



July 20, 2022

PA-2022-17

## Policy Alert

SUBJECT: Legislative Changes and Transition Affecting Afghan and Iraqi Special Immigrant Visas

### Purpose

U.S. Citizenship and Immigration Services (USCIS) is issuing policy guidance in the [USCIS Policy Manual](#) on the transition of the responsibility to adjudicate certain Afghan special immigrant visa (SIV) petitions to the U.S. Department of State (DOS) and to incorporate other changes to the Afghan and Iraqi SIV classifications resulting from the Emergency Security Supplemental Appropriations Act of 2021.<sup>1</sup>

### Background

Afghan citizens or nationals who worked for or on behalf of the U.S. government or the International Security Assistance Force (ISAF) in Afghanistan may seek permanent residence in the United States under the special immigrant classification.<sup>2</sup> The process of seeking permanent residence on this basis involves the Afghan national filing a Petition for Amerasian, Widow(er), or Special Immigrant ([Form I-360](#)).

Effective July 20, 2022, USCIS is transitioning to DOS the responsibility of adjudicating certain special immigrant petitions filed by Afghan nationals who were employed by or on behalf of the U.S. government or the ISAF in Afghanistan to support efforts that streamline the process for Afghan nationals seeking SIVs. Such Afghans who start the SIV petition process on or after July 20, 2022, will seek classification as a special immigrant with DOS. In limited circumstances, however, some Afghans may still need to file the immigrant petition with USCIS.

Additionally, Congress made several changes to the Afghan SIV classification under the Afghan Allies Protection Act (AAPA), including extending the eligibility period, increasing the number of visas available, and changing employment requirements.<sup>3</sup> Congress also expanded eligibility for

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<sup>1</sup> See [Pub. L. 117-31](#) (July 29, 2021).

<sup>2</sup> See Section 602(b) of the Afghan Allies Protection Act of 2009, Title VI of [Pub. L. 111-8](#), 123 Stat. 524, 807 (March 11, 2009) and [INA 203\(b\)\(4\)](#). For general information on special immigrants, see Volume 6, Immigrants, Part H, Designated and Special Immigrants, Chapter 1, Purpose and Background [[6 USCIS-PM H.1](#)].

<sup>3</sup> See Section 602(b) of the Afghan Allies Protection Act, Title VI of [Pub. L. 111-8](#), 123 Stat. 524, 807 (March 11, 2009), as amended.

surviving spouses and children<sup>4</sup> to petition for Afghan or Iraqi SIV classifications.<sup>5</sup>

USCIS is therefore updating its guidance to revise the petition filing criteria for Afghan nationals seeking special immigrant classification with USCIS. This update also incorporates the recent legislative changes to the Afghan and Iraqi SIV guidance and makes other minor clarifications regarding eligibility and evidence. This guidance, contained in Volumes 6 and 7 of the Policy Manual, is effective immediately. The guidance contained in the Policy Manual is controlling and supersedes any related prior guidance.

### **Policy Highlights**

- Explains that noncitizens seeking an Afghan SIV on or after July 20, 2022 must file the Petition for Special Immigrant Classification for Afghan SIV Applicants (Form DS-157) with DOS when applying for the Chief of Mission (COM) approval, but that noncitizens in certain circumstances must still file a petition with USCIS to pursue an Afghan SIV.
- Updates eligibility criteria for Afghan SIVs to reflect the changed employment requirement from 2 years to 1 year, as well as what type of employment with ISAF (or any successor name for the ISAF) qualifies.
- Updates eligibility criteria for surviving spouses and children of deceased principal noncitizens to expand the scope of who may apply for Afghan and Iraqi SIVs.
- Removes the date limitation for converting an approved petition for an Afghan or Iraqi translator or interpreter<sup>6</sup> to an approved petition for an Iraqi or Afghan employed by or on behalf of the U.S. government,<sup>7</sup> in cases where a visa is not immediately available.
- Clarifies statutory requirements that noncitizens seeking Afghan or Iraqi SIVs must establish that they provided faithful and valuable service to the U.S. government by submitting a positive recommendation or evaluation by the petitioner's supervisor.

### **Summary of Changes**

Affected Section: Volume 6 > Part H > Chapter 1, Purpose and Background

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<sup>4</sup> For more information on surviving spouses and children, see Volume 6, Immigrants, Part H, Designated and Special Immigrants, Chapter 9, Certain Afghan Nationals, Section E, Derivative Beneficiaries [[6 USCIS-PM H.9\(E\)](#)] and Chapter 10, Certain Iraqi and Afghan Translators and Interpreters, Section F, Derivative Beneficiaries [[6 USCIS-PM H.10\(F\)](#)].

<sup>5</sup> Under Section 602(b) of the Afghan Allies Protection Act, Title VI of [Pub. L. 111-8](#), 123 Stat. 524, 807 (March 11, 2009), as amended; and under Section 1244 of the Defense Authorization Act for Fiscal Year 2008, [Pub. L. 110-181](#), 122 Stat. 3, 396 (January 28, 2008), as amended.

<sup>6</sup> See Section 1059 of the National Defense Authorization Act for Fiscal Year 2006, [Pub. L. 109-163](#), 119 Stat. 3136, 3443 (January 6, 2006), as amended.

<sup>7</sup> See Section 1244 of the Defense Authorization Act for Fiscal Year 2008, [Pub. L. 110-181](#), 122 Stat. 3, 396 (January 28, 2008), as amended.

- In Section C (Scope) and Section D (Legal Authorities), makes minor technical updates to the footnotes.

Affected Section: Volume 6 > Part H > Chapter 8, Certain Iraqi Nationals

- In Section C (Eligibility), makes minor technical updates.
- In Section E (Derivative Beneficiaries), makes minor technical updates to the first paragraph, removes the second paragraph, and adds new content under new italicized subheadings to incorporate new provisions on surviving spouse and children.

Affected Section: Volume 6 > Part H > Chapter 9, Certain Afghan Nationals

- In Section B (Filing), makes edits to existing text and adds new filing criteria for Afghans seeking special immigrant classification from USCIS.
- In Section C (Eligibility) and Section D (Documentation and Evidence), makes updates on changes to the employment requirement and technical updates on the required documentation to prove qualifying employment.
- In Section E (Derivative Beneficiaries), makes minor technical updates in the first paragraph and updates guidance on surviving spouse and children eligible for special immigrant status, including adding a new italicized subheading.

Affected Section: Volume 6 > Part H > Chapter 10, Certain Iraqi and Afghan Translators and Interpreters

- In Section D (Automatic Conversion for Approved Translators and Interpreters), removes language limiting conversion of special immigrant petitions.
- In Section F (Derivative Beneficiaries), makes minor technical updates to the first paragraph, removes the second paragraph, and adds new content under new italicized subheadings to incorporate new provision on surviving spouse and children.

Affected Section: Volume 7 > Part F > Chapter 10, Certain Afghan and Iraqi Nationals

- In Section A (Purpose and Background), makes minor technical edits.
- In Section C (Eligibility Requirements), makes updates to the third row of the table regarding eligibility requirements for adjustment of status, and in Subsection 1 (Eligibility to Receive an Immigrant Visa), revises the requirement on eligibility to receive an immigrant visa and makes minor technical updates.
- In Subsection 4 (Treatment of Family Member) of Section C, makes minor technical updates and adds a new sentence to the second paragraph.

- In Section D (Documentation and Evidence) and in Section E (Adjudication), makes technical updates.

### **Citation**

Volume 6: Immigrants, Part H, Designated and Special Immigrants, Chapter 1, Purpose and Background [[6 USCIS-PM H.1](#)]; Chapter 8, Certain Iraqi Nationals [[6 USCIS-PM H.8](#)]; Chapter 9, Certain Afghan Nationals [[6 USCIS-PM H.9](#)]; Chapter 10, Certain Iraqi and Afghan Translators and Interpreters [[6 USCIS-PM H.10](#)].

Volume 7: Adjustment of Status, Part F, Special Immigrant Based (EB-4) Adjustment, Chapter 10, Certain Afghan and Iraqi Nationals [[7 USCIS-PM F.10](#)].