Congressional Research Service
Informing the legislative debate since 1914

Iraqi and Afghan Special Immigrant Visa Programs

Updated June 21, 2021

Congressional Research Service
https://crsreports.congress.gov
R43725

CRS REPORT
Prepared for Members and
Committees of Congress

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 a petition to the Department of Homeland Security; 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 have 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 spouses and children) per year.

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. It was capped at 5,000 principal aliens annually for FY2008 through FY2012 and included a provision to carry forward any unused numbers from one fiscal year to the next. It expired at the end of FY2013, but was subsequently revived. Current statutory authority provides for the issuance of no more than 2,500 visas to principal applicants after January 1, 2014. Applications are no longer being accepted for this program because the application deadline has passed.

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. The program was 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. Current statutory authority provides for the issuance of no more than 26,500 visas to principal applicants after December 19, 2014, according to the Department of State. The application period for this program remains open.

Through March 2021, almost 100,000 individuals were granted special immigrant status under the three SIV programs for Iraqi and Afghan nationals. Principal applicants accounted for about 31,000 of the total, and dependent spouses and children accounted for the remaining 69,000.

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.

Contents

Introduction 1
Legislative History of the Special Immigrant Category 2
Special Immigrant Visas for Iraqis and Afghans 3
Iraqi and Afghan Translators or Interpreters 4
Iraqis and Afghans Who Worked for the U.S. Government 5
Iraqi Program 5
Afghan Program 6
Conversion of Petitions 8
Iraqi and Afghan Special Immigrant Visa Application Process 9
Comparison of Special Immigrants to Other Selected Admissions Categories 10
Refugees 11
Resettlement Assistance and Federal Public Benefits 12
Amerasians 12
Special Immigrant Visa Statistics 13
Selected Challenges 14
Application Processing 15
Legislative Provisions and Reporting Requirements 16
Afghan SIV Pending Applications and Processing Times 19
Security Concerns 22
Visa Availability 24
Conclusion 25

Tables

Table 1. Comparison of Iraqi and Afghan Special Immigrant Visa Programs 8
Table 2. Special Immigrant Visas for Iraqi and Afghan Translators and Interpreters 13
Table 3. Special Immigrant Visas for Iraqis and Afghans Who Worked for the U.S. Government 14

Table A-1. Special Immigrant Visas for Iraqi Translators and Interpreters 27
Table A-2. Special Immigrant Visas for Afghan Translators and Interpreters 28
Table A-3. Special Immigrant Visas for Iraqis Who Worked for the U.S. Government 29
Table A-4. Special Immigrant Visas for Afghans Who Worked for the U.S. Government 29

Appendixes

Appendix. Additional Special Immigrant Data 27

Contacts

Author Information 30

Introduction

On April 14, 2021, President Joe Biden announced that it was "time to end the forever war" in Afghanistan and begin the "final withdrawal" of U.S. troops.[1] This decision gave new urgency to longstanding concerns of and for Afghan nationals who have assisted the U.S. government, including the U.S. military, in the fight against the Taliban and other forces since 2001.

Press reports following the withdrawal announcement highlighted the fears of Afghans who had worked for the United States. A former U.S. Army translator was quoted as saying, "The Americans are out. So who are they [the Taliban] going to take revenge on? Those who helped Americans."[2] An official with a refugee advocacy organization expressed similar concerns: "We're expecting the security situation to rapidly deteriorate for anyone who's seen as opposing the Taliban. That will certainly include translators and other employees of the US government."[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 FY2006[5] 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 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 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 for certain Afghan nationals who worked for or on behalf of the U.S. government in Iraq or Afghanistan, respectively. The Iraqi

---

[1] White House, *Remarks by President Biden on the Way Forward in Afghanistan*, April 14, 2021, https://www.whitehouse.gov/briefing-room/speeches-remarks/2021/04/14/remarks-by-president-biden-on-the-way-forward-in-afghanistan/. For additional information, see CRS Report R45122, *Afghanistan: Background and U.S. Policy: In Brief*.

[2] Joshua Keating, "There's No Good Exit Plan for Afghans Who Supported American Forces," *Slate*, April 22, 2021, https://slate.com/news-and-politics/2021/04/afghan-special-immigrant-visas-refugees.html.

[3] Priscilla Alvarez and Kylie Atwood, "'I stay up nights': Afghans working for US worry about their future after Biden withdrawal announcement," *CNN*, May 23, 2021, https://www.cnn.com/2021/04/21/politics/us-afghanistan-withdrawal-visa/index.html.

[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.

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 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 1990[11] further amended the special immigrant provisions in the INA. It placed the special immigrant category under a revised INA section on permanent employment-based immigration[12] 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 act[14] 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 new 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

[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*.

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]

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). 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 a petition; 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-

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

[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.

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.

On February 4, 2021, President Biden issued an executive order that addressed the Iraqi and Afghan SIV programs. The President directed the Secretary of State, in consultation with the Secretary of Defense and the Secretary of Homeland Security, to conduct a review of the programs and submit a report "with recommendations to address any concerns" within 180 days. The report is to include "an assessment of agency compliance with existing law governing the SIV programs," among other items.[21]

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,[22] eligible to be classified as special immigrants. The provision capped the number of principal aliens[23] 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 2007[24] 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,[25] for at least one year as translators or interpreters.

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.[26]

---

[20] The grounds of inadmissibility are enumerated in INA §212(a) (8 U.S.C. §1182(a)).

[21] Executive Order 14013 of February 4, 2021, "Rebuilding and Enhancing Programs To Resettle Refugees and Planning for the Impact of Climate Change on Migration," 86 *Federal Register* 8839, February 9, 2021 (hereinafter cited as "E.O. 14013").

[22] 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).

[23] *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.

[24] 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.

[25] 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.

[26] In addition, 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 when the entry is determined to be for significant public benefit. For additional information about parole, see CRS Report R46570, *Immigration Parole*.

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.[27]

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 was established by Section 1244 of the FY2008 NDAA (for Iraqis) and by Title VI of the Omnibus Appropriations Act, 2009 (for Afghans).[28] This classification, as subsequently amended, is 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 for FY2015[29] expanded eligibility for the Afghan program to include employees of the ISAF who served as interpreters or translators while travelling 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 for nationals of Iraq or Afghanistan, 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.

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)[30] 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.[31]

At the beginning of FY2014, however, the 113th Congress approved a short-term extension of the program in P.L. 113-42.[32] 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 NDAA for FY2014[33] 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

[27] P.L. 110-161, Div. J, §699J.

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

[29] P.L. 113-291, Div. A, §1227.

[30] P.L. 110-242.

[31] 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.

[32] §1.

[33] P.L. 113-66, Div. A, §1218.

"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 visas. The FY2014 Consolidated Appropriations Act (CAA)[34] 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 law[35] 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 FY2016[36] 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.

The NDAA for FY2017[37] 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,

[34] P.L. 113-76, Div. K, §7034(o).

[35] P.L. 113-160, §1.

[36] P.L. 114-92, Div. A, §1216.

[37] P.L. 114-328, Div. A, §1214.

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 CAA[38] increased the number of additional visas available under the Afghan SIV program from 8,500 to 11,000. The NDAA for FY2018[39] 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 CAA[40] 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, including a report on processing improvements that was required under the NDAA for FY2019[41] (see the "Legislative Provisions and Reporting Requirements" section of this report).

The FY2020 NDAA[42] 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. In addition, this 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 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.

The FY2020 NDAA also included a new reporting requirement related to the Iraqi and Afghan SIV programs.[43] It directed the DOS Inspector General 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 future programs. The resulting report only addressed the Afghan SIV program[44] (see the "Selected Challenges" section of this report for further discussion of the OIG report).

---

[38] P.L. 115-31, Div. J, §7083.

[39] P.L. 115-91, Div. A, §1213.

[40] P.L. 116-6, Div. F, §7076.

[41] P.L. 115-232, Div. A, §1222.

[42] P.L. 116-92, Div. A, §1219.

[43] Ibid., §1215.

[44] U.S. Department of State, Office of Inspector General, 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

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.[45] 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 120 visas.[46] DOS has taken the position that the CAA provision controls (on the grounds that at the time the NDAA was enacted "the reference to '22,500' was no longer in [statute]"[47]) and that the total number of visas available for issuance after December 19, 2014, is 26,500.[48] Both the FY2021 CAA and the FY2021 NDAA extended the employment termination date and application deadline to December 31, 2022.

Conversion of Petitions

Since FY2009, the annual numerical limit on the Section 1059 program for translators and interpreters has been 50. A 2008 law[49] 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.[50]

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 (or at least 2 years if petition filed after 9/30/15) between 10/7/2001 and 12/31/2022
Ability of spouse/children to accompany	Yes	Yes	Yes

on January 24, 2020"; p. 1 (footnote 1).

[45] P.L. 116-260, Div. K, §7034(l)(11).

[46] P.L. 116-283, Div. A, §1212.

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

[48] See 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*, "Afghan SIV Program Update," https://travel.state.gov/content/travel/en/us-visas/immigrate/special-immg-visa-afghans-employed-us-gov.html. CRS has a pending request with DOS for an explanation of its position on the conflicting statutes.

[49] P.L. 110-242.

[50] 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)").

	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
Application deadline	None	9/30/2014	12/31/2022
Current numerical cap	50 per year	2,500 after 1/1/2014	26,500 after 12/19/2014[a]
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; U.S. Department of State, Bureau of Consular Affairs.

a. In accordance with the FY2021 CAA (see related discussion at end of the "Afghan Program" section of this report).

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 represent the vast majority of applicants.[51] (An applicant in the United States whose petition for classification as a special immigrant is approved under the process described below could then submit an application to adjust status[52] along with supporting documentation; applicants in the United States do not go through the visa process.)

The first step under the programs 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 information, 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 from the applicant describing the 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.

The next step for applicants under the special immigrant programs for Iraqis and Afghans who worked for, or on behalf of, the United States—and the first step for applicants under the program for translators and interpreters—is to file a petition[53] with the Department of Homeland Security's U.S. Citizenship and Immigration Services (DHS/USCIS) along with accompanying documents. In the case of the classification for those who worked for, or on behalf of, the United States, the required documents include copies of the COM approval letter and of the letter of recommendation from the direct supervisor. In the case of the program for translators or interpreters, the required documents include evidence of qualifying employment, a letter of

[51] 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.

[52] *Adjustment of status* is the process of obtaining LPR status from within the United States.

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

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.

A petition for classification as an Iraqi or Afghan special immigrant that is approved by USCIS is forwarded to the NVC, which contacts the applicant to advise him or her to begin collecting required documents. The applicant must submit forms and documents for all family members applying for visas to the NVC. In addition to the immigrant visa application, these materials include copies of passport biodata pages, birth certificates, and civil documents; police certificates, if applicable;[54] 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."[55] Applicants are also required to have a medical examination at their own cost.

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.[56] Visa recipients who have elected not to participate in DOS's 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, in fact, admitted for employment purposes.[57] While the special immigrant category is unique, it does bear similarities to other admission categories that are authorized by other sections of the INA.

[54] 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.

[55] 2020 DOS OIG report, p. 5.

[56] SIV holders who have not elected to participate in DOS's resettlement program before travelling to the United States may be able to do so upon arrival. See "What if I have to travel immediately and cannot arrange travel through the International Organization for Migration (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.

[57] 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*.

Refugees

Unlike special immigrants, refugees comprise a category of humanitarian admissions under the INA.[58] 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."[59] 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 for classification under one of the Iraqi or Afghan SIV programs. 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."[60]

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.

[58] The refugee admissions process is set forth in INA Section 207. For additional information about the U.S. refugee program, see CRS Report RL31269, *Refugee Admissions and Resettlement Policy*.

[59] INA §101(a)(42), 8 U.S.C. §101(a)(42).

[60] 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 (hereinafter cited as "Strack testimony, December 2012").

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' Office of Refugee Resettlement (HHS/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. ORR's refugee resettlement programs provide transitional assistance to refugees and other designated groups. 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.[61]

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.[62] 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.[63]

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.[64] 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).[65] A law enacted in 1982[66] 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.

---

[61] See CRS Report RL31269, *Refugee Admissions and Resettlement Policy*.

[62] 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).

[63] 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.

[64] 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.

[65] For additional information, see CRS Report R43145, *U.S. Family-Based Immigration Policy*.

[66] P.L. 97-359, 8 U.S.C. §1154(f).

A subsequent law enacted in 1987, as amended, eliminated some of these immigration restrictions.[67] 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, 2021, according to DOS data, almost 100,000 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.[68] Principal applicants accounted for about 31,000 of the total; dependent spouses and children accounted for about 69,000. **Table 2** provides data on the special immigrant classification for Iraqi and Afghan translators and interpreters. **Table 3** provides data on the special immigrant classification for Iraqis and Afghans who were employed by, or on behalf of, the U.S. government in Iraq or Afghanistan, respectively. As shown in **Table 3** and as discussed in the next section, there was a significant drop in visa issuances from FY2017 to FY2018. The tables are mutually exclusive; an individual appears in only one table.[69] (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

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

[68] 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.

[69] 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
2018	50	147	197
2019	21	57	78
2020	19	58	77
2021[a]	9	16	25
Totals	**1,625**	**2,323**	**3,948**

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, 2021.

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
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[a]	364	1,698	2,062
Totals	**28,916**	**66,415**	**95,331**

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, 2021.

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 in a timely fashion 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.[70] 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 process has been subject to much criticism over the past decade. In a 2010 assessment of the SIV program for Iraqis who worked for, or on behalf of, the U.S. government, an observer characterized the application process as a series of procedural barriers and argued that it was impossible to navigate the process without English-speaking legal assistance.[71]

DOS has acknowledged past processing problems but has also cited steps it has taken to improve the efficiency of the system. In written testimony for a July 2011 Senate hearing, then-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.[72]

For its part, the Department of Homeland Security reported at a December 2012 House Homeland Security Committee hearing that it took between 3 and 10 days, on average, to process an Iraqi or Afghan SIV petition.[73] The department indicated in response to a question following the October 2011 Senate Judiciary Committee hearing that it did not need additional resources to expedite SIV petition processing.[74]

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:

---

[70] For example, a 2008 DOS Inspector General 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.

[71] Brendan Rigby, "Mission Impossible: An Assessment of the Iraqi Special Immigrant Visa," Northeastern University Honors Junior/Senior Projects, May 1, 2010.

[72] 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").

[73] Strack testimony, December 2012, p. 13.

[74] DHS further responded, "We respectfully refer you to the Department of State to comment on whether they have unmet resource needs." 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 (Washington, DC: GPO, 2012), p. 44 (hereinafter cited as "DHS oversight hearing, October 2011").

> 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.[75]

At around the same time, newspapers published anecdotal reports of years-long waits for approval, layers of bureaucracy, and unexpected denials under this program.[76]

In the PBS NewsHour piece, Jarrett Blanc, Deputy Special Representative for Afghanistan and Pakistan, asserted that processing improvements had been made to the 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.[77] (More recent delays in COM processing are discussed below.)

Incomplete applications also present challenges. In response to questions on the SIV program for Iraqis who worked for, or on behalf of, the U.S. government following an October 2011 Senate Judiciary Committee 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.[78] 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.[79]

Legislative Provisions and Reporting Requirements

The 113th Congress enacted legislation to amend the SIV programs for Iraqis and Afghans who worked for, or on behalf of, the U.S. government 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."[80] 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 visas" and "coordinat[ing] and monitor[ing] the implementation of such proposals" under the Iraqi and Afghan SIV programs.[81] 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

---

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

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

[77] P.J. Tobia, "Tongue Tied in Afghanistan."

[78] DHS oversight hearing, October 2011, p. 45.

[79] P.J. Tobia, "Tongue Tied in Afghanistan."

[80] P.L. 113-66, Div. A, §§1218-1219.

[81] Ibid.,, §1218.

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."[82]

The FY2014 NDAA included reporting requirements related to application processing under the 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 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."[83]

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 the efficiency of SIV application processing.[84] The first quarterly reports on the Iraqi and Afghan SIV programs, dated April 2014, stated that the "U.S. government has devoted resources to reducing the amount of time required to complete the SIV process."[85]

Prioritization of Afghan SIV Applications

The FY2019 CAA required the Secretary of State to develop a system for prioritizing the processing of Afghan SIV applications as a condition for receiving funding for the additional visas authorized by the legislation (see the "Afghan Program" section of this report). 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

[82] Ibid., §§1218-1219.

[83] 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.

[84] Links to all the quarterly reports are available at https://travel.state.gov/content/visas/en/immigrate/iraqis-work-for-us.html (Iraqi program); and https://travel.state.gov/content/visas/en/immigrate/afghans-work-for-us.html (Afghan program). The most recent quarterly reports are: *Joint Department of State/Department of Homeland Security Report: Status of the Iraqi Special Immigrant Visa Program*, January 2021, https://travel.state.gov/content/dam/visas/SIVs/Iraqi-Public-Quarterly-Report-Q1-Jan-2021.pdf (hereinafter cited as "Quarterly Report on the Iraqi SIV Program, January 2021"); *Joint Department of State/Department of Homeland Security Report: Status of the Afghan Special Immigrant Visa Program*, January 2021, https://travel.state.gov/content/dam/visas/SIVs/Afghan-Public-Quarterly-Report-Q1-Jan-2021.pdf (hereinafter cited as "Quarterly Report on the Afghan SIV Program, January 2021").

[85] *Joint Department of State/Department of Homeland Security Report: Extension and Improvement of the Iraqi Special Immigrant Visa (SIV) Program*, April 2014, p. 1, https://travel.state.gov/content/dam/visas/Iraqi_SIVs_public_report_(05%2001%2014).pdf (hereinafter cited as "Quarterly Report on the Iraqi SIV Program, April 2014"); *Joint Department of State/Department of Homeland Security Report: The Implementation of Processing Improvements for Afghan Special Immigrant Visa (SIV) Program*, April 2014, p. 1, https://travel.state.gov/content/dam/visas/Afghan_SIVs_public%20report_(05%2001%2014).pdf (hereinafter cited as "Quarterly Report on the Afghan SIV Program, April 2014").

> 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.[86]

2020 DOS Review of Afghan SIV Program

The FY2020 NDAA, as noted, directed the DOS Inspector General to report on the SIV programs for persons who worked for or on behalf of the U.S. government. The report, which was intended to evaluate obstacles and make recommendations, was to address, among other items: (1) "means of expediting processing at all stages of the process for applicants;" (2) "appropriate staffing levels for expedited processing;" and (3) "documenting the identity and employment of locally employed staff and contractors of the United States Government, including the possibility of establishing a central database of employees of the United States Government and its contractors."[87]

Completed in June 2020, the report evaluated the Afghan SIV program. Among its conclusions were:

> 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.[88]

With respect to 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 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."[89]

The OIG report highlighted the challenges of verifying the employment of contractors and subcontractors, who represent "the majority of Afghan SIV applicants."[90] 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

[86] 9 FAM 502.5-12(B).

[87] P.L. 116-92, Div. A, §1215(b).

[88] 2020 DOS OIG report, "Highlights" page.

[89] Ibid., p. 25.

[90] Ibid., p. 21.

applicant's immediate supervisor."[91] 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."[92] The DOD verification issue was discussed at a May 2021 hearing of the Senate Committee on Armed Services. One of the witnesses, 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."[93]

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 the 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 a response provided in an appendix to the OIG report, the Undersecretary of State for Management, who serves as the DOS senior coordinating official, concurred in this recommendation and indicated that such a review would be conducted. He also stated, "if staffing levels are inadequate … the Department's ability to obtain additional resources will be subject to the availability of funds and competing priorities."[94]

Two other recommendations concerned data systems. 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."[95] The undersecretary concurred in this recommendation while noting that "creating or modifying a database would be subject to the availability of resources, and that utilizing an existing database … would be subject to final determinations of the system owner."[96]

Another recommendation involved DOS determining whether "legacy systems should be updated or made interoperable or if a new system should instead be developed to minimize redundancy in data entry."[97] The undersecretary concurred in this recommendation. His response included the following: "[The DOS Bureau of Consular Affairs] determined that its ongoing system development effort, Consular One, when fully implemented, will greatly minimize data entry redundancy. As it relates to visa systems, modernization will begin in 2021 and end in 2025."[98]

Afghan SIV Pending Applications and Processing Times

The DOS/DHS quarterly reports on the Iraqi and Afghan SIV programs include data on pending applications at selected steps in the application process. For the Iraqi program, there were more

[91] Ibid., p. 4.

[92] Ibid., p. 21.

[93] 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.

[94] 2020 DOS OIG report, p. 35.

[95] Ibid., p. 31.

[96] Ibid., pp. 36.

[97] Ibid., p. 31.

[98] Ibid., p. 36.

than 1,000 pending applications from principal applicants reported in the initial April 2014 submission, more than 400 pending applications in the January 2017 report (the application deadline for this program was September 30, 2014), and less than 100 pending applications in the most recent January 2021 report.[99] For the Afghan program, the comparable numbers of pending applications from principal applicants were more than 4,000 (April 2014), more than 6,000 (January 2017), and almost 15,000 (January 2021).[100] These totals include incomplete applications. For example, the January 2021 report stated: "8,795 principal applicants had COM applications pending at NVC. These applicants had submitted some, but not all, of the documents required to apply for COM approval."[101]

The fact that pending application data are provided for only some of the processing steps means that the actual numbers of pending applications are likely higher than the reported numbers. According to the congressionally mandated 2020 DOS OIG report, there were more than 18,000 pending applications for the Afghan program in December 2019.[102] In testimony before the House Foreign Affairs Committee in May 2021, Zalmay Khalilzad, Special Representative on Afghanistan Reconciliation, said, "We have 17,000 to 18,000 who have applied," referring to Afghan principal applicants.[103]

A related question for which U.S. officials do not seem to have an answer is how many Afghans may be eligible for the program (whether or not they have submitted applications). Asked at the House 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 Khalilzad replied, "I do not."[104]

The DOS/DHS quarterly reports also provide data on average total U.S. government processing time for SIV applications.[105] This statistic excludes any steps in the application process that are the responsibility of the applicant, such as filing a petition with USCIS (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.[106] For the Iraqi program, average total U.S. government processing time was 239 *business* days in the initial April 2014 quarterly report, 393 *calendar* days in the January 2017 report, and 543 *calendar* days in the most recent January 2021

[99] Quarterly Report on the Iraqi SIV Program, April 2014, pp. 3-4; *Joint Department of State/Department of Homeland Security Report: Status of the Iraqi Special Immigrant Visa (SIV) Program*, January 2017, p. 4, https://travel.state.gov/content/dam/visas/SIVs/Iraqi%20SIV%20public%20report_Jan%202017.pdf (hereinafter cited as "Quarterly Report on the Iraqi SIV Program, January 2017"); Quarterly Report on the Iraqi SIV Program, January 2021, p. 4.

[100] Quarterly Report on the Afghan SIV Program, April 2014, pp. 3-4; *Joint Department of State/Department of Homeland Security Report: Status of the Afghan Special Immigrant Visa Program*, January 2017, p. 4, https://travel.state.gov/content/dam/visas/SIVs/Afghan%20SIV%20public%20report_Jan%202017.pdf (hereinafter cited as "Quarterly Report on the Afghan SIV Program, January 2017"); Quarterly Report on the Afghan SIV Program, January 2021, p. 5.

[101] Quarterly Report on the Afghan SIV Program, January 2021, p. 5.

[102] 2020 DOS OIG report, p. 22.

[103] 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.

[104] Ibid.

[105] 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.

[106] As stated in the January 2021 reports on both programs, "Overall processing times are greater than U.S. government processing times." Quarterly Report on the Iraqi SIV Program, January 2021, p. 4 (table note 8); Quarterly Report on the Afghan SIV Program, January 2021, p. 4 (table note 8).

report.[107] The comparable averages for the Afghan program were 287 *business* days (April 2014), 410 *calendar* days (January 2017), and 996 *calendar* days (January 2021).[108]

The January 2021 quarterly report on the Afghan program singled out two processing steps where applications were pending for more than nine months—Chief of Mission review and administrative processing (see the "Iraqi and Afghan Special Immigrant Visa Application Process" section of this report).[109] According to the report, this was "due to low program staffing and high caseload volume." Regarding the COM review step, the report indicated that average processing time for applicants who completed this step during the October-December 2020 period was 833 calendar days. It offered the following explanation:

> During the COM review, the Congressionally mandated prioritization plan implemented by the Department focuses attention on the higher tiers. Lower tiers, therefore, wait longer for review and analysis relative to higher tiers…. Wait times at the COM stage also increase when there is an increase in the volume of cases processed by COM. The increase in wait time is due to a greater number of older cases being processed, thereby making the average wait time longer. The processing numbers achieved during this quarter were due to the 35 temporary staff COM received.[110]

A lawsuit challenging the delays in processing Iraqi and Afghan SIV applications was filed in federal court in the District of Columbia in June 2018.[111] 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.[112] A June 2020 order in the case requires the government to follow an adjudication plan, which assigns timeframes to various application processing steps. The government is also required to submit progress reports every 90 days.[113]

In his February 2021 executive order that directed the Secretary of State to lead a review of the Iraqi and Afghan SIV programs, President Biden referenced statutory time frames for SIV

---

[107] Quarterly Report on the Iraqi SIV Program, April 2014, pp. 2-3; Quarterly Report on the Iraqi SIV Program, January 2017, pp. 2-3; Quarterly Report on the Iraqi SIV Program, January 2021, pp. 1-4. The January 2021 report indicates that its average processing time data for two processing steps are for the corresponding quarter of FY2021 (October-December 2020); it does not provide time periods for the other processing steps. The April 2014 and January 2017 reports specify the covered time periods for the reported data for several processing steps; all these periods end before the start of the corresponding quarters.

[108] Quarterly Report on the Afghan SIV Program, April 2014, pp. 2-3; Quarterly Report on the Iraqi SIV Program, January 2017, pp. 2-3; Quarterly Report on the Afghan SIV Program, January 2021, pp. 2-4. The January 2021 report indicates that the data on average processing time are for the corresponding quarter of FY2021 (October-December 2020). The April 2014 and January 2017 reports specify the covered time periods for their reported data for several processing steps; all these periods end before the start of the corresponding quarters.

[109] The report's comments on administrative processing are discussed below in the "Security Concerns" section of the report.

[110] Quarterly Report on the Afghan SIV Program, January 2021, p. 4.

[111] 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)).

[112] 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.

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

application processing. The President specified that the resulting report should include "an assessment of whether there are undue delays in meeting statutory benchmarks for timely adjudication of applications, including due to insufficient staffing levels."[114]

At a May 2021 press briefing, a DOS spokesperson described recent actions to expedite the processing of SIV applications for Afghans who had worked for or on behalf of the U.S. government:

> [A]dditional resources, including augmenting domestic staff in Washington to process applications, [have] already been put in place. In addition, we approved a temporary increase in consular staffing at our embassy in Kabul in order to conduct interviews and process visa applications. And we'll continue to do that contingent on the security situation in the country. We will continue to look for ways to speed up this process.[115]

Secretary of State Antony Blinken made remarks along the same lines during a June 2021 television interview with CNN. In response to a question about whether the Administration planned to evacuate Afghans[116] who had helped the United States during the war, he said:

> Evacuation is the wrong word. We're determined to make good on our obligation to those who helped us, who put their lives on the line …. We have put in significant resources into making sure that that [Afghan SIV] program can work fast and work effectively so that we can process any requests that we get for these so-called Special Immigrant Visas. We've added about 50 people here in Washington in the State Department to help do that.[117]

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, a process that involves 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."[118]

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 the December 2012 House hearing cited above, which was entitled *Terrorist Exploitation of Refugee Programs*. At the hearing, then-DHS Deputy Under Secretary for Intelligence and Analysis Dawn Scalici described U.S. government efforts to identify potential threats:

---

[114] E.O. 14013.

[115] U.S. Department of State, Department Press Briefing, May 10, 2021, https://www.state.gov/briefings/department-press-briefing-may-10-2021/.

[116] For a discussion of the evacuation question, see CRS Congressional Distribution Memorandum, *Afghanistan: Immigration and Evacuation of U.S. Partners*, June 3, 2021 (available upon request).

[117] U.S. Department of State, Office of the Spokesperson, *Secretary Antony J. Blinken On CNN's State of the Union with Dana Bash*, press release, June 13, 2021, https://www.state.gov/secretary-antony-j-blinken-on-cnns-state-of-the-union-with-dana-bash/.

[118] Jacobs testimony, July 2011, p. 522.

> 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.[119]

The time required to complete security screening for applicants under the SIV program for Afghans who worked for or on behalf of the U.S. government in Afghanistan has been a 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."[120]

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.[121]

One of the issues that Congress directed the DOS Inspector General to address in its 2020 report was "means to reduce delays in interagency processing and security checks."[122] The report concluded that "staffing levels during the interagency and security check process contribute to delays in processing the Afghan SIVs."[123] "As of March 2020," according the report, "the Office of Screening, Analysis, and Coordination had one analyst to coordinate interagency processing and conduct internal security checks."[124] The report recommended an evaluation to determine the staffing level needed at this office; the DOS senior coordinating official concurred.

The January 2021 DOS/DHS 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."[125]

---

[119] 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.

[120] 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.

[121] 2020 DOS OIG report, pp. 18-19.

[122] P.L. 116-92, §1215(b)(8).

[123] 2020 DOS OIG report, "Highlights" page.

[124] Ibid., p. 19.

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

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 date of this report, the temporary Afghan program and the temporary Iraqi program are scheduled to end when all the available visas are issued.

As detailed above, each of the three SIV programs has been subject to statutory numerical limitations from the start.[126] The numerical limitations language in the statutes creating the programs for Iraqis and Afghans who worked for, or on behalf of, the U.S. government also 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.

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 SIV programs for Iraqis and Afghans who worked for, or on behalf of, the U.S. government (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 that made additional visas available 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. According to the April 2020 quarterly report on the Iraqi program: "This program will continue until all qualified applicants have received visas. There are sufficient visa numbers remaining to meet demand from applicants

[126] Subsequent amendments, however, made changes to the numerical limitations provisions (see the "Special Immigrant Visas for Iraqis and Afghans" section of this report).

in the pipeline."[127] According to the January 2021 quarterly report, 2,116 of the allotted 2,500 visas had been issued as of December 31, 2020.[128]

Legislation enacted from the 113th Congress to 116th Congress made a total of 26,500 Afghan SIVs available for issuance after December 19, 2014, according to DOS.[129] 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.[130] According to the January 2021 quarterly report on the Afghan program, as of December 31, 2020, 15,507 of the allotted 26,500 visas had been issued, leaving 10,993 visas available for issuance.[131]

At the direction of Congress, the 2020 DOS OIG report addressed "the effect of uncertainty of visa availability on visa processing,"[132] 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."[133] 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.[134]

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."[135]

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. Given the seeming consensus that the U.S. government should assist its Iraqi and Afghan employees 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

---

[127] *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.

[128] Quarterly Report on the Iraqi SIV Program, January 2021, p. 1.

[129] Two FY2021 measures enacted at the end of the 116th Congress included language to authorize different numbers of additional Afghan SIVs. The 26,500 total includes the FY2021 CAA provision of 4,000 additional visas, in accordance with DOS's view that this is the operative allocation. For further discussion of this issue, see the last paragraph of the "Afghan Program" section of this report.

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

[131] Quarterly Report on the Afghan SIV Program, January 2021, p. 1.

[132] P.L. 116-92, §1215(b)(6).

[133] 2020 DOS OIG report, p. 11

[134] Ibid., p. 13.

[135] Ibid., p. 14

temporary Iraqi and Afghan SIV programs are warranted. The pending withdrawal of U.S. troops from Afghanistan has added new urgency to these questions.

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 (32 in total) who received an SIV or adjusted status under the translator/interpreter classification and are Iraqi or Afghan nationals but were born in a third country. These 32 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[a]	6	6	12
Totals	**877**	**900**	**1,777**

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, 2021.

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[a]	3	8	11
Totals	**748**	**1,391**	**2,139**

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, 2021.

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 (598 in total) who received an SIV or adjusted status under this classification and are Iraqi or Afghan nationals but were born in a third country. These 598 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[a]	4	10	14
Totals	**8,087**	**13,018**	**21,105**

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, 2021.

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[a]	360	1,676	2,036
Totals	**20,829**	**52,799**	**73,628**

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, 2021.

Author Information

Andorra Bruno
Specialist in Immigration Policy

Disclaimer

This document was prepared by the Congressional Research Service (CRS). CRS serves as nonpartisan shared staff to congressional committees and Members of Congress. It operates solely at the behest of and under the direction of Congress. Information in a CRS Report should not be relied upon for purposes other than public understanding of information that has been provided by CRS to Members of Congress in connection with CRS's institutional role. CRS Reports, as a work of the United States Government, are not subject to copyright protection in the United States. Any CRS Report may be reproduced and distributed in its entirety without permission from CRS. However, as a CRS Report may include copyrighted images or material from a third party, you may need to obtain the permission of the copyright holder if you wish to copy or otherwise use copyrighted material.