

Iraqi and Afghan Special Immigrant Visa Programs

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Summary

Congress has enacted a series of legislative provisions since 2006 to enable certain Iraqi and Afghan nationals to become U.S. lawful permanent residents (LPRs). These provisions make certain Iraqis and Afghans who worked as translators or interpreters, or who were employed by, or on behalf of, the U.S. government in Iraq or Afghanistan, eligible for *special immigrant* visas (SIVs). Special immigrants comprise a category of permanent employment-based admissions under the Immigration and Nationality Act (INA). While the special immigrant category is unique, it does bear some similarities to other admission categories that are authorized by other sections of the INA, including refugees and Amerasians.

To apply under the SIV programs for Iraqis or Afghans, a prospective special immigrant must submit an application; be otherwise eligible for an immigrant visa; and be otherwise admissible to the United States. An Iraqi or Afghan SIV applicant whose petition is approved and who is abroad is required to have an in-person visa interview at a U.S. embassy or consulate abroad to determine visa eligibility. Upon admission to the United States, SIV recipients are granted LPR status. Iraqi and Afghan special immigrants are eligible for the same resettlement assistance and federal public benefits as refugees.

There are three SIV programs for Iraqi and Afghan nationals. One is a permanent program for certain Iraqis and Afghans who worked directly with U.S. Armed Forces, or under Chief of Mission authority, as translators or interpreters. This program is currently capped at 50 principal aliens (excluding dependent spouses and children) per year. According to Department of State (DOS) data, about 4,300 visas have been issued to principals and dependents under this program through March 2024.

The other two SIV programs for Iraqis and Afghans are temporary. One program is for certain Iraqis who were employed in Iraq by, or on behalf of, the U.S. government during a specified period. Current statutory authority provides for the issuance of no more than 2,500 visas to principal applicants after January 1, 2014; of these, 100 visas remained available as of June 30, 2024. Applications are no longer being accepted for this program, but pending applications continue to be processed. According to DOS data, about 22,000 visas have been issued to principals and dependents under this program through March 2024.

There is a similar SIV program for certain Afghans who were employed in Afghanistan by, or on behalf of, the U.S. government or by the International Security Assistance Force during a specified period. Current statutory authority provides for the issuance of no more than 50,500 visas to principal applicants after December 19, 2014; about 16,000 of these visas remained available as of June 30, 2024. The application period for this program remains open. According to DOS data, about 143,000 visas have been issued to principals and dependents under this program through March 2024. Demand for these visas spiked in the aftermath of the 2021 U.S. military withdrawal from Afghanistan. As of June 30, 2024, more than 130,000 principal applicants have pending applications (complete and incomplete) for this program.

The Iraqi and Afghan SIV programs have faced challenges with respect to application processing, security screening, and visa availability. The structure of the SIV programs themselves, with statutory timeframes and numerical limitations, introduces additional complication.

Given the apparent support for the U.S. government to assist its Iraqi and Afghan allies in need, an ongoing question for Congress is whether the existing SIV provisions are sufficient to accomplish this, or whether further extensions of or changes to the programs are warranted.

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Introduction

In 2021, U.S. forces withdrew from Afghanistan after nearly two decades, and the Taliban returned to power.¹ Afghans who had assisted the U.S. government, including the U.S. military, in the fight against the Taliban and other forces and remained in the country “face[d] a very real threat of retribution from the Taliban.”² A 2023 White House report on the withdrawal stated, “Despite predictions to the contrary, we have and will continue to facilitate the departure and resettlement of our Afghan partners through Enduring Welcome, our multi-year effort to relocate those who worked with and for us to the United States through a variety of legal immigration pathways.”³

Congress first took action more than 15 years ago in response to concerns about the dangers faced by Iraqi and Afghan nationals who were assisting the U.S. government during hostilities in their countries. In January 2006, the 109th Congress enacted the first in a series of legislative provisions to enable certain Iraqi and Afghan nationals to become U.S. lawful permanent residents (LPRs).⁴ Section 1059 of the National Defense Authorization Act (NDAA) for FY2006⁵ made certain Iraqi and Afghan nationals who had worked directly with U.S. Armed Forces as translators eligible for *special immigrant* visas (SIVs). Special immigrants comprise a category of permanent employment-based admissions under the Immigration and Nationality Act (INA).⁶ Upon admission to the United States, holders of SIVs are granted LPR status.

A 2005 House Judiciary Committee report on a related SIV bill for Iraqi and Afghan translators in the 109th Congress (H.R. 2293) described the need for the legislation, as follows:

A number of alien translators currently working in Iraq and Afghanistan embedded with units of the U.S. Armed Forces are providing extremely valuable services. Their cooperation and close identification with the U.S. military have put these individuals and their families in danger. This danger will only escalate after U.S. forces leave or reduce their strength in Iraq and Afghanistan.⁷

Congress subsequently broadened the permanent special immigrant classification for translators and also authorized a second special immigrant classification. This second classification consists of separate, parallel programs for certain Iraqi nationals and certain Afghan nationals who worked for, or on behalf of, the U.S. government in Iraq or Afghanistan, respectively. These programs are temporary. The Iraqi program’s application deadline has passed, although visas continue to be issued under it. The Afghan program continues to accept new applications.

This report analyzes the SIV classifications for Iraqis and Afghans within the context of both the larger INA special immigrant category and selected other permanent admissions categories. It

¹ For further discussion, see CRS Report R45122, *Afghanistan: Background and U.S. Policy*.

² Madiha Afzal and Adrianna Pita, *What’s happening in Afghanistan one year after the U.S. withdrawal?*, Brookings Institution, August 30, 2022, <https://www.brookings.edu/articles/whats-happening-in-afghanistan-one-year-after-the-u-s-withdrawal/>.

³ White House, *U.S. Withdrawal from Afghanistan*, April 2023, <https://www.whitehouse.gov/wp-content/uploads/2023/04/US-Withdrawal-from-Afghanistan.pdf>.

⁴ *Lawful permanent residents*, also known as *green card holders*, are noncitizens who are authorized to reside permanently in the United States.

⁵ P.L. 109-163, Div. A.

⁶ Act of June 27, 1952, ch. 477, as amended, codified at 8 U.S.C. §1101 et seq.

⁷ U.S. Congress, House Committee on the Judiciary, *To Provide Special Immigrant Status for Aliens Serving as Translators with the United States Armed Forces*, report to accompany H.R. 2293, 109th Cong., 1st sess., H.Rept. 109-99, May 26, 2005, p. 2.

discusses the legislative changes to the individual Iraqi and Afghan special immigrant programs since their initial authorization, provides statistics on visa issuances, and considers challenges the programs have faced.

Legislative History of the Special Immigrant Category

The term *special immigrant* is defined in Section 101(a)(27) of the INA. The definition consists of an enumeration of classifications eligible for this category, such as LPRs who are returning from a temporary stay abroad.⁸ Most special immigrant classifications are subject to an annual numerical limitation.⁹

The special immigrant category was added to the INA by a 1965 immigration law, known as the 1965 amendments.¹⁰ The INA, as originally enacted in 1952, included a predecessor category of *nonquota immigrants*, immigrants who could be admitted to the United States without regard to numerical limitations. In the 1952 act, these nonquota immigrants included returning LPRs, natives of Western Hemisphere countries, ministers of religion, and long-serving employees of the U.S. government abroad, among other groups. The 1965 amendments redesignated the *nonquota immigrants* as *special immigrants* and made some changes to the various classifications.

The Immigration Act of 1990¹¹ further amended the special immigrant provisions in the INA. It placed the special immigrant category under a revised INA section on permanent employment-based immigration¹² and imposed an overall annual numerical limitation of 10,000 on special immigrants, with exemptions for certain classifications.¹³ In addition, the 1990 act amended the existing special immigrant classifications and added several new ones. A 1991 immigration act¹⁴ changed the overall annual limitation on special immigrants from 10,000 to 7.1% of the worldwide level of employment-based immigration.¹⁵ Subsequent laws added and amended special immigrant classifications.

Today the special immigrant category encompasses a hodgepodge of classifications, but there are some commonalities among the seemingly disparate groups. Many of the classifications, for example, have a humanitarian element. In another commonality, some of the classifications are directed at individuals in certain fields of work that have a public service component. These include classifications for religious workers, graduates of foreign medical schools licensed to practice medicine in the United States, and international broadcasters.¹⁶

⁸ INA §101(a)(27)(A), 8 U.S.C. §1101(a)(27)(A).

⁹ Returning LPRs represent an exception; this special immigrant classification is not subject to a numerical limitation.

¹⁰ P.L. 89-236.

¹¹ P.L. 101-649.

¹² INA §203(b), 8 U.S.C. §1153(b). For information on the permanent immigration system, see CRS Report R42866, *Permanent Legal Immigration to the United States: Policy Overview*.

¹³ The 1990 act also imposed a cap of 5,000 on religious workers other than ministers within the overall annual numerical limitation of 10,000.

¹⁴ Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102-232).

¹⁵ The base worldwide limit on employment-based immigration is 140,000; using this base, the special immigrant limit of 7.1% equals 9,940. See CRS Report R42866, *Permanent Legal Immigration to the United States: Policy Overview*.

¹⁶ INA §101(a)(27)(C), (H), (M), 8 U.S.C. §1101(a)(27)(C), (H), (M).

Particularly relevant for this report are special immigrant classifications that apply to individuals who have worked for the U.S. government. These include classifications for 15-year employees or former employees of the U.S. government abroad; nationals of Panama who are 15-year employees or former employees of the U.S. government in the former Canal Zone; and individuals who, after lawful enlistment abroad, have served or will serve on active duty in the U.S. Armed Forces for 12 years.¹⁷ Some of the classifications based on U.S. government employment apply to individuals who are placed in danger because of their work. For example, there is a special immigrant classification for individuals who were employees of the Panama Canal Company or Canal Zone Government on April 1, 1979, who provided faithful service for at least five years, and “whose personal safety, or the personal safety of whose spouse or children, as a direct result of such Treaty, is reasonably placed in danger because of the special nature of any of that employment.”¹⁸ As discussed in the next section, the two special immigrant classifications for Iraqis and Afghans similarly apply to individuals who performed U.S. government-related service, with one requiring the presence of a serious threat to the individual as a result of that U.S. government employment.

Special Immigrant Visas for Iraqis and Afghans

There are two special immigrant classifications specifically for nationals of Iraq and Afghanistan: one for individuals who worked as translators or interpreters, and one for individuals who were employed by, or on behalf of, the U.S. government in Iraq or by, or on behalf of, the U.S. government or by the International Security Assistance Force (ISAF) in Afghanistan. These classifications, in their current form, are the products of a series of legislative enactments, which initially established the classifications and then amended them (see **Table 1** for a comparison of the main features of the programs within these classifications as of the cover date of this report). These legislative enactments were free-standing measures; they did not amend INA Section 101(a)(27). For this reason, the special immigrant classifications for Iraqis and Afghans are *not* enumerated in INA Section 101(a)(27).¹⁹

Under both classifications, a prospective Iraqi or Afghan special immigrant must submit an application; be otherwise eligible to receive an immigrant visa; and be otherwise admissible to the United States for permanent residence, as specified. Regarding this last requirement, in order to gain admission to the United States, an individual must be *admissible* under the INA. The INA sets forth various grounds of inadmissibility, which include health-related grounds, security-related grounds, and public charge (i.e., indigence).²⁰ The public charge ground does not apply to applicants under the special immigrant programs for Iraqis and Afghans; thus, these applicants are not required to demonstrate economic self-sufficiency.

¹⁷ INA §101(a)(27)(D), (F), (K), 8 U.S.C. §1101(a)(27)(D), (F), (K). With respect to the Panamanian nationals, in the early 1900s the United States gained rights to build and operate the Panama Canal and gained permanent rights to a Panama Canal Zone. Under the terms of the Panama Canal Treaty of 1977, the Panama Canal Zone ceased to exist in 1979 and the Canal was turned over to the Panamanians in 1999. U.S. Department of State, Office of the Historian, Milestones: 1977-1980, “The Panama Canal and the Torrijos-Carter Treaties,” <http://history.state.gov/milestones/1977-1980/panama-canal>.

¹⁸ INA §101(a)(27)(G), 8 U.S.C. §1101(a)(27)(G). April 1, 1979, was the effective date of the exchange of instruments of ratification of the Panama Canal Treaty of 1977.

¹⁹ The statutory provisions establishing the translator/interpreter program and the program for Afghans employed by, or on behalf of, the U.S. government are codified at 8 U.S.C. Section 1101 note. The statutory provisions establishing the program for Iraqis employed by, or on behalf of, the U.S. government are codified at 8 U.S.C. Section 1157 note.

²⁰ The grounds of inadmissibility are enumerated in INA §212(a), 8 U.S.C. §1182(a). For additional information, see CRS In Focus IF12662, *Immigration: Grounds of Inadmissibility*.

Iraqi and Afghan Translators or Interpreters

Section 1059 of the FY2006 NDAA made certain Iraqi and Afghan nationals who had worked directly with U.S. Armed Forces for at least one year as translators, and their spouses and children,²¹ eligible to be classified as special immigrants. Section 1059 established a single, permanent special immigrant program for Iraqis and Afghans combined. The provision capped the number of principal aliens²² who could become special immigrants at 50 annually and provided that these individuals would count against the overall special immigrant cap (see the “Legislative History of the Special Immigrant Category” section of this report). Section 1059 was amended in 2007²³ to expand eligibility to certain Iraqi and Afghan nationals who had worked directly with U.S. Armed Forces, or under Chief of Mission (COM) authority,²⁴ for at least one year as translators or interpreters. The 2007 legislation also addressed the *adjustment of status* of eligible individuals.²⁵

To be eligible for this special immigrant classification, as amended, the principal applicant must obtain a favorable written recommendation from the COM or a general or flag officer in the relevant Armed Forces unit. The 2007 legislation temporarily increased the numerical limit on this special immigrant program (to 500 for each of FY2007 and FY2008) and provided that the classification would be exempt from the overall numerical limits on special immigrants. Another 2007 amendment to Section 1059 provided that if the numerical limits were not reached in a fiscal year any remaining numbers would be carried forward to the next year.²⁶

Iraqis and Afghans Who Worked for the U.S. Government

A second special immigrant classification for nationals of Iraq or Afghanistan and their spouses and children, including surviving spouses and children (as discussed below), was established by parallel statutory provisions: Section 1244 of the FY2008 NDAA (for Iraqis) and Title VI of the Omnibus Appropriations Act, 2009 (for Afghans).²⁷ The programs established by these provisions, which were temporary, were for certain Iraqi and Afghan nationals who were employed by, or on behalf of, the U.S. government in Iraq or Afghanistan, respectively, as specified. The Carl Levin and Howard P. “Buck” McKeon National Defense Authorization Act

²¹ In accordance with the INA, the word *children*, as used in this report, refers to unmarried children under age 21. INA §101(b)(1), 8 U.S.C. §1101(b)(1).

²² *Alien*, a term used in the INA, refers to a person who is not a U.S. citizen or a U.S. national. INA §101(a)(3), 8 U.S.C. §1101(a)(3). *Principal aliens*, as used in this report, excludes spouses and children.

²³ P.L. 110-28, Title III, §3812; P.L. 110-36. These two public laws include many of the same provisions on special immigrant visas for Iraqi and Afghan translators and interpreters.

²⁴ The Chief of Mission is the principal officer in charge of a U.S. diplomatic mission abroad. An individual who worked for the U.S. Embassy in Baghdad, Iraq, or the U.S. Embassy in Kabul, Afghanistan, directly (not as a contractor) is deemed to have worked under Chief of Mission authority.

²⁵ Adjustment of status is the process of obtaining LPR status from within the United States, as opposed to the alternative process of being issued an immigrant visa abroad, presenting it at a U.S. port of entry, and obtaining LPR status upon admission. The legislation authorized the Secretary of Homeland Security to adjust the status of an alien to LPR status if the alien (1) had been paroled into the country or admitted as a temporary legal resident and (2) was otherwise eligible for the special immigrant classification, even if the alien was not in a lawful immigration status, had engaged in unauthorized employment, or had otherwise violated the terms of his or her nonimmigrant visa. With some exceptions, such behavior would typically make an alien ineligible to adjust to LPR status. Parole is discretionary authority that may be exercised by DHS to allow an alien to enter the United States temporarily (without being formally admitted) for urgent humanitarian reasons or significant public benefit. For additional information about parole, see CRS Report R46570, *Immigration Parole*.

²⁶ P.L. 110-161, Div. J, §699J.

²⁷ P.L. 110-181, Div. A (Iraqis); P.L. 111-8, Div. F (Afghans).

for FY2015²⁸ expanded the definition of *principal aliens* under the Afghan program to include employees of the ISAF who served as interpreters or translators while traveling off base with U.S. military personnel or who performed sensitive activities for U.S. military personnel.

To be eligible for this special immigrant classification, a principal applicant must obtain a recommendation from a senior supervisor that documents the individual's "faithful and valuable service" as well as approval from the COM. In addition, the applicant must have experienced "an ongoing serious threat" as a result of his or her employment. Under this classification, as under the one for translators and interpreters, special provisions apply with respect to adjustment of status.²⁹

As originally enacted, this special immigrant classification provided for certain surviving spouses and children of deceased principal applicants under the Iraqi and Afghan programs to pursue special immigrant status. These provisions applied to survivors whose principal applicant had an approved USCIS petition. Under the original application process, the principal applicant had to apply for and receive COM approval before submitting a petition to USCIS (see the "Iraqi and Afghan Special Immigrant Visa Application Process" section of this report). The FY2021 Emergency Security Supplemental Appropriations Act³⁰ amended the surviving spouse provisions to replace the requirement for petition approval with a requirement for submission of a COM application. In doing so, it expanded eligibility under both programs for surviving spouses and children.

Iraqi Program

The Section 1244 program for Iraqis who were employed by, or on behalf of, the U.S. government in Iraq requires not less than one year of employment on or after March 20, 2003. The law that originally established the program did not specify an end date for the employment period. The Iraqi program was initially capped at 5,000 principal aliens annually for five years (later specified as FY2008-FY2012)³¹ with a provision to carry forward any unused numbers from one fiscal year to the next, including from FY2012 to FY2013. This program expired for principal aliens at the end of FY2013.³²

At the beginning of FY2014, the 113th Congress approved a short-term extension of the program in P.L. 113-42.³³ For FY2014, P.L. 113-42 provided for the approval of cases that were pending when the program expired on September 30, 2013, as well as 2,000 new cases, as long as the principal aliens in the new cases completed the required one-year period of employment by September 30, 2013, and filed an application with the COM in Iraq by December 31, 2013. The

²⁸ P.L. 113-291, Div. A, §1227.

²⁹ Language on adjustment of status in the 2009 law that established the temporary Afghan program, which also applied to the temporary Iraqi program, authorized the Secretary of Homeland Security to adjust the status of an alien to LPR status if the alien (1) had been paroled into the country or admitted as a temporary legal resident and (2) was otherwise eligible for the special immigrant classification, even if the alien was not in a lawful immigration status, had engaged in unauthorized employment, or had otherwise violated the terms of his or her nonimmigrant visa.

³⁰ P.L. 117-31, §403(b) (Afghans), (c) (Iraqis).

³¹ P.L. 110-242.

³² At the time, USCIS maintained that "the authority to grant derivative [special immigrant] status to spouses and children of principal Iraqi applicants did not sunset on Sept. 30, 2013." USCIS, "Special Immigrant Visa Program for Iraqi Nationals Who Worked For or On Behalf Of the U.S. Government Extended," news alert, October 10, 2013, <http://www.uscis.gov/news/alerts/special-immigrant-visa-program-iraqi-nationals-who-worked-or-behalf-us-government-extended>.

³³ P.L. 113-42, §1.

NDAA for FY2014³⁴ rewrote the extension language in P.L. 113-42 to provide for the issuance of no more than 2,500 visas to principal applicants after January 1, 2014, and to extend the application deadline to September 30, 2014 (for an overview of the application process, see the “Iraqi and Afghan Special Immigrant Visa Application Process” section of this report). No changes to the numerical cap or application deadline have been made since then.

Afghan Program

A similar SIV program for Afghans who were employed by, or on behalf of, the U.S. government in Afghanistan, as originally enacted, required not less than one year of employment on or after October 7, 2001. It was initially capped at 1,500 principal aliens annually for FY2009 through FY2013 with a provision to carry forward any unused numbers from one fiscal year to the next, including from FY2013 to FY2014.

Several laws passed by the 113th Congress amended the Afghan program’s numerical limitations to provide for additional visa numbers. The FY2014 Consolidated Appropriations Act (CAA)³⁵ provided for the granting of special immigrant status to up to 3,000 principal aliens for FY2014 and the carrying forward and use of any unused balance for FY2014 through the end of FY2015. This law required the one-year employment period to end by December 31, 2014, and required principal applicants to file an application with the COM in Afghanistan by September 30, 2014 (see the “Iraqi and Afghan Special Immigrant Visa Application Process” section of this report). A 2014 law³⁶ provided that an additional 1,000 principal aliens could be granted special immigrant status by December 31, 2014. This language required principal applicants to submit applications no later than the same December 31, 2014, date.

Making further changes to the Afghan program’s numerical limitations, the FY2015 NDAA provided that an additional 4,000 principal applicants could obtain special immigrant status from the enactment date (December 19, 2014) through September 30, 2016. For purposes of obtaining special immigrant status under the new provision, the law set the termination date for the required one-year employment period at September 30, 2015, the application deadline at December 31, 2015, and the expiration date for the visa issuance authority at March 31, 2017.

Legislation passed in the 114th Congress further amended the Afghan SIV program. The NDAA for FY2016³⁷ increased from 4,000 to 7,000 the number of additional SIVs available for issuance after December 19, 2014, and provided that these visas would remain available until used. The act also modified the employment requirements for certain applicants, requiring no less than two years of employment for those filing petitions after September 30, 2015, and extended both the employment period for eligibility and the application deadline until December 31, 2016.

Regarding the future of the Afghan SIV program, the act included the following provision:

It is the sense of Congress that the necessity of providing special immigrant status under this subsection should be assessed at regular intervals by the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives, taking into account the scope of the current and planned presence of United States troops in Afghanistan, the current and prospective numbers of citizens and nationals of Afghanistan employed ... and the security climate in Afghanistan.

³⁴ P.L. 113-66, Div. A, §1218.

³⁵ P.L. 113-76, Div. K, §7034(o).

³⁶ P.L. 113-160, §1.

³⁷ P.L. 114-92, Div. A, §1216.

The NDAA for FY2017³⁸ increased the number of additional SIVs to 8,500 and extended both the employment eligibility period and the application deadline to December 31, 2020. At the same time, it placed restrictions on qualifying employment for, or on behalf of, the U.S. government for visa issuance purposes for applications filed after the law's date of enactment (December 23, 2016). These restrictions mirrored existing requirements for employees of the ISAF. For applications filed after December 23, 2016, they limited eligibility to Afghans employed in Afghanistan (1) to serve as interpreters and translators, particularly while traveling away from U.S. embassies and consulates with personnel of the Department of State (DOS) or the U.S. Agency for International Development (USAID), or traveling off base with U.S. military personnel; or (2) to perform sensitive activities for the U.S. government in Afghanistan.

In the 115th Congress, the FY2017 CAA³⁹ increased the number of additional visas available under the Afghan SIV program from 8,500 to 11,000. The NDAA for FY2018⁴⁰ provided 3,500 additional visas under this program, for a total of 14,500 visas available for issuance after December 19, 2014. The employment termination date and the application deadline remained unchanged at December 31, 2020.

In the 116th Congress, the FY2019 CAA⁴¹ made an additional 4,000 visas available under the Afghan SIV program, bringing the total to 18,500. It left the employment termination date and the application deadline at December 31, 2020. This law also made the funding for the additional visas conditional on the Secretary of State developing a system for prioritizing the processing of Afghan SIV applications and submitting specified reports (for information on this prioritization, see the "Application Processing" section of this report).

The FY2020 NDAA⁴² authorized an additional 4,000 visas and made other statutory changes to the Afghan SIV program. It amended the program's statutory numerical limitation language to provide that the total number of principal aliens who could be granted special immigrant status after December 19, 2014, could not exceed 22,500. It also extended the employment termination date and application deadline to December 31, 2021. The act modified the program eligibility criteria by eliminating certain employment requirements that had been added by the FY2017 NDAA. As noted above, in the case of applications filed after December 23, 2016, the FY2017 NDAA had limited eligibility based on U.S. government employment to Afghans who were employed as interpreters and translators or to perform sensitive activities. The FY2020 NDAA restored the more general requirement of employment by, or on behalf of, the U.S. government. It did not change the eligibility requirements applicable to employment for the ISAF. In addition, it required the DOS Office of Inspector General (OIG) to submit an SIV-related report⁴³ (for a discussion of this and other DOS OIG reports, see the "DOS OIG Reports on Temporary Afghan SIV Program" section of this report).

Two FY2021 measures enacted at the end of the 116th Congress included language to authorize different numbers of additional Afghan SIVs. The FY2021 CAA, enacted on December 27, 2020, rewrote the existing statutory visa cap language (which provided 22,500 visas) to authorize a new total of 26,500, an increase of 4,000 visas.⁴⁴ The FY2021 NDAA, enacted on a veto-override vote on January 1, 2021, included language to replace the 22,500 figure with 22,620, an increase of

³⁸ P.L. 114-328, Div. A, §1214.

³⁹ P.L. 115-31, Div. J, §7083.

⁴⁰ P.L. 115-91, Div. A, §1213.

⁴¹ P.L. 116-6, Div. F, §7076.

⁴² P.L. 116-92, Div. A, §1219.

⁴³ *Ibid.*, §1215.

⁴⁴ P.L. 116-260, Div. K, §7034(l)(11).

120 visas.⁴⁵ DOS took the position that the CAA provision controlled (on the grounds that at the time the NDAA was enacted “the reference to ‘22,500’ was no longer in [statute]”⁴⁶), and thus, that the total number of visas available for issuance after December 19, 2014, was 26,500. Both the FY2021 CAA and the FY2021 NDAA extended the employment termination date and application deadline to December 31, 2022.

In the 117th Congress, the FY2021 Emergency Supplemental Appropriations Act⁴⁷ increased the number of visas available for issuance after December 19, 2014, to 34,500. It also extended the employment termination date and application deadline to December 31, 2023. It further modified the employment provisions to eliminate the language added by the FY2016 NDAA that required at least two years of employment for persons filing petitions after September 30, 2015. It thus made all applicants subject to the same requirement for one year of employment on or after October 7, 2001. The FY2023 CAA⁴⁸ made an additional 4,000 visas available, for a new total of 38,500, and extended both the employment termination date and application deadline to December 31, 2024.

In the 118th Congress, the FY2024 Further Consolidated Appropriations Act⁴⁹ increased the total number of visas available for issuance after December 19, 2014, to 50,500 and extended both the employment termination date and application deadline to December 31, 2025.

Conversion of Petitions

Since FY2009, the annual numerical limit on the Section 1059 program for translators and interpreters has been 50. A 2008 law⁵⁰ authorized the Secretary of Homeland Security or the Secretary of State to convert an approved petition under the Section 1059 program (filed before October 1, 2008) for which a visa was not immediately available to an approved petition under the program for Iraqis who were employed by, or on behalf of, the U.S. government, subject to the numerical limits of that latter program.⁵¹

⁴⁵ P.L. 116-283, Div. A, §1212.

⁴⁶ Email from DOS Bureau of Consular Affairs to CRS, June 3, 2021. DOS has not published its reasoning in support of this position.

⁴⁷ P.L. 117-31, §401(a)(1), (2).

⁴⁸ P.L. 117-328, Div. K, §7034(d)(9).

⁴⁹ P.L. 118-47, Div. F, §7034(d)(9).

⁵⁰ P.L. 110-242.

⁵¹ For further information about the conversion of petitions, see U.S. Department of State, Foreign Affairs Manual, “Certain Special Immigrant Translators,” 9 FAM 502.5-11(B); and U.S. Department of State, Foreign Affairs Manual, “Certain Iraqi and Afghan Nationals Employed by or on Behalf of the U.S. Government in Iraq or Afghanistan, and Certain Afghan Nationals Employed by the International Security Assistance Force or a Successor Mission,” Categories of Foreign Service Personnel,” 9 FAM 502.5-12(B) (hereinafter cited as “9 FAM 502.5-12(B)”).

Table 1. Comparison of Iraqi and Afghan Special Immigrant Visa Programs

| | Iraqis and Afghans Who Worked as Translators or Interpreters | Iraqis Who Worked for or on Behalf of the U.S. Government | Afghans Who Worked for or on Behalf of the U.S. Government or for the International Security Assistance Force |
|---|---|--|--|
| Nature/duration of Program | Permanent | Temporary (until all visas issued) | Temporary (until all visas issued) |
| Required work period for eligibility | At least 1 year | At least 1 year between 3/20/2003 and 9/30/2013 | At least 1 year between 10/7/2001 and 12/31/2025 |
| Ability of spouse/children to accompany | Yes | Yes | Yes |
| Application deadline | None | 9/30/2014 | 12/31/2025 |
| Current numerical cap | 50 per year | 2,500 after 1/1/2014 | 50,500 after 12/19/2014 |
| Eligibility for refugee benefits | Yes | Yes | Yes |

Source: P.L. 109-163, §1059, as amended, 8 U.S.C. §1101 note; P.L. 110-181, §1244, as amended, 8 U.S.C. §1157 note; P.L. 111-8, §602, as amended, 8 U.S.C. §1101 note.

Iraqi and Afghan Special Immigrant Visa Application Process

The process of applying for an Iraqi or Afghan SIV has multiple steps. The application process described in this section is for Iraqis and Afghans who are abroad, who historically have represented the vast majority of applicants.⁵² (An applicant in the United States whose petition for classification as a special immigrant is approved under the process described below could submit an application to adjust to LPR status along with supporting documentation; applicants in the United States do not go through the visa process.)

The first step under the special immigrant classification for Iraqi and Afghan translators and interpreters is to file a petition (Form I-360)⁵³ with the Department of Homeland Security's (DHS's) U.S. Citizenship and Immigration Services (USCIS) along with accompanying documentation. The required documents include evidence of qualifying employment, a letter of recommendation from the COM or a general or flag officer in the relevant U.S. Armed Forces unit, and evidence of a background check and screening by the COM or the U.S. Armed Forces.

The first step under the classification for Iraqis and Afghans who worked for, or on behalf of, the United States is to apply for COM approval. To apply, the principal applicant must submit documentation to DOS's National Visa Center (NVC), including, among other required items, a DOS application (Form DS-157), a letter from the applicant's employer confirming employment, a letter of recommendation from the applicant's direct U.S. citizen supervisor, and a statement

⁵² For additional information on the application process, see links for "Iraqi and Afghan Translators/Interpreters," "Iraqis—Worked for/on behalf of the U.S. Government," and "Afghans—Worked for/on behalf of the U.S. Government" at U.S. Department of State, Bureau of Consular Affairs, *Employment-Based Immigrant Visas* (under "Employment Fourth Preference (E4): Certain Special Immigrants" heading), <https://travel.state.gov/content/travel/en/us-visas/immigrate/employment-based-immigrant-visas.html#fourth>.

⁵³ Form I-360 is a Petition for Amerasian, Widow(er), or Special Immigrant.

from the applicant describing threats he or she received as a result of his or her U.S. government employment. If approval is granted, the applicant receives a COM approval letter. Until a 2022 change to the application process, the next step for these applicants was to file a USCIS Form I-360 petition and required documents, including copies of the COM approval letter and of the letter of recommendation from the direct supervisor. In July 2022, DOS and DHS announced that new applicants under the program for Afghans⁵⁴ who worked for, or on behalf of, the United States no longer had to submit a Form I-360.⁵⁵ Their DOS Form DS-157 would serve as their petition.⁵⁶

Under either classification, if USCIS approves the petition or, in cases in which no USCIS petition is required, if the application is approved by the COM, the NVC provides instructions on completing and submitting the visa application package. In addition to the immigrant visa application, supporting documents must be submitted for the principal applicant and each family member. These materials include copies of passport biodata pages, birth certificates, and other civil documents; police certificates, if applicable;⁵⁷ and a refugee benefits election form, indicating whether the applicant, if approved to receive a special immigrant visa, would like to participate in DOS's Reception and Placement program and receive associated benefits (see the "Resettlement Assistance and Federal Public Benefits" section of this report).

After reviewing the application package for completeness, the NVC schedules an in-person visa interview for the principal applicant and any family members at a U.S. embassy or consulate abroad. The interview is required to determine eligibility for a visa. Applicants' fingerprints are taken at the time of the interview. After the interview, the case undergoes "administrative processing, which may include requesting additional documentation, conducting additional interviews, and interagency security checks."⁵⁸ Applicants are also required to have a medical examination at their own cost.⁵⁹

In general, applicants who are issued visas and who have elected to participate in DOS's resettlement program must have their travel to the United States arranged by the International Organization for Migration.⁶⁰ Visa recipients who have elected not to participate in DOS's

⁵⁴ By 2022, only the Afghan program was accepting new applications. The application period for Iraqis who worked for, or on behalf of, the United States ended on September 30, 2014.

⁵⁵ DHS, *Statement by Secretaries Antony J. Blinken and Alejandro N. Mayorkas - Ongoing Efforts to Support Afghan Special Immigrant Visa Applicants*, July 18, 2022, <https://www.dhs.gov/news/2022/07/18/statement-secretaries-antony-j-blinken-and-alejandro-n-mayorkas-ongoing-efforts>.

⁵⁶ According to USCIS, "Certain Afghan citizens or nationals who already started the SIV application process and received COM approval as of July 20, 2022, must still file Form I-360 with USCIS on their own behalf, with this exception: If the COM approval letter states that your signed Form DS-157 submitted with your application for COM approval is approved as a petition and you are classified as a special immigrant under INA 203(b)(4), you do not need to file Form I-360." USCIS, "Information for Afghan Nationals" (under "Application Process" tab), November 13, 2024, <https://www.uscis.gov/humanitarian/information-for-afghan-nationals>.

⁵⁷ A police certificate is required for residents of Iraq. Applicants from Iraq or Afghanistan who have lived in another country for more than 12 months after age 16 must submit a police certificate from that locality. A police certificate is not otherwise required for residents of Afghanistan.

⁵⁸ 2020 DOS OIG report, p. 5.

⁵⁹ P.L. 117-31 (§402) temporarily authorized the Secretary of State and the Secretary of Homeland Security to jointly issue a blanket waiver of the medical examination requirement for applicants under the program for Afghans who worked for the United States. Such individuals would be required to undergo a medical exam after U.S. admission. Afghans receiving a waiver would be admitted to the United States as conditional LPRs; the conditional basis of their status would be removed once they completed the medical exam and were determined not to be inadmissible to the United States on health-related grounds.

⁶⁰ SIV holders who have not elected to participate in DOS's resettlement program before traveling to the United States (continued...)

resettlement program are responsible for making their own travel arrangements. Upon admission to the United States, SIV recipients obtain LPR status.

Comparison of Special Immigrants to Other Selected Admissions Categories

Special immigrant classifications have been established to provide for the permanent admission to the United States of specific populations. As noted, special immigrants comprise a subcategory of permanent employment-based immigrants in the INA, although they are not admitted for employment purposes.⁶¹ While the special immigrant category is unique, it does bear similarities to other admission categories that are authorized by other sections of the INA.

Refugees

Unlike special immigrants, refugees comprise a category of humanitarian admissions under the INA.⁶² As defined in the INA, a refugee is a person who is unwilling or unable to return to his or her home country “because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.”⁶³

Refugees accepted for admission to the United States can be accompanied by their spouses and children. The admissions process for refugees is separate from, and different than, the process for immigrants. After one year in refugee status, they are required to apply to adjust to LPR status. By contrast, special immigrants, like immigrants generally, are granted LPR status upon admission to the United States.

Despite the definitional and procedural differences, there is overlap between the refugee category and the special immigrant category, particularly the special immigrant classifications for Iraqis and Afghans, and the same individuals may be eligible to apply for both refugee status and classification under an Iraqi or Afghan SIV program. Unlike the refugee category, the special immigrant classifications for Iraqis and Afghans do not require a showing of persecution. At the same time, the statutory definitions of an eligible alien for the special immigrant programs for Iraqis and Afghans who worked for, or on behalf of, the United States include the following: “has experienced or is experiencing an ongoing serious threat as a consequence of the alien’s employment by the United States Government.”⁶⁴

may be able to do so upon arrival. See “What if I don’t have time to arrange travel through IOM?” in U.S. Department of State, Bureau of Consular Affairs, “Special Immigrant Visas for Afghans - Who Were Employed by/on Behalf of the U.S. Government,” <https://travel.state.gov/content/travel/en/us-visas/immigrate/special-immg-visa-afghans-employed-us-gov.html>.

⁶¹ For a general discussion of the permanent immigration system, including employment-based immigration, see CRS Report R42866, *Permanent Legal Immigration to the United States: Policy Overview*.

⁶² The refugee admissions process is set forth in INA Section 207. For additional information about the U.S. refugee program, see CRS Report R47399, *U.S. Refugee Admissions Program*.

⁶³ INA §101(a)(42), 8 U.S.C. §101(a)(42).

⁶⁴ P.L. 110-181, §1244(b)(1)(D), 8 U.S.C. 1157 note (Iraqis); P.L. 111-8, §602(b)(2)(A)(iv), 8 U.S.C. 1101 note (Afghans). No such requirement exists for applicants under the special immigrant program for translators and interpreters. For further discussion of the relationship between the refugee and Iraqi and Afghan SIV programs, see Testimony of USCIS Refugee Affairs Division Chief Barbara L. Strack, in U.S. Congress, House Committee on Homeland Security, Subcommittee on Counterterrorism and Intelligence, *Terrorist Exploitation of Refugee Programs*, hearing, 112th Cong., 2nd sess., December 4, 2012, (Washington, DC: GPO, 2013), pp. 21-22.

Another similarity between the special immigrant and refugee categories concerns the element of having a connection to the United States. As noted in the preceding legislative history discussion, U.S. government service is a common feature in special immigrant classifications, including those for Iraqis and Afghans. A U.S. connection also may facilitate access to the U.S. refugee admissions program. Overseas refugee processing is conducted through a system of three priorities for admission. The priorities provide access to U.S. resettlement consideration. Priority 1, which covers refugees for whom resettlement seems to be the appropriate durable solution, applies to all nationalities and requires no connection to the United States. A U.S. connection, however, is a factor under Priorities 2 and 3, which provide more direct access to the U.S. refugee admissions program. Priority 2 covers specified groups of special humanitarian concern to the United States, which may be defined by their nationalities, clans, ethnicities, or other characteristics. A U.S. connection is a required element for some Priority 2 groups, such as Iraqis associated with the United States. Priority 3, which is limited to designated nationalities, covers family reunification cases and requires the prospective refugee to have an eligible relative in the United States.

Resettlement Assistance and Federal Public Benefits

Iraqi and Afghan special immigrants are treated like refugees for purposes of federal public benefits. Refugees are eligible for resettlement assistance through programs administered by DOS and the Department of Health and Human Services' (HHS's) Office of Refugee Resettlement (ORR). Under DOS's Reception and Placement program, public and private, nonprofit entities provide new arrivals with initial resettlement services and referrals to other services, as needed.⁶⁵ ORR's refugee resettlement programs provide transitional assistance to refugees and other designated groups.⁶⁶ Refugees are also subject to special rules with respect to federal public benefits, such as Medicaid and Supplemental Security Income (SSI) for the Aged, Blind and Disabled.⁶⁷

While Iraqi and Afghan special immigrants are now eligible for the same federal public assistance as refugees, this was not always the case. The original law establishing the special immigrant program for Iraqi and Afghan translators included no language on eligibility for resettlement support. Subsequent laws on the Iraqi and Afghan special immigrant programs made Iraqis and Afghans eligible for refugee assistance and benefits on a time-limited basis.⁶⁸ With the enactment of the NDAA for FY2010, special immigrants from Iraq and Afghanistan became eligible for the same resettlement assistance, entitlement programs, and other benefits as refugees and for the same periods of time.⁶⁹

⁶⁵ For additional information, see CRS Report R47399, *U.S. Refugee Admissions Program*.

⁶⁶ For additional information, see HHS, Office of Refugee Resettlement, <https://www.acf.hhs.gov/orr>.

⁶⁷ For additional information, see, for example, CRS Report R47351, *Noncitizens' Access to Health Care*.

⁶⁸ P.L. 110-161, Div. G, §525 (Iraqi and Afghan eligibility for up to six months); P.L. 110-181, §1244(g), January 28, 2008 (Iraqi eligibility for up to eight months); P.L. 111-8, Div. F, §602(b)(8) (Afghan eligibility for up to eight months).

⁶⁹ P.L. 111-118, Div. A, Title VIII, §8120. For additional information, see U.S. Government Accountability Office, *Afghan and Iraqi Special Immigrants: More Information on Their Resettlement Outcomes Would Be Beneficial*, GAO-18-107, February 2018.

Amerasians

Amerasians fathered by U.S. citizens, like Iraqis and Afghans who have assisted the U.S. government, are the subject of special permanent admissions provisions in the INA.⁷⁰ The Amerasian provisions have a humanitarian component, but, like the special immigrant provisions, are not a category of humanitarian admissions. Instead, Amerasian sons and daughters of U.S. citizen fathers are admitted to the United States under the permanent family-based immigration provisions of the INA (as opposed to the employment-based provisions under which special immigrants are admitted).⁷¹ A law enacted in 1982⁷² amended the INA to provide for the admission as family-based immigrants of individuals born in Korea, Vietnam, Laos, Kampuchea (Cambodia), or Thailand between 1950 and 1982 with U.S. citizen fathers. An immigrant petition could be filed by the eligible individual or by another person on behalf of an eligible individual. Beneficiaries could not be accompanied to the United States by their mothers or other relatives. In the case of minors, the 1982 law required the mother or guardian to sign a written release and provided for placement of the child with a U.S. citizen or LPR sponsor.

A subsequent law enacted in 1987, as amended, eliminated some of these immigration restrictions.⁷³ The 1987 law, which provided for the admission to the United States as immigrants of Vietnamese nationals born in Vietnam between 1962 and 1976 and fathered by a U.S. citizen, permitted the beneficiary to be accompanied by a mother, a spouse, and children. This law, as amended, also made the public charge ground of inadmissibility inapplicable to these aliens and made them eligible for benefits under the refugee provisions of the INA. With these changes, the treatment of this group became more similar to that of refugees and today's Iraqi and Afghan special immigrants.

Special Immigrant Visa Statistics

Through March 31, 2024, according to DOS data, about 170,000 individuals had been issued SIVs abroad, or been adjusted to LPR status in the United States, under the two special immigrant classifications for Iraqi and Afghan nationals.⁷⁴ Principal applicants accounted for about 47,000 of the total; dependent spouses and children accounted for about 123,000. **Table 2** provides data on the permanent special immigrant classification for Iraqi and Afghan translators and interpreters. **Table 3** provides data on the temporary special immigrant classification for Iraqis and Afghans who were employed by, or on behalf of, the U.S. government in Iraq or Afghanistan, respectively. Regarding **Table 3**, as noted above, Iraqi principal applicants are subject to a cap of 2,500 visas after January 1, 2014; Afghan principal applicants are subject to a cap of 50,500 visas after December 19, 2014. The tables are mutually exclusive; an individual appears in only one

⁷⁰ For additional information, see U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, *Policy Manual*, vol. 7, pt. P, chap. 9 (Amerasian Immigrants), <https://www.uscis.gov/policy-manual/volume-7-part-p-chapter-9>.

⁷¹ For additional information, see CRS Report R42866, *Permanent Legal Immigration to the United States: Policy Overview*.

⁷² P.L. 97-359, 8 U.S.C. §1154(f).

⁷³ P.L. 100-202, §101(e), Title V, §584, 8 U.S.C. §1101 note.

⁷⁴ Special immigrant visa statistics are available from the DOS Bureau of Consular Affairs, <http://travel.state.gov/content/visas/english/law-and-policy/statistics/immigrant-visas.html>.

table.⁷⁵ (The **Appendix** contains separate tables for Iraqis and Afghans for each special immigrant classification.)

Table 2. Special Immigrant Visas for Iraqi and Afghan Translators and Interpreters

| Fiscal Year | Principals | Dependents | Total |
|-------------------|--------------|--------------|--------------|
| 2007 | 537 | 466 | 1,003 |
| 2008 | 559 | 557 | 1,116 |
| 2009 | 51 | 69 | 120 |
| 2010 | 43 | 84 | 127 |
| 2011 | 42 | 85 | 127 |
| 2012 | 64 | 91 | 155 |
| 2013 | 32 | 80 | 112 |
| 2014 | 45 | 131 | 176 |
| 2015 | 44 | 146 | 190 |
| 2016 | 58 | 165 | 223 |
| 2017 | 51 | 171 | 222 |
| 2018 | 50 | 147 | 197 |
| 2019 | 21 | 57 | 78 |
| 2020 | 19 | 58 | 77 |
| 2021 | 17 | 37 | 54 |
| 2022 | 24 | 38 | 62 |
| 2023 | 42 | 112 | 154 |
| 2024 ^a | 33 | 100 | 133 |
| Totals | 1,732 | 2,594 | 4,326 |

Source: U.S. Department of State, Bureau of Consular Affairs.

Notes: The data include individuals classified as special immigrants who adjusted to LPR status in the United States.

a. Through March 31, 2024.

Table 3. Special Immigrant Visas for Iraqis and Afghans Who Worked for the U.S. Government

| Fiscal Year | Principals | Dependents | Total |
|-------------|------------|------------|-------|
| 2008 | 371 | 334 | 705 |
| 2009 | 1,680 | 1,736 | 3,416 |
| 2010 | 947 | 1,103 | 2,050 |
| 2011 | 320 | 392 | 712 |
| 2012 | 1,724 | 2,320 | 4,044 |

⁷⁵ As indicated in the table notes, **Table 3** includes individuals with approved petitions under the translator/interpreter program whose cases were converted as provided for in P.L. 110-242; however, any such individuals would not be included in **Table 2**.

| Fiscal Year | Principals | Dependents | Total |
|-------------------|---------------|----------------|----------------|
| 2013 | 1,992 | 3,116 | 5,108 |
| 2014 | 3,876 | 6,805 | 10,681 |
| 2015 | 2,636 | 5,299 | 7,935 |
| 2016 | 4,283 | 10,100 | 14,383 |
| 2017 | 4,677 | 13,713 | 18,390 |
| 2018 | 1,801 | 6,025 | 7,826 |
| 2019 | 2,416 | 7,640 | 10,056 |
| 2020 | 1,829 | 6,134 | 7,963 |
| 2021 | 2,227 | 7,962 | 10,189 |
| 2022 | 2,758 | 9,196 | 11,954 |
| 2023 | 6,723 | 20,595 | 27,318 |
| 2024 ^a | 5,433 | 17,509 | 22,942 |
| Totals | 45,693 | 119,979 | 165,672 |

Source: U.S. Department of State, Bureau of Consular Affairs.

Notes: The data include individuals with approved petitions under the translator/interpreter program whose cases were converted in accordance with P.L. 110-242; the data also include individuals classified as special immigrants who adjusted to LPR status in the United States.

a. Through March 31, 2024.

Selected Challenges

There is a fundamental tension in the administration of the Iraqi and Afghan SIV programs between a sense of urgency to issue visas to eligible individuals and a need to conduct appropriate security screening. This tension is quite sharp because on the one hand these programs are aimed at individuals who assisted the United States and face danger because of it, and on the other hand there are serious concerns that this population may pose security threats.⁷⁶ Overlaying this dynamic is the structure of the SIV programs themselves, with statutory timeframes and numerical limitations.

Application Processing

The Iraqi and Afghan SIV application processes—particularly for the temporary programs for persons who worked for, or on behalf of, the U.S. government—have been subject to much criticism over the years. DOS has acknowledged past problems with the application process but has also cited steps it has taken to expedite processing. For example, in written testimony for a July 2011 Senate Homeland Security and Governmental Affairs Committee hearing, then-

⁷⁶ For example, a 2008 DOS OIG report on the SIV program for interpreters and translators stated, “The due diligence of officials involved in the security and background screening of applicants resulted in several SIV candidates being ruled ineligible due to their personal activities or conditions.” The report also highlighted some “cases of concern,” which included “[f]ormer Saddam-era military personnel, including Republican Guard officers, a chemical warfare specialist, a former fighter pilot who flew against U.S. military forces, and a commander of the national air defense center.” U.S. Department of State and the Broadcasting Board of Governors, Office of Inspector General, Middle East Regional Office, *Status of Iraqi Special Immigrant Visa Programs*, Report Number MERO-IQO-08-01, July 2008, pp. 7, 10.

Assistant Secretary of State for Consular Affairs Janice Jacobs enumerated changes DOS had made to the Iraqi and Afghan SIV programs to decrease processing times:

We no longer require documentation that we found to be redundant; we have decreased the amount of paperwork that must be submitted by mail in favor of electronic submissions; and we have reorganized internal procedures so that the process moves faster.⁷⁷

A February 2014 PBS NewsHour piece on the SIV program for Afghans who worked for, or on behalf of, the U.S. government described ongoing challenges with this program:

Critics describe the process of applying for a visa as opaque, prohibitively complicated and painfully slow, putting the applicant's [*sic*] lives at risk with each passing month that their visas aren't approved.⁷⁸

At around the same time, newspapers published anecdotal reports of years-long waits for approval, layers of bureaucracy, and unexpected denials under this program.⁷⁹

In the PBS NewsHour piece, Jarrett Blanc, Deputy Special Representative for Afghanistan and Pakistan, asserted that processing improvements had been made to the temporary Afghan SIV program. He identified the need to obtain approval by the COM committee in the U.S. Embassy in Kabul, Afghanistan, as a "key bottleneck at the start of the process" that has been addressed. Blanc said that by increasing the number of committees handling cases, applications could be reviewed within two weeks of filing.⁸⁰

Incomplete applications also present challenges. In response to questions on the temporary Iraqi SIV program following an October 2011 Senate Judiciary Committee DHS oversight hearing, DHS referred to obstacles faced by SIV applicants in preparing their applications. The cited obstacles included difficulties obtaining a recommendation from a supervisor and a copy of the work contract.⁸¹ In his comments on the parallel Afghan SIV program for the PBS NewsHour piece, Blanc argued that the Afghan applicants share responsibility for the processing delays by failing to submit all the necessary paperwork.⁸²

The 113th Congress enacted legislation to amend the temporary SIV programs for Iraqis and Afghans to address application processing-related concerns. The FY2014 NDAA established several coordinator positions. It instructed the Secretary of State to designate an Iraqi SIV coordinator and an Afghan SIV coordinator in the U.S. embassies in Baghdad, Iraq, and Kabul, Afghanistan, respectively, to "[oversee] the efficiency and integrity of the processing of special immigrant visas."⁸³ It directed the Secretaries of State, Homeland Security, and Defense each to designate a senior coordinating official whose responsibilities would include "develop[ing] proposals to improve the efficiency and effectiveness of the process for issuing special immigrant

⁷⁷ Written Testimony of Assistant Secretary of State Janice L. Jacobs, U.S. Congress, Senate Committee on Homeland Security and Governmental Affairs, *Ten Years After 9/11: Preventing Terrorist Travel*, hearing, 112th Cong., 1st sess., July 13, 2011 in U.S. Congress, Senate Committee on Homeland Security and Governmental Affairs, *Ten Years After 9/11—2011*, hearings, 112th Cong., 1st sess. (Washington, DC: GPO, 2012), p. 522 (hereinafter cited as "Jacobs testimony, July 2011").

⁷⁸ P.J. Tobia, "Tongue Tied in Afghanistan," PBS NewsHour, February 19, 2014, <http://www.pbs.org/newshour/updates/tongue-tied-afghanistan/> (hereinafter cited as "Tobia, February 2014").

⁷⁹ See, for example, Kevin Sieff, "U.S. Rejects More Visas for Afghan Interpreters," *Washington Post*, November 11, 2013, p. A1.

⁸⁰ Tobia, February 2014.

⁸¹ U.S. Congress, Senate Committee on the Judiciary, *Oversight of the U.S. Department of Homeland Security*, hearing, 112th Cong., 1st sess., October 19, 2011, p. 45.

⁸² Tobia, February 2014.

⁸³ P.L. 113-66, Div. A, §§1218-1219.

visas” and “coordinat[ing] and monitor[ing] the implementation of such proposals” under the Iraqi and Afghan SIV programs.⁸⁴ It also established a review process for denial of COM approval under each program.

This law further directed the Secretary of State and the Secretary of Homeland Security, in consultation with the Secretary of Defense, to make changes to the processing of applications under each program such that

all steps under the control of the respective departments incidental to the issuance of such visas, including required screenings and background checks, should be completed not later than 9 months after the date on which an eligible alien submits all required materials to complete an application for such visa.

At the same time, the act included an exception to the nine-month limit in “high-risk cases for which satisfaction of national security concerns requires additional time.”⁸⁵

The FY2014 NDAA included reporting requirements related to application processing under the temporary Iraqi and Afghan SIV programs. It required the Secretary of State and the Secretary of Homeland Security, in consultation with the Secretary of Defense, to report to Congress on the implementation of improvements to SIV application processing under each program. The FY2019 NDAA subsequently required a new report to Congress on the implementation of SIV application processing improvements to the Afghan program. The July 2018 conference report on this legislation noted concern that “the SIV application process continues to suffer from inadequate interagency coordination which has resulted in undue delay, needless stress on applicants, and a sizable drop in SIV admissions this year.”⁸⁶

In addition to requiring congressional reports, the FY2014 NDAA provided for public reports on Iraqi and Afghan SIV application processing. It required the Secretary of State and the Secretary of Homeland Security, in consultation with the Secretary of Defense, to publish quarterly reports describing improvements in SIV application processing.⁸⁷ The first quarterly reports on the temporary Iraqi and Afghan SIV programs were dated April 2014.⁸⁸ (For additional discussion of the quarterly reports, see the “Pending Applications ” section of this report.)

As noted, the FY2019 CAA required the Secretary of State to develop a system for prioritizing the processing of SIV applications under the temporary Afghan program as a condition for

⁸⁴ Ibid., §1218.

⁸⁵ Ibid., §§1218-1219.

⁸⁶ U.S. Congress, Conference Committee, John S. McCain National Defense Authorization Act Fiscal Year 2019, conference report to accompany H.R. 5515, 115th Cong., 2nd sess., H.Rept. 115-874, July 25, 2018, p. 980.

⁸⁷ Links to all the quarterly reports are available at <https://travel.state.gov/content/travel/en/us-visas/immigrate/special-immig-visas-iraqis-employed-us-gov.html> (Iraqi program); and <https://travel.state.gov/content/travel/en/us-visas/immigrate/special-immig-visa-afghans-employed-us-gov/afghan-siv-references.html#quarterly> (Afghan program). The most recent quarterly reports are: *Report to Congress on Process by which Applications for Special Immigrant Visas under Special Immigrant Status for Certain Iraqis Are Processed*, July 2024, <https://travel.state.gov/content/dam/visas/SIVs/Iraq-Public-Quarterly-Report-Q3-July-2024.pdf> (hereinafter cited as “Quarterly Report on the Iraqi SIV Program, July 2024”); and *Report to Congress on Posting of the Afghan Special Immigrant Visa Quarterly Report on the Department of State’s Website*, July 2024, <https://travel.state.gov/content/dam/visas/Afghan-Public-Quarterly-Report-Q3-July-2024.pdf> (hereinafter cited as “Quarterly Report on the Afghan SIV Program, July 2024”).

⁸⁸ *Joint Department of State/Department of Homeland Security Report: Extension and Improvement of the Iraqi Special Immigrant Visa (SIV) Program*, April 2014, [https://travel.state.gov/content/dam/visas/Iraqi_SIVs_public_report_\(05%2001%2014\).pdf](https://travel.state.gov/content/dam/visas/Iraqi_SIVs_public_report_(05%2001%2014).pdf); *Joint Department of State/Department of Homeland Security Report: The Implementation of Processing Improvements for Afghan Special Immigrant Visa (SIV) Program*, April 2014, [https://travel.state.gov/content/dam/visas/Afghan_SIVs_public%20report_\(05%2001%2014\).pdf](https://travel.state.gov/content/dam/visas/Afghan_SIVs_public%20report_(05%2001%2014).pdf).

receiving funding for the additional visas authorized by the legislation. DOS determined that applicants would be prioritized in the following order:

1. Interpreters and Translators: Afghans working with U.S. military and U.S. government personnel as interpreters or translators, with extra consideration for those who assisted in combat operations.
2. U.S. Government Direct Hire Employees: Afghan locally employed staff under personal services agreement or personal services contract for the Department, DOD, or other U.S. government agencies. This also includes direct hire employees of International Security Assistance Force (ISAF) or Resolute Support (RS), NATO [North Atlantic Treaty Organization], and governments participating in ISAF or RS in Afghanistan.
3. Contractors with U.S. Government Installation Badges: Afghan third party contractors or subcontractors employed on behalf of the U.S. government working at a U.S. government installation in Afghanistan. This includes employees of companies that provide on-compound support for the U.S. Embassy, DOD, or other U.S. government installation.
4. Implementing Partners (IP): Afghan third party contractors or subcontractors employed on behalf of U.S. government entities, such as USAID and INL [Bureau of International Narcotics and Law Enforcement Affairs], implementing instructions in the field in Afghanistan.
5. All Other Applicants: Afghan U.S. government contractors, logistics or transportation service providers, and companies contracted by the U.S. government to provide services to Afghan National Army or Afghan National Police installations.⁸⁹

DOS OIG Reports on Temporary Afghan SIV Program

The FY2020 NDAA⁹⁰ included a new reporting requirement related to the temporary Iraqi and Afghan SIV programs for persons who worked for, or on behalf of, the U.S. government. It directed DOS OIG to submit a report to Congress that “evaluate[s] the obstacles to effective protection of Afghan and Iraqi allies through the special immigrant visa programs” and suggests improvements for the future.

Completed in June 2020, the OIG report evaluated the Afghan SIV program. It did not address the Iraqi program.⁹¹ Among the report’s conclusions were the following:

OIG found that the Department’s staffing levels across its various offices that process Afghan SIVs have generally remained constant since 2016 and are insufficient to reduce the SIV applicant backlog.... Additionally, the Department lacks a centralized database to effectively document the identity of locally employed staff and contractors.⁹²

Regarding the information technology systems involved in Afghan SIV application processing, the report noted that they are maintained by different DOS bureaus, lack interoperability, and impede efficient processing. It further explained, “An SIV processor at any single stage of the

⁸⁹ 9 FAM 502.5-12(B).

⁹⁰ P.L. 116-92, Div. A, §1215.

⁹¹ DOS, OIG, Office of Audits, *Review of the Afghan Special Immigrant Visa Program*, Report Number AUD-MERO-20-35, June 2020 (hereinafter cited as “2020 DOS OIG report”). According to the report: “At the start of this review, OIG learned that the Iraqi SIV program concluded in September 2014 and only had 84 applicants in the pipeline to be processed as of December 15, 2019, whereas the Afghan SIV program had 18,768. As a result, OIG did not evaluate the Iraqi SIV program and informed Congress of this decision on January 24, 2020,” p. 1 (footnote 1).

⁹² 2020 DOS OIG report, “Highlights” page.

Afghan SIV program must manually export data from one system and import it into the next to continue processing and gain a full picture of one application.”⁹³

The 2020 OIG report highlighted the challenges of verifying the employment of contractors and subcontractors, who represent “the majority of Afghan SIV applicants.”⁹⁴ As explained in the report, DOS has to determine “an applicant’s eligibility for the program by verifying, among other items, history and length of employment and a letter of recommendation from the applicant’s immediate supervisor.”⁹⁵ The report noted, based on information provided by DOS officials, that “qualifying applicants who worked for the Department of Defense pose additional challenges because of recordkeeping weaknesses.”⁹⁶ The DOD verification issue was discussed at a May 2021 hearing of the Senate Committee on Armed Services. One of the witnesses, then-Acting Assistant Secretary of Defense for Indo-Pacific Security Affairs David Helvey, said, “We are working very closely with State Department to identify and provide data that can help to provide the identification and the identities of those employees of the Department of Defense that would qualify.”⁹⁷

The OIG report made a number of recommendations, some of which referenced the DOS senior coordinating official position for the Afghan SIV program that was established by the FY2014 NDAA. One recommendation was for this official to conduct an assessment of staffing levels at all stages of Afghan SIV application processing and report to OIG on DOS plans to reduce the backlog of applicants and maintain adequate staffing to meet the nine-month processing timeframe set by Congress. In another recommendation, the OIG report suggested that the Secretary of State, in consultation with other specified officials, “re-examine options for establishing a unified database of information related to personnel conducting work on executive agency contracts, grants, or cooperative agreements that can be used to adjudicate special immigrant visas or, alternatively, use an existing database.”⁹⁸

In October 2022, DOS OIG issued a compliance follow-up report⁹⁹ to its 2020 review; this was one of a series of reports prompted by requests from “multiple congressional committees” after the 2021 military withdrawal from Afghanistan and the suspension of operations at the U.S. Embassy in Kabul. OIG reported in 2022 that DOS had taken some recommended actions, including conducting a staffing assessment and utilizing a DOD database for employment verification. Nevertheless, OIG found the senior coordinating official was “not sufficiently coordinating and monitoring the implementation of improvements to the SIV program” and had not “ensure[d] sufficient staffing to address the Afghan SIV application backlog.” It concluded that these and other shortcomings had “contributed to Afghan SIV applicant processing times exceeding the 9-month goal set by Congress and may have delayed vulnerable Afghan allies from reaching safety in the United States.”¹⁰⁰

⁹³ Ibid., p. 25.

⁹⁴ Ibid., p. 21.

⁹⁵ Ibid., p. 4.

⁹⁶ Ibid., p. 21.

⁹⁷ U.S. Congress, Senate Committee on Armed Services, *To receive testimony on the transition of all United States and Coalition forces from Afghanistan and its implications*, hearing, 117th Cong., 1st sess., May 20, 2021, stenographic transcript, https://www.armed-services.senate.gov/imo/media/doc/21-41_05-20-2021.pdf.

⁹⁸ 2020 DOS OIG report, p. 31.

⁹⁹ DOS, OIG, Office of Audits, *Compliance Follow-Up Review of the Afghan Special Immigrant Visa Program*, Report Number AUD-MERO-23-01, October 2022 (hereinafter cited as “October 2022 DOS OIG report”).

¹⁰⁰ Ibid., “Highlights” page.

Another DOS OIG report issued in August 2023 also addressed questions related to Afghan SIV application processing, including about DOS streamlining efforts.¹⁰¹ The report enumerated efforts by DOS to streamline and improve processing beginning in February 2021. It noted, however, that there was an influx of SIV applications after August 2021 and that DOS “had inadequate staffing to process those applications.”¹⁰² According to the report, “Without additional dedicated resources to address the situation, the growing backlog in Afghan SIV applications will remain a significant challenge.”¹⁰³ (Other DOS OIG reports are discussed in the next section of this report.)

Metrics on Application Processing Under the Temporary SIV Programs

As mentioned previously, provisions in the FY2014 NDAA directed the Secretary of State and the Secretary of Homeland Security to produce public quarterly reports on application processing under the temporary Iraqi and Afghan SIV programs. The statutory provisions required the quarterly reports to include certain elements, such as data on pending applications, data on processing times, and “the reasons for the failure to process any applications that have been pending for longer than 9 months.”

Pending Applications

The FY2014 NDAA mandated that the quarterly reports include data on pending applications at selected points in the application process. Specifically, the reports were to provide the “total number of applications that are pending due to the failure” (1) “to receive approval from the Chief of Mission,” (2) “of U.S. Citizenship and Immigration Services to complete the adjudication of the Form I-360,”¹⁰⁴ (3) “to conduct a visa interview,” or (4) “to issue the visa to an eligible alien.”¹⁰⁵ The fact that the quarterly reports provide pending application data for only some processing steps means that the actual numbers of pending applications are likely higher than the sum of the pending numbers in the quarterly reports.

A change in quarterly reporting for the temporary Afghan SIV program¹⁰⁶ in January 2021 provided a fuller, although still not comprehensive, picture of the volume of pending applications. The change concerned pending COM applications (corresponding to item (1) above). As noted, applying for COM approval is the first step in the application process under the temporary Afghan program. In reporting the number of applications pending COM approval, quarterly reports prior to January 2021 had included only the number of principal applicants with pending COM applications that were incomplete. Beginning in January 2021, the quarterly reports also included the number of principal applicants with pending COM applications that were complete. A COM application must be complete before it can be reviewed. According to the January 2021 quarterly report on the Afghan program, there were about 15,000 principal applicants with

¹⁰¹ DOS, OIG, Office of Audits, *Evaluation of Adjustments to the Afghan Special Immigrant Visa Program From 2018 Through 2022*, Report Number AUD-MERO-20-23, August 2023.

¹⁰² *Ibid.*, p. 7.

¹⁰³ *Ibid.*

¹⁰⁴ As noted, the requirement to submit Form I-360 was eliminated for new applicants in July 2022.

¹⁰⁵ The pending application data presented here are based on the sum of the number of principal applicants who (1) had submitted some but not all materials required to apply for COM approval, (2) had pending I-360 petitions, (3) were awaiting the scheduling of visa interviews, and (4) were undergoing administrative processing.

¹⁰⁶ The quarterly reports on the Iraqi program were not subject to this change. Reports on the Iraqi program since the July 2020 report have indicated that there were no pending COM applications.

pending applications at one of the four stages enumerated above. Of these, more than 13,000 applicants (or about 90%) had either incomplete or complete applications at the COM stage.

As application submissions under the temporary Afghan program began to increase in 2021, the number of pending applications ballooned. According to the April 2023 quarterly report, more than 150,000 principal applicants had pending applications on March 31, 2023, the highest number reported in the quarterly reports. This total included more than 140,000 pending COM applications.

The latest DOS/DHS quarterly reports on the temporary Iraqi and Afghan SIV programs as of the cover date of this CRS report are for July 2024. The Iraqi report identified 52 pending applications for Iraqi principal applicants. The Afghan report enumerated about 132,000 pending applications for Afghan principal applicants (more than 90% of which were pending at the COM application stage).

It is not known how many principal applicants with pending applications will qualify for special immigrant status. As noted, the application data reported in the DOS/DHS quarterly reports include incomplete submissions. One DOS statistic quoted in a 2023 news article about the temporary Afghan SIV program provides some limited information about application outcomes. According to a DOS spokesperson, “Historically, about 50 percent of [complete] applications reviewed at the COM stage do not qualify for the SIV program.”¹⁰⁷

A related question for which U.S. officials do not seem to have an answer is how many Afghans may be eligible for the SIV program (whether or not they have submitted applications). Asked at a May 2021 House Foreign Affairs Committee hearing whether he had an estimate of how many Afghans may be eligible for the Afghan SIV program who had not yet applied, Special Representative Afghanistan Reconciliation Zalmay Khalilzad replied, “I do not.”¹⁰⁸

Processing Times

The DOS/DHS quarterly reports provide data on average total U.S. government processing time for SIV applications.¹⁰⁹ This statistic excludes any steps in the application process that are the responsibility of the applicant, such as submitting a complete visa application to the NVC (see the “Iraqi and Afghan Special Immigrant Visa Application Process” section of this report). As such, these data are an incomplete measure of average total processing time.¹¹⁰ According to the July 2024 quarterly reports, average total U.S. government processing time was 202 calendar days for the Iraqi program and 658 calendar days for the Afghan program.¹¹¹

¹⁰⁷ Quoted in Caroline Tucker, “‘Keep our word’: Group seeks more visas for Afghans who helped U.S.,” NBC4 Washington, August 15, 2023, <https://www.nbcwashington.com/news/local/keep-our-word-group-seeks-more-visas-for-afghans-who-helped-u-s/3404841/>.

¹⁰⁸ U.S. Congress, House Committee on Foreign Affairs, *The U.S.-Afghanistan Relationship Following the Military Withdrawal*, hearing, 117th Cong., 1st sess., May 18, 2021, CQ Transcriptions.

¹⁰⁹ In the April 2014–April 2016 quarterly reports, processing times are provided in business days; beginning with the July 2016 quarterly report, processing times are provided in calendar days.

¹¹⁰ As stated in the July 2024 reports on both programs, “Overall processing times are greater than U.S. government processing times.” Quarterly Report on the Iraqi SIV Program, July 2024, p. 6 (footnote 12); Quarterly Report on the Afghan SIV Program, July 2024, p. 8 (footnote 21).

¹¹¹ Quarterly Report on the Iraqi SIV Program, July 2024, p. 6; Quarterly Report on the Afghan SIV Program, July 2024, p. 8.

In June 2020, DOS OIG issued a report about DOS/DHS quarterly reporting on the Afghan program that raised questions about the processing time data in the quarterly reports.¹¹² According to the OIG report, “the method for collecting, verifying, and reporting on applicant ‘wait times’ is inconsistent and potentially flawed.”¹¹³ It noted, in particular, that the entities responsible for the four main stages of the application process at the time—COM application, I-360 petition, visa application, and visa issuance—use different methodologies for calculating average processing times. In its October 2022 report discussed above, DOS OIG again flagged the use of inconsistent methodologies for calculating the processing times reported in the quarterly reports.¹¹⁴

A September 2022 DOS OIG report on the Afghan SIV application process addressed a related question from congressional requesters about “the average time taken to process an SIV application from submission to issuance or denial.”¹¹⁵ OIG reported that it

could not independently calculate the overall SIV processing time from submission of the COM application through visa issuance or denial because of a lack of interoperability between various Department application processing systems and the USCIS I-360 petition processing system.¹¹⁶

It also determined that it could not separately calculate average processing times for the COM approval, I-360 petition, and visa application stages of the Afghan SIV application process and sum them to construct an overall average. A key reason for this was that “the data necessary to calculate days for the COM approval phase was not reliable.”¹¹⁷

In addition to reporting U.S. government processing times, the quarterly reports discuss the reasons applications are pending for longer than nine months. As noted, statutory language applicable to the temporary Iraqi and Afghan SIV programs specifies that “all steps under the control of the respective departments incidental to the issuance of such visas ... should be completed not later than 9 months after” submission of a complete application except in “high-risk cases for which satisfaction of national security concerns requires additional time” (see the “Application Processing” section of this report).

The July 2024 quarterly report on the Afghan program provided two main reasons for applications pending longer than nine months, both of which were connected to the 2021 U.S. military withdrawal from Afghanistan. One reason concerned delays related to the need for applicants who were ready to have their visa interviews scheduled to designate a U.S. embassy or consulate outside Afghanistan. (The U.S. Embassy in Afghanistan suspended operations on August 31, 2021.) The other reason concerned the “surge in demand for Afghan SIVs related to the withdrawal of U.S. forces.” According to the July 2024 report, this surge resulted in a “significant processing backlog” at the COM application review step in the Afghan SIV application process. The report also stated, however, that the DOS unit responsible for COM application review “continues to implement processing improvements and increase staffing to reach decisions as quickly as possible without undermining the integrity of the process or national

¹¹² DOS, OIG, Office of Audits, *Management Assistance Report: Quarterly Reporting on the Afghan Special Immigrant Visa Program Needs Improvement*, Report Number AUD-MERO-20-34.

¹¹³ *Ibid.*, p. 1. The related statutory provision references “wait times.” It requires that the quarterly reports provide “the average wait times for an applicant at each of the [specified] stages of the application process.”

¹¹⁴ See October 2022 DOS OIG report, pp. 8-11.

¹¹⁵ DOS, OIG, *Information Report: Afghan Special Immigrant Visa Program Metrics*, Report Number AUD-MERO-22-38, September 2022.

¹¹⁶ *Ibid.*, p. 14.

¹¹⁷ *Ibid.* DOS took issue with OIG’s conclusions about Afghan SIV processing time data. For details, see *ibid.*, Appendix E: Department of State Response, pp. 30-36.

security.”¹¹⁸ These improvements included expanded use of “advanced analytics and automation to streamline the [COM] approval process.”¹¹⁹

More broadly, following the 2021 military withdrawal, the Biden Administration expressed support for expediting the processing of Afghan SIV applications. At a July 2022 DOS briefing with senior Administration officials, a DOS official stated:

Over the past year and a half, we’ve undertaken significant efforts to improve the SIV program. As we work to expeditiously process SIV applications while safeguarding national security, we’ve also taken steps to make the process more efficient. We’ve surged resources to this vital program and conducted a review of every stage of the statutorily required application process to explore where we can streamline it wherever possible.¹²⁰

The official highlighted the 2022 change to the application process under the temporary Afghan SIV program, in which new applicants are no longer required to submit a Form I-360 petition (see the “Iraqi and Afghan Special Immigrant Visa Application Process” section of this report). According to the official, “The elimination of this 19-page form will greatly ease the administrative burden on applicants and reduce processing time.”¹²¹

A lawsuit challenging delays in processing Iraqi and Afghan SIV applications was filed in federal court in the District of Columbia in June 2018.¹²² In February 2020, the judge granted class certification, describing the class as all individuals who submitted applications under the SIV programs for Iraqis or Afghans who worked for, or on behalf of, the U.S. government and have been waiting more than nine months for the government to act on their applications.¹²³ A June 2020 order in the case required the government to follow an adjudication plan, which assigned timeframes to various application processing steps.¹²⁴ Following the 2021 U.S. withdrawal from Afghanistan, the adjudication plan was “paused for revisions.”¹²⁵ Litigation in the case has continued.¹²⁶

¹¹⁸ Quarterly Report on the Afghan SIV Program, July 2024, p. 9.

¹¹⁹ *Ibid.*, pp. 2-3.

¹²⁰ DOS, “Briefing with Senior Administration Officials on Ongoing Efforts To Support Afghan Special Immigrant Visa Applicants,” July 18, 2022.

¹²¹ *Ibid.*

¹²² Kat Greene, “Afghan, Iraqi Allies Sue Over Visa Holdup,” *Law360*, June 14, 2018, <https://www.law360.com/articles/1053545/afghan-iraqi-allies-sue-over-visa-holdup>; the article includes a link to the complaint (Class Action Complaint, *Afghan and Iraqi Allies v. Pompeo*, No. 18-cv-01388 (TSC) (D.D.C. June 12, 2018)).

¹²³ Sarah Martinson, “Afghan, Iraqi Nationals Nab Cert. In Visa Delay Suit,” *Law360*, February 6, 2020, <https://www.law360.com/articles/1241383/afghan-iraqi-nationals-nab-cert-in-visa-delay-suit>; the article includes a link to the judge’s opinion. For further developments in the case, see Sarah Martinson, “Afghan, Iraqi Allies Say Gov’t Can’t Further Delay Visa Plan,” March 3, 2020, <https://www.law360.com/articles/1249588/afghan-iraqi-allies-say-gov-t-can-t-further-delay-visa-plan>.

¹²⁴ Order, *Afghan and Iraqi Allies v. Pompeo*, No. 18-cv-01388 (TSC) (D.D.C. June 14, 2020).

¹²⁵ Alyssa Aquino, “Army Allies Slam Bid To Trim Visa Case For Pending Plan,” *Law360*, November 1, 2024, <https://www.law360.com/articles/2255103/army-allies-slam-bid-to-trim-visa-case-for-pending-plan>.

¹²⁶ See, for example, Ali Sullivan, “Feds, US Allies Hash Out New Special Visa Process,” *Law360*, October 10, 2024, <https://www.law360.com/articles/1889066/feds-us-allies-hash-out-new-special-visa-process>; Elliot Weld, “Caseload Too Large For Ally Visa Processing Plan, Feds Say,” *Law360*, November 19, 2024, <https://www.law360.com/articles/2262684/caseload-too-large-for-ally-visa-processing-plan-feds-say>; and Tom Lotshaw, “Ally Visa Seekers Say Feds Are Trying To Add Delay To Delay,” *Law360*, December 5, 2024, <https://www.law360.com/articles/2269864>.

Security Concerns

Protecting U.S. national security remains a major concern about the Iraqi and Afghan SIV programs. Applicants are subject to security checks conducted by DHS and DOS in coordination with other agencies.

Details of the security review process are not publicly available. In her written testimony for the July 2011 Senate hearing, then-Assistant Secretary of State Jacobs said, “While we cannot discuss specifics for security reasons, SIV applicants from Iraq as well as Afghanistan undergo multiple layers of review.”¹²⁷

Scrutiny of the security review process for Iraqi and Afghan SIV applicants increased in 2011 following the arrest on terrorism charges of two Iraqi nationals who had entered the United States through the U.S. refugee program. The potential security risks posed by prospective refugees and special immigrants from Iraq and elsewhere were discussed at a December 2012 hearing held by a subcommittee of the House Homeland Security Committee. At the hearing, then-DHS Deputy Under Secretary for Intelligence and Analysis Dawn Scalici described U.S. government efforts to identify potential threats:

When we look at ... the potential in the future for terrorist groups to exploit the refugee program, we do have concerns. Hence, we have the enhanced security and vetting procedures.... I will tell you that we have intelligence-driven processes regardless of the immigration program that a terrorist actor may seek to use or just travel to the United States. We are reviewing intelligence on a regular basis, sharing that with interagency partners and developing the procedures by which we can help to identify and further [screen] individuals of concern.¹²⁸

The time required to complete security screening for applicants under the temporary Afghan SIV program has been a longstanding focus of attention. In written responses to questions following an April 2013 Senate Foreign Relations Committee hearing, then-Secretary of State John Kerry identified the interagency security screening process as one of the “major obstacles” to the quick processing of Afghan SIV applications. Indicating that security screening “takes the most time,” he offered that “the Department of State is working constantly with our interagency counterparts to streamline this comprehensive and essential process while eliminating bottlenecks.”¹²⁹

Prior to 2017, as discussed in the 2020 DOS OIG report, “nearly all Afghan SIV applicants were referred for interagency processing.” DOS guidance issued in 2017 made changes to this process, enabling “lower risk applicants to experience expedited processing” by not requiring them to undergo interagency processing. Security checks for these applicants are performed by the Bureau of Consular Affairs Office of Screening, Analysis, and Coordination. The OIG report noted, however, that most Afghan SIV applicants still are referred for interagency processing.¹³⁰

One of the issues that Congress directed the DOS OIG to address in its 2020 report was “means to reduce delays in interagency processing and security checks.”¹³¹ The report concluded that

¹²⁷ Jacobs testimony, July 2011, p. 522.

¹²⁸ Testimony of DHS Deputy Under Secretary Dawn Scalici, in U.S. Congress, House Committee on Homeland Security, Subcommittee on Counterterrorism and Intelligence, *Terrorist Exploitation of Refugee Programs*, hearing, 112th Cong., 2nd sess., December 4, 2012, (Washington, DC: GPO, 2013), p. 18.

¹²⁹ U.S. Congress, Senate Committee on Foreign Relations, *National Security and Foreign Policy Priorities in the Fiscal Year 2014 International Affairs Budget*, hearing, 113th Cong., 1st sess., April 18, 2013 (Washington, DC: GPO, 2014), p. 107.

¹³⁰ 2020 DOS OIG report, pp. 18-19.

¹³¹ P.L. 116-92, §1215(b)(8).

“staffing levels during the interagency and security check process contribute to delays in processing the Afghan SIVs.”¹³² “As of March 2020,” according to the report, “the Office of Screening, Analysis, and Coordination had one analyst to coordinate interagency processing and conduct internal security checks.”¹³³ The report recommended an evaluation to determine the staffing level needed at this office; the DOS senior coordinating official concurred.

DOS raised a security-related objection to a recommendation in DOS OIG’s draft October 2022 report that the senior coordinating official develop an updated staffing plan “to achieve the statutorily mandated 9-month processing time for Afghan SIV applications.” DOS stated,

National security remains the Department’s number one priority, and, by this provision, Congress acknowledged that the Department might need more than nine months to process an SIV application without jeopardizing national security.”¹³⁴

The DOS/DHS quarterly reports on the Afghan SIV program include information on the security review process. The January 2021 quarterly report on the Afghan SIV program addressed administrative processing, which, as noted, is a step in the application process that “may include requesting additional documentation, conducting additional interviews, and interagency security checks.” According to the report: “Administrative processing often involves rigorous background checks, which are essential to the integrity of the SIV program. This processing may take anywhere from less than 30 days to over a year.”¹³⁵ The July 2024 quarterly report referenced an unspecified “immigrant visa vetting process” that was moved from the DOS Visa Office to the National Vetting Center “to make interagency screening and vetting broader and more efficient.” According to the report, this change “contributed to a reduction in the number of cases requiring administrative processing for national security vetting.”¹³⁶

Visa Availability

The SIV program for Iraqi and Afghan translators and interpreters is permanent, while the programs for Iraqis and Afghans who worked for, or on behalf of, the U.S. government are temporary. As of the cover date of this report, the temporary Iraqi program and the temporary Afghan program and are scheduled to end when all the available visas are issued.

Each of the three SIV programs has been subject to statutory numerical limitations from the start.¹³⁷ The numerical limitations language in the statutes creating the temporary Iraqi and Afghan programs provided for the carryover of unused visas from a given fiscal year to the next during a specified period (see the “Special Immigrant Visas for Iraqis and Afghans” section of this report). The program for translators and interpreters did not originally include carryover provisions, but such language was later added by amendment. Visas that are carried forward but not used in the next fiscal year are lost.

¹³² 2020 DOS OIG report, “Highlights” page.

¹³³ *Ibid.*, p. 19.

¹³⁴ October 2022 DOS OIG report, Appendix D: Department of State Response, pp. 54-55.

¹³⁵ Quarterly Report on the Afghan SIV Program, January 2021, p. 4. The report includes additional data on administrative processing on p. 5.

¹³⁶ Quarterly Report on the Afghan SIV Program, July 2024, p. 3.

¹³⁷ Subsequent amendments, however, made changes to the numerical limitations provisions (see the “Special Immigrant Visas for Iraqis and Afghans” section of this report).

The SIV program for translators and interpreters is capped at 50 visas for principal applicants per year. It has been capped at this level for each year except for FY2007 and FY2008, when the limit was set at 500.

The separate SIV programs for Iraqis and Afghans who worked for, or on behalf of, the U.S. government were initially subject to annual caps. The Iraqi program was capped at 5,000 visas for principal applicants per year for FY2008 through FY2012. Any of the 5,000 visas not used in a given fiscal year were carried forward to the next fiscal year, with unused visas for FY2012 carried forward to FY2013. At the end of FY2013, the Iraqi program ended and any remaining visas were lost. The program was subsequently revived and new visas were authorized.

Congress made 1,500 visas available for principal aliens under the Afghan program annually for FY2009 through FY2013. Any visas not used in a given fiscal year were carried forward to the next fiscal year. P.L. 113-76 provided for the issuance of 3,000 visas to principal aliens for FY2014 and the carrying forward of any unused balance for issuance in FY2015. Subsequent Afghan SIV provisions enacted by the 113th Congress made additional visas available subject to specified employment periods, application deadlines, and visa issuance authority expiration dates.

Consideration of these numerical limitation and carryover provisions, in conjunction with the visa issuance data for the temporary Iraqi and Afghan programs (in **Table A-3** and **Table A-4** in the **Appendix**), indicates that thousands of visas provided for these two programs are no longer available. As shown in the tables, through FY2013, visa issuances under both programs consistently fell well below the statutory limits.

More recent legislation authorizing additional visas for the Iraqi and Afghan SIV programs provided that these visas would remain available until used. P.L. 113-66 provided for the issuance of 2,500 visas to principal applicants under the Iraqi program after January 1, 2014. This law required that applications be filed by September 30, 2014.

A series of laws enacted from the 113th Congress to 118th Congress made a total of 50,500 Afghan SIVs available for issuance after December 19, 2014. Some of these laws also extended employment termination dates and application deadlines for this program (see the “Afghan Program” section of this report for details). In 2014 and 2017, DOS temporarily stopped scheduling interviews for Afghan SIV applicants due to a dwindling stock of available visas.¹³⁸

At the direction of Congress, the 2020 DOS OIG report addressed “the effect of uncertainty of visa availability on visa processing.”¹³⁹ The report distinguished between the initial years of the Afghan SIV program, for which Congress provided annual visa allocations in advance, and the later years. It stated, “Uncertainty regarding visa availability started in FY 2014, when Congress began authorizing SIVs in various annual legislations and the Department increased visa issuance.”¹⁴⁰ The report concluded that the uncertainty of visa availability negatively affected application processing. It further found that the temporary character of the Afghan SIV program was another source of uncertainty hampering its operation:

In addition to uncertainty regarding the number of available visas, the temporary nature of the Afghan SIV program affects the Department’s ability to conduct long-term planning to support the program.... [O]verall uncertainty with the program’s future has likely contributed to the Department’s inability to meet the 9-month processing timeframe.¹⁴¹

¹³⁸ For a discussion of the impact of these temporary stoppages, see 2020 DOS OIG report, pp. 11-13.

¹³⁹ P.L. 116-92, §1215(b)(6).

¹⁴⁰ 2020 DOS OIG report, p. 11

¹⁴¹ *Ibid.*, p. 13.

Regarding congressional action going forward, the report noted that “likely future applicant volume should be considered when authorizing visas to effectively reduce visa uncertainty, thereby improving the efficiency of Afghan SIV processing.”¹⁴²

The DOS/DHS quarterly reports on the temporary Iraqi and Afghan SIV programs provide information on visa issuance and visa availability. According to the July 2024 report on the Iraqi program, 2,400 of the allotted 2,500 visas (made available for issuance after January 2014) had been issued as of June 30, 2024, leaving 100 available visas for principal applicants.¹⁴³ As noted, this program stopped accepting applications at the end of FY2014. The July 2024 report identified 52 pending applications for the Iraqi program. Several years before, the April 2020 report had stated, “This program will continue until all qualified applicants have received visas. There are sufficient visa numbers remaining to meet demand from applicants in the pipeline.”¹⁴⁴

By contrast, the future of the temporary Afghan program is less clear. According to the July 2024 quarterly report on this program, as of June 30, 2024, 34,771 of the allotted 50,500 visas (made available for issuance after December 2014) had been issued, leaving 15,729 available visas.¹⁴⁵ As of that same date, the July 2024 report indicated there were more than 130,000 principal applicants with pending applications for this program. And the program continues to accept new applications; the current application deadline is December 31, 2025. While it is not known how many applicants may qualify for special immigrant status going forward, interested groups such as the International Refugee Assistance Project (IRAP)¹⁴⁶ have raised concerns about possible visa shortfalls.¹⁴⁷

Conclusion

There seems to be broad agreement that the United States should admit for permanent residence Iraqis and Afghans who assisted the U.S. government overseas, provided that they do not pose security risks. Yet implementing the SIV programs intended to accomplish this policy goal has proven difficult. An ongoing question facing Congress is whether the existing SIV provisions are sufficient to achieve this goal, or whether further extensions of or changes to the temporary Iraqi and Afghan SIV programs are warranted.

¹⁴² Ibid., p. 14

¹⁴³ Quarterly Report on the Iraqi SIV Program, July 2024, p. 1.

¹⁴⁴ *Joint Department of State/Department of Homeland Security Report: Status of the Iraqi Special Immigrant Visa Program*, April 2020, p. 1, <https://travel.state.gov/content/dam/visas/SIVs/Iraqi-Public-Quarterly-Report-Q2-April-2020.pdf>.

¹⁴⁵ Quarterly Report on the Afghan SIV Program, January 2021, p. 1.

¹⁴⁶ IRAP describes the purpose of its work as being “to uphold and advance the rights of people seeking safety around the world.” IRAP, “Who We Are,” <https://refugeerights.org/who-we-are>.

¹⁴⁷ See IRAP, “IRAP Applauds Congressional Action to Extend SIV Program,” March 20, 2024, <https://refugeerights.org/news-resources/irap-applauds-congressional-action-to-extend-siv-program#:~:text=%E2%80%9CThe%20authorization%20of%20additional%20visas,commitment%20to%20Afghan%20allies%20demand%20ds.%E2%80%9D>.

Appendix. Additional Special Immigrant Data

Iraqi and Afghan Translators and Interpreters

Table 2 in the main body of the report provides data on visa issuances to Iraqis and Afghans (combined) under the special immigrant classification for translators and interpreters. The tables here present visa issuance data under this classification for Iraqis and Afghans separately. **Table A-1** provides data on Iraqi nationals who were issued SIVs or adjusted to LPR status in the United States. **Table A-2** provides comparable data for Afghan nationals. Both **Table A-1** and **Table A-2** exclude certain dependents that are included in **Table 2**. These are dependents of Iraqi or Afghan principal applicants (37 in total) who received an SIV or adjusted status under the translator/interpreter classification but were born in a third country. These 37 dependents account for the discrepancy between these tables and **Table 2**. The significant decreases in **Table A-1** and **Table A-2** after FY2008 reflect changes in the numerical limitations on this classification (see the “Iraqi and Afghan Translators or Interpreters” section of this report).

Table A-1. Special Immigrant Visas for Iraqi Translators and Interpreters

| Fiscal Year | Principals | Dependents | Total |
|-------------------|------------|--------------|--------------|
| 2007 | 437 | 387 | 824 |
| 2008 | 353 | 327 | 680 |
| 2009 | 30 | 38 | 68 |
| 2010 | 13 | 40 | 53 |
| 2011 | 8 | 32 | 40 |
| 2012 | 7 | 29 | 36 |
| 2013 | 5 | 11 | 16 |
| 2014 | 2 | 4 | 6 |
| 2015 | 1 | 0 | 1 |
| 2016 | 3 | 9 | 12 |
| 2017 | 2 | 2 | 4 |
| 2018 | 0 | 0 | 0 |
| 2019 | 4 | 1 | 5 |
| 2020 | 6 | 14 | 20 |
| 2021 | 13 | 19 | 32 |
| 2022 | 7 | 5 | 12 |
| 2023 | 20 | 36 | 56 |
| 2024 ^a | 22 | 49 | 71 |
| Totals | 933 | 1,003 | 1,936 |

Source: U.S. Department of State, Bureau of Consular Affairs.

Notes: The data include individuals classified as special immigrants who adjusted to LPR status in the United States; the data do *not* include dependents born in a country other than Iraq.

a. Through March 31, 2024.

Table A-2. Special Immigrant Visas for Afghan Translators and Interpreters

| Fiscal Year | Principals | Dependents | Total |
|-------------------|------------|--------------|--------------|
| 2007 | 100 | 69 | 169 |
| 2008 | 206 | 220 | 426 |
| 2009 | 21 | 30 | 51 |
| 2010 | 30 | 43 | 73 |
| 2011 | 34 | 53 | 87 |
| 2012 | 57 | 61 | 118 |
| 2013 | 27 | 68 | 95 |
| 2014 | 43 | 127 | 170 |
| 2015 | 43 | 146 | 189 |
| 2016 | 55 | 156 | 211 |
| 2017 | 49 | 169 | 218 |
| 2018 | 50 | 144 | 194 |
| 2019 | 17 | 55 | 72 |
| 2020 | 13 | 42 | 55 |
| 2021 | 4 | 16 | 20 |
| 2022 | 17 | 33 | 50 |
| 2023 | 22 | 75 | 97 |
| 2024 ^a | 11 | 47 | 58 |
| Totals | 799 | 1,554 | 2,353 |

Source: U.S. Department of State, Bureau of Consular Affairs.

Notes: The data include individuals classified as special immigrants who adjusted to LPR status in the United States; the data do *not* include dependents born in a country other than Afghanistan.

a. Through March 31, 2024.

Iraqis and Afghans Who Worked for the U.S. Government

Table 3 in the main body of the report provides data on visa issuances to Iraqis and Afghans (combined) under the special immigrant classification for Iraqis and Afghans who were employed by, or on behalf of, the U.S. government (or, in the case of Afghans, by the International Security Assistance Force). The tables here present visa issuance data under this classification for Iraqis and Afghans separately. **Table A-3** provides data on Iraqi nationals who were issued SIVs or adjusted to LPR status in the United States. **Table A-4** provides comparable data for Afghan nationals. Both **Table A-3** and **Table A-4** exclude certain dependents that are included in **Table 3**. These are dependents of Iraqi or Afghan principal applicants (1,362 in total) who received an SIV or adjusted status under this classification but were born in a third country. These 1,362 dependents account for the discrepancy between these tables and **Table 3**.

Table A-3. Special Immigrant Visas for Iraqis Who Worked for the U.S. Government

| Fiscal Year | Principals | Dependents | Total |
|-------------------|--------------|---------------|---------------|
| 2008 | 172 | 125 | 297 |
| 2009 | 1,418 | 1,347 | 2,765 |
| 2010 | 940 | 1,051 | 1,991 |
| 2011 | 317 | 352 | 669 |
| 2012 | 1,661 | 2,209 | 3,870 |
| 2013 | 1,340 | 2,215 | 3,555 |
| 2014 | 435 | 1,075 | 1,510 |
| 2015 | 335 | 845 | 1,180 |
| 2016 | 657 | 1,593 | 2,250 |
| 2017 | 557 | 1,577 | 2,134 |
| 2018 | 152 | 372 | 524 |
| 2019 | 69 | 179 | 248 |
| 2020 | 30 | 68 | 98 |
| 2021 | 15 | 43 | 58 |
| 2022 | 64 | 177 | 241 |
| 2023 | 63 | 161 | 224 |
| 2024 ^a | 21 | 78 | 99 |
| Totals | 8,246 | 13,467 | 21,713 |

Source: U.S. Department of State, Bureau of Consular Affairs.

Notes: The data include individuals with approved petitions under the translator/interpreter program whose cases were converted in accordance with P.L. 110-242; the data also include individuals classified as special immigrants who adjusted to LPR status in the United States; the data do *not* include dependents born in a country other than Iraq.

a. Through March 31, 2024.

Table A-4. Special Immigrant Visas for Afghans Who Worked for the U.S. Government

| Fiscal Year | Principals | Dependents | Total |
|-------------|------------|------------|--------|
| 2008 | 199 | 195 | 394 |
| 2009 | 262 | 366 | 628 |
| 2010 | 7 | 36 | 43 |
| 2011 | 3 | 28 | 31 |
| 2012 | 63 | 62 | 125 |
| 2013 | 652 | 846 | 1,498 |
| 2014 | 3,441 | 5,666 | 9,107 |
| 2015 | 2,301 | 4,411 | 6,712 |
| 2016 | 3,626 | 8,460 | 12,086 |
| 2017 | 4,120 | 12,050 | 16,170 |

| | | | |
|-------------------|---------------|----------------|----------------|
| 2018 | 1,649 | 5,585 | 7,234 |
| 2019 | 2,347 | 7,394 | 9,741 |
| 2020 | 1,799 | 6,024 | 7,823 |
| 2021 | 2,212 | 7,881 | 10,093 |
| 2022 | 2,694 | 8,808 | 11,502 |
| 2023 | 6,660 | 20,108 | 26,768 |
| 2024 ^a | 5,412 | 17,230 | 22,642 |
| Totals | 37,447 | 105,150 | 142,597 |

Source: U.S. Department of State, Bureau of Consular Affairs.

Notes: The data include individuals with approved petitions under the translator/interpreter program whose cases were converted in accordance with P.L. 110-242; the data also include individuals classified as special immigrants who adjusted to LPR status in the United States; the data do *not* include dependents born in a country other than Afghanistan.

a. Through March 31, 2024.

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