

Safety and Fairness for Afghans under the Special Immigrant Visa Program

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Background

On June 4, both Republican and Democratic lawmakers¹ and a group of over 70 NGOs,² including the U.S. Committee for Refugees and Immigrants (USCRI), sent letters to President Biden urging him to protect U.S.-affiliated Afghans in the wake of U.S. troop withdrawal. Currently, around 18,000 Afghan nationals who have provided service to the U.S. government, and an additional 53,000 of their family members, are stuck in limbo in the special immigrant visa pipeline. The U.S. has an obligation to assist these Afghan allies immediately before they are subjected to Taliban violence. This document provides background and details on the current status of the Afghan Special Immigrant Visa Program.

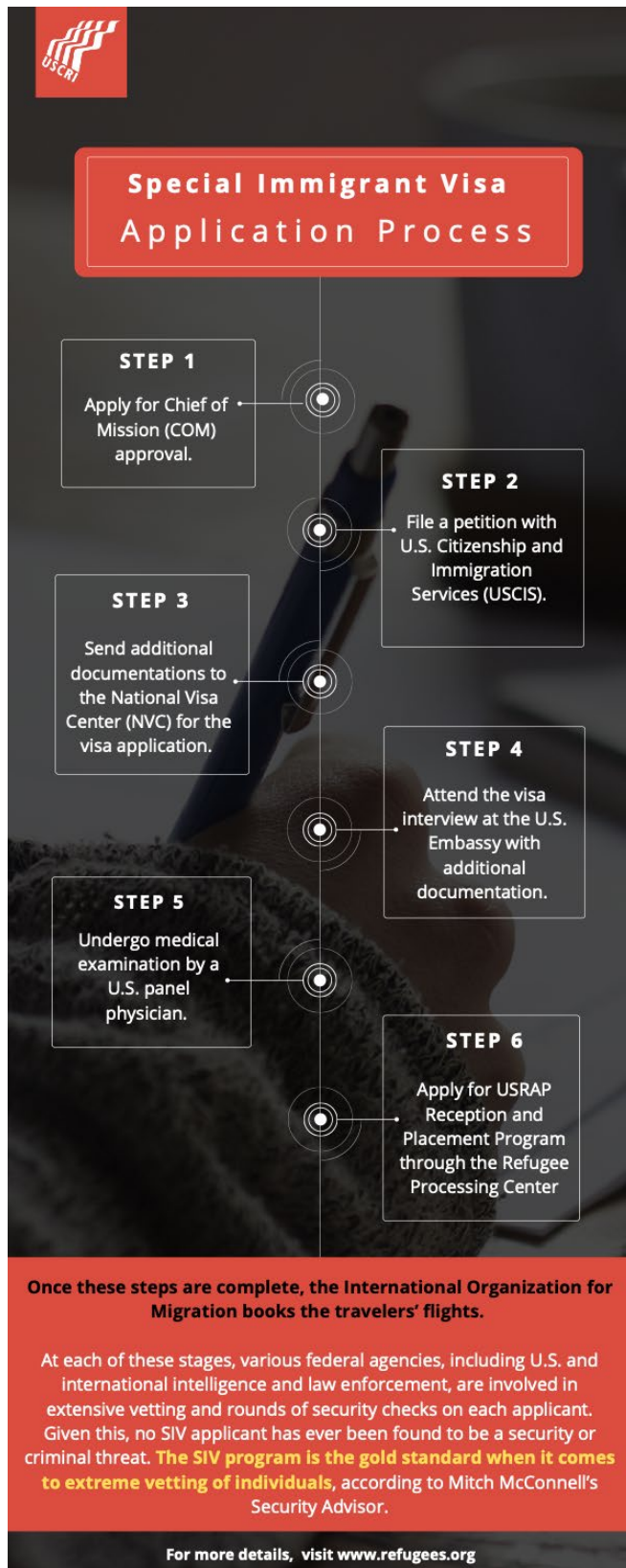
What is the Special Immigrant Visa for Afghans Program?

In 2009, Congress passed the Afghan Allies Protection Act (AAPA). The President signed the AAPA into law on March 11, 2009.³ Section 602(b) of the AAPA created a Special Immigrant Visa (SIV) for Afghans who have worked for at least one year as translators or interpreters, or who were employed on behalf of the U.S. government in Afghanistan, and whose lives are in danger due to their service to the U.S. government.⁴ Once issued Special Immigrant Visas, these U.S.-affiliated Afghan nationals can apply for admission to resettle in the U.S.

The Special Immigrant Visa for Afghans operates separately from the U.S. Refugee Admissions Program (USRAP), but SIV recipients are offered the benefits and resources of the USRAP. From January 2017 until December 2019, former President Trump signed several Executive Orders that temporarily halted the USRAP Program and mandated additional security checks.⁵ In 2017, Congress also signed an updated National Defense Authorization Act (NDAA), which narrowed the eligibility for the Special Immigrant Visa Program to only include Afghans who served as interpreters or translators and who performed “sensitive and trusted activities.”⁶ This narrowing of the criteria of eligibility led to numerous refusals of Afghans, whose lives were still threatened, and who would have otherwise been qualified had they applied in a previous year. These additional bureaucratic roadblocks put in place during the Trump administration created a surge in visa processing time and a stark decline in the number of visa issuances.⁷ This language was repealed in the NDAA of 2020, broadening the eligibility once again to meet the standards of the original 2009 AAPA.

What are the steps Afghan Nationals need to take to apply for this program?

The application for a Special Immigrant Visa is lengthy. It involves a background check and appropriate screening by several federal agencies.⁸ Please find the steps listed in the infographic.⁹



At each of these stages, various federal agencies, including U.S. and international intelligence and law enforcement, are involved in extensive vetting and rounds of security checks on each applicant.¹⁰ Given this, no SIV applicant has ever been found to be a security or criminal threat.¹¹ The SIV Program is the gold standard when it comes to extreme vetting of individuals, according to Mitch McConnell's Security Advisor.¹² SIV applicants are heavily screened to ensure they do not pose a threat to national security before receiving a visa.

How long does it take to process a Special Immigrant Visa for Afghans?

Each step varies in processing time. Congress mandates the State Department issue a Special Immigrant Visa within nine months given undue hardship.¹³ However, in reality, processing can take an average of two to five years.¹⁴ Low staffing and high caseload volume, in addition to rigorous background checks with interagency partners, are to blame for these lengthy processing times and the resulting backlog of applicants.

The State Department issues a quarterly report to provide the official numbers of the backlog in Special Immigrant Visa cases for Afghans. As of December 31, 2020, according to these reports, there were 14,975 applications pending.¹⁵ Secretary Blinken, however, in the House of Representatives Committee on Foreign Affairs Hearing on June 7, which covered the State Department's Foreign Policy Strategy and Fiscal Year 2022 Budget Request, stated that there were about 18,000 applicants pending: 9,000 in the pipeline and another 9,000 who had not yet applied.¹⁶ During this hearing, Secretary Blinken also stated that another quarterly report was forthcoming, but no report covering 2021 backlog numbers has been released to date.

What is the current State Department stance?

On May 27, 2021, the U.S. Embassy in Kabul issued a statement expressing its commitment to supporting a peaceful and stable Afghanistan post-withdrawal. The statement noted the importance of expediting the SIV Program for Afghans who have assisted the U.S. and stated that the State Department approved additional embassy staffing to help work on the SIV application backlog.

Ambassador Ross Wilson, U.S. Charge d'Affaires, commented on the Program, "Afghans who work or have worked for the U.S. are not and will not be forgotten. For their unwavering service, we will remain dedicated to them, and the priority my colleagues and I attach to SIV applications reflects that. We are also working to further our security, political, and economic engagement here and support for Afghanistan that will write a new chapter in our relations. Through decades of close ties, the U.S.-Afghan partnership will endure."¹⁷

President Biden also signed an Executive Order on February 4, urging the federal government to deal with delays in the SIV Program.¹⁸

However, many Congressional representatives and advocacy organizations nation-wide are saying these actions are not enough.

On June 4, a bipartisan group of lawmakers released a letter urging President Biden to immediately evacuate the thousands of Afghans who worked with the U.S. government. Representative Seth Molten (D-MA) wrote that they were "increasingly concerned that the administration has not yet mobilized the Pentagon to help protect Afghan allies. The State Department's current plan to approve Special Immigrant Visas allowing thousands of Afghans to enter the U.S. is moving too slowly to avert the coming crisis."¹⁹

During the House of Representatives Committee on Foreign Affairs Hearing on the State Department's Foreign Policy Strategy and Fiscal Year 2022 Budget Request, Senator McCaul (R-TX) stressed the necessity of evacuating Afghan SIV applicants to another country while their visa processing continues. Secretary Blinken did not respond directly to the question regarding evacuation, but he stated that staff are being added to the offices in D.C. with the goal of clearing the backlog at a rate of 1,000 cases per month.²⁰

SIV Processing while in Guam: The "Guam Option"

Given the time it takes for Afghans to be issued Special Immigrant Visas, an increasing number of lawmakers are calling for the "Guam Option."²¹ This operation would involve a full-scale evacuation of the more than 70,000 Afghan nationals who are eligible for Special Immigrant Visas to Guam, a U.S. territory, while their visa processing continues. Many argue that this option will help save these Afghan nationals from the immediate threats they face.²² This option allows for applicants to wait in a safe place to ensure their protection while allowing the Department of State time to continue processing their visas.

Defense Secretary Lloyd Austin directed the Department of Defense U.S. Central Command, General Frank McKenzie, to start mobilizing resources for this evacuation option.²³ Although the Department of Defense is not engaged in advocacy, this proactive move signals their stance on the issue. Governor Lou Leon Guerrero of Guam stated that she supports hosting the evacuees and stands ready to work with the Department on this process.²⁴ Guam Congressman Michael San Nicolas notified President Biden in a joint letter that Afghans who helped the U.S. are welcome in Guam.²⁵

Historical precedent exists for the Guam Option. In 1996, Guam temporarily housed over 2,000 Kurds who assisted the U.S. in Northern Iraq. The U.S. government deemed these refugees as asylum seekers under U.S.

immigration law. They were considered as entering Guam on “parole” without visas.²⁶ In 1975, between 90,000-130,000 Southeast Asian refugees were evacuated to Guam after the fall of Saigon, before eventually resettling in the U.S.²⁷ There is also hope that temporarily placing Afghan SIV applicants in Guam could create jobs and bring much-needed revenue to the island.²⁸

The State Department, however, is worried about causing panic through large-scale evacuations to Guam, but advocates point out that the danger of failing to immediately evacuate these applicants is worse.²⁹ Once U.S. forces leave Afghanistan, there is a possibility that commercial flights will not be able to fly in or out. Air evacuation by military forces may not be possible after a few weeks, increasing the urgency of the Guam Option. It is important to note that the vetting process would not be affected if these Afghan nationals are evacuated.³⁰

Why is the Special Immigrant Visa Program for Afghans important?

Since 2002, the U.S. has worked with countless Afghan nationals who have served as interpreters, translators, cultural advisors, security guards, drivers, and more. These allies have saved American lives. The Biden administration’s withdrawal of U.S. forces from Afghanistan puts the lives of at least 18,000 Afghan nationals, as well as over 53,000 accompanying family members, at risk. The Taliban has targeted Afghans who have assisted the U.S. in the past.³¹ The U.S. made a commitment to Afghan nationals who are now targeted because of their work with the U.S. government. Not only is following through on their visa cases the right thing to do, but failure to do so could damage U.S. credibility and hinder the ability of the U.S. government to recruit foreign nationals to work with the U.S. in the future.³² The U.S. will continue to need the assistance of others to adequately defend our interests abroad. As such, it is vital that we keep our promises and never abandon our allies.³³

USCRI Advisory

For the safety of our Afghan allies, the fair adjudication of immigration applications for relief, and the U.S. government’s credibility in keeping its promises, USCRI recommends:

- (1) Evacuation of Afghan nationals who are in the SIV pipeline to Guam while their cases undergo processing; and
- (2) Efficient processing of over 18,000 Afghan Special Immigrant Visas; and
- (3) Reconsideration of visa applications that were denied from 2016-2019.

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