Occupational Safety and Health Administration, Wage and Hour Division, and Foreign Labor Certification; National Labor Relations Board; Equal Employment Opportunity Commission) have been operating with a skeleton crew, as most of their employees have been deemed non-essential. Non-emergency investigations and audits have been suspended, EEO investigations, mediations, and administrative hearings paused, and union representation petitions and unfair labor practice charge investigations or complaint issuance delayed.

Although the delay reduces the immediate pressure of audits and investigations, the laws these agencies oversee and/or enforce have not been suspended. Employers should maintain documentation of all compliance efforts and employment decisions and continue to adhere to all statutory filing deadlines, which remain in effect unless expressly tolled by statute or agency order. Indeed, federal courts (organized under Article III of the Constitution) remain open and operating, and active cases in federal court are advancing through the litigation process.

Continue to coordinate employee ADA accessibility, including engaging in the interactive process and processing reasonable accommodation requests. As in non-shutdown times, apply policies consistently to avoid discrimination claims.

Workforce Continuity and Staffing Controls

If shutdown conditions require your business to scale back crews, be sure to update hazard assessments, training, and controls to ensure workplace safety. Furloughs and closures can affect FMLA eligibility thresholds and hours-of-service calculations, so implementing or ensuring consistency with time-tracking tool utilization is crucial.

Be aware that the Fair Labor Standards Act (and applicable state law) may present a risk to your exempt employees' status and corresponding potential overtime exposure when implementing short-term furloughs or other workforce adjustments.

For employers planning major workforce reductions, including layoffs, review obligations under the Worker Adjustment and Retraining Notification Act (WARN) and applicable state "mini-WARN" laws, as notice obligations still apply during federal government shutdowns.

In situations involving shutdown-driven furloughs, schedule reductions, or location changes to unionized workforces, note that these workforce impacts often trigger a duty to bargain over effects. Follow contract layoff or furlough provisions, bumping rights, and notice timelines, and engage promptly with unions to negotiate mitigation measures (e.g., temporary telework, PTO bridging, benefit continuation). Avoid making unilateral changes to mandatory subjects of

bargaining, and ensure communications with labor officials and the unionized workforce are accurate, non-coercive, and consistent with contractual and statutory obligations. Be aware of any strike restrictions and notice provisions in applicable collective bargaining agreements and the legal constraints on striking in industries such as healthcare.

For workplaces seeking to bring on hires from outside of the United States, build contingencies for start dates and travels, as delays will continue and backlogs will grow in processing visa petitions, labor condition applications, and PERM, and in scheduling consular appointments. Continue completing Form I-9 on time, and avoid taking adverse action based solely on delayed E-Verify cases caused by the shutdown.

Employer Communications and Culture

How your business navigates a potential workforce crisis necessarily impacts future workplace retention and recruitment. Engage in transparent and continuous communication with your employees to address uncertainty fatigue and productivity issues and maintain your workplace culture through the disruption. Establishing and building trust with your employees will also mitigate the risk a potential employment compliance mistake brings.

Key Action Checklist for Employers

Here is a practical short checklist you should continuously review and work through as the shutdown continues:

- Review your workforce plans and identify any government-contract dependencies or exposures.
- Review exempt vs non-exempt classification policies, especially if you plan furloughs or unpaid leave for exempt employees.
- Review your collective-bargaining agreements (if applicable) for obligations in the event of furloughs or layoffs.
- Communicate with employees about how the shutdown may (or may not) affect the business, and set expectations clearly.
- Document all actions taken during the shutdown period: pay decisions, leave, communications, business rationale.
- Review your immigration sponsorships or eligibility verification processes for any potential delays.

- Monitor legal developments: agency notices, guidance, rule-making and case-law changes.

Plan for the post-shutdown “resumption” phase: anticipate backlog, audits, and enforcement pressure.

Operating Through the Restart

Although the federal government shutdown primarily affects federal employees and agencies in the immediate term, the downstream effects for private-sector employers are real and material. From compliance obligations and investigations to contract-based dependencies and workforce planning, employers must remain vigilant.

In summary, now is the time to review your policies, update contingency plans, communicate transparently with your workforce, and diligently document decisions and compliance efforts. The temporary pause in agency enforcement is *not* a free pass—and when the shutdown ends, agencies will be returning to business with a backlog and heightened scrutiny.

Bassford Remele’s Employment group continues to monitor changes in laws with respect to the impact the federal government shutdown has on public and private sector employers on a local and national basis. We are available to help with reviewing your company’s legal compliance while considering difficult decisions during the extended shutdown. Please reach out with any questions or if you need assistance.

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