

DHS and DOS Announce Exemptions Allowing Eligible Afghans to Qualify for Protection and Immigration Benefits

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These exemptions will allow the U.S. Government to protect Afghans allies by alleviating certain obstacles to immigration benefits

WASHINGTON — Today, the Department of Homeland Security and Department of State took steps to ensure that vulnerable Afghans who have supported and worked with the United States in Afghanistan, and who have undergone rigorous screening and vetting, can qualify for protection and other immigration benefits in the United States. These actions will also ensure that individuals who have lived under Taliban rule, such as former civil servants, those required to pay service fees to the Taliban to do things like pass through a checkpoint or obtain a passport, and those who fought against the Taliban are not mistakenly barred because of overly broad applications of terrorism-related inadmissibility grounds (TRIG) in our immigration law.

The Secretary of Homeland Security and the Secretary of State, in consultation with the Attorney General, exercised their congressionally provided discretionary authority to create three new exemptions, which can be applied on a case-by-case basis, to ensure individuals who would otherwise be eligible for the benefit or protection they are seeking are not automatically denied. Individuals would only be if they have undergone rigorous screening and vetting, and are individually determined to not pose a risk to national security or public safety. Secretaries of State and Homeland Security, under both Republican and Democratic administrations, have exercised this exemption authority over 30 times previously, thus ensuring deserving individuals are not inadvertently subject to terrorism-related bars to admission and are eligible for protection in the United States.

“Doctors, teachers, engineers, and other Afghans, including those who bravely and loyally supported U.S. forces on the ground in Afghanistan at great risk to their safety, should not be denied humanitarian protection and other immigration benefits due to their inescapable proximity to war or their work as civil servants,” said Secretary of Homeland Security Alejandro N. Mayorkas. “These exemptions will allow eligible individuals who pose no national security or public safety risk to receive asylum, refugee status, or other legal immigration status, demonstrating the United States’ continued commitment to our Afghan allies and their family members.”

“We remain committed to our Afghan allies and processing Special Immigrant Visa applications as expeditiously as possible, while always protecting our national security. We are working closely with our interagency partners to do so, and today’s announcement is an important step forward in that endeavor,” said Secretary of State Antony J. Blinken

All Afghans, including those considered for one of these exemptions, undergo a multi-layered, rigorous screening and vetting process conducted by intelligence, law enforcement, and counterterrorism professionals from the Departments of Defense, Homeland Security, and State, as well as the Federal Bureau of Investigation (FBI), National Counterterrorism Center (NCTC), and additional intelligence community partners. Only individuals who clear these comprehensive security checks can be considered for an exemption. Adjudicating officers apply exemptions on a case-by-case and discretionary basis, only after determining the applicant is eligible for the benefit sought, meets the criteria for the exemption, represents no danger to the safety and security of the United States, and merits the exemption in the totality of the circumstances.

The use of this authority is consistent with how it has been employed by multiple administrations in the past, including in 2007, 2014, and 2019. For example, in 2019 the prior administration authorized exemptions for applicants who had voluntary associations or activities with Lebanese Forces or Kataeb Militias during the Lebanese Civil War (1975-1990).

The United States has swiftly and safely welcomed more than 79,000 Afghans through Operation Allies Welcome, an unprecedented historic effort, providing them with work authorization, immigration benefits, and other support as they begin their new lives in America. The United States will welcome additional Afghans over the coming weeks and months.

More specifically, the new exemptions may apply to the following:

- Afghans who supported U.S. military interests, specifically Afghan allies who fought or otherwise supported those who fought in the resistance movement against the Taliban and Afghans who took part in the conflict against the Soviet occupation of Afghanistan.

- This could include individuals who fought alongside, or with assistance from, U.S. government entities, the United Nations, or the International Security Assistance Force (ISAF), or successor Force. It also includes individuals who supported U.S. interests and participated in the resistance movement to the Soviet invasion and occupation of Afghanistan between December 24, 1979 and April 28, 1992.
- This exemption specifically *does not* include individuals who targeted non-combatants or U.S. interests, committed certain types of human rights abuses or violations, or acted on behalf of a designated terrorist organization.
- Individuals employed as civil servants in Afghanistan at any time from September 27, 1996 to December 22, 2001 or after August 15, 2021.
 - This could include teachers, professors, postal workers, doctors, and engineers, among others. Some civil servants held these positions prior to the Taliban announcing their so-called “interim government” and continued in their roles due to pressure, intimidation, or other hardship. In other instances, individuals used their positions to mitigate the repressive actions of the Taliban, often at great personal risk.
 - This exemption *does not* include individuals who held high-level positions, worked for certain ministries, or directly assisted violent Taliban activities or activities in which the individual’s civil service was motivated by an allegiance to the Taliban.
- Individuals who provided insignificant or certain limited material support to a designated terrorist organization.
 - This could apply in limited circumstances where the support is incidental to a routine social or commercial transaction; incidental to certain humanitarian assistance; provided in response to a reasonably perceived threat of physical or economic harm, restraint, or serious harassment; and where the support provided is considered minimal and inconsequential.
 - Examples could include paying a small amount to pass through a Taliban checkpoint to flee Afghanistan; paying the Taliban for utilities such as electricity or the telephone; serving the Taliban at one’s place of business when to refuse would jeopardize one’s livelihood; or paying a fee to obtain a passport or other identity documents necessary to flee Afghanistan when the Taliban controlled the offices providing those services.
 - Due to the Taliban’s presence and control of entities, roads, and utilities, many individuals who lived in Afghanistan needed to interact with the Taliban in ways that, absent such an exemption, render them inadmissible to the United States under U.S. law.
 - This exemption *does not* include individuals who share the goals or ideology of the Taliban, provided preferential treatment to them, or who intended to support the Taliban through their activities.

These exemptions enable the U.S. government to approve qualified and meritorious immigration cases, including those of Afghan allies who faithfully and courageously supported the U.S. mission in Afghanistan, and to fulfill the United States’ humanitarian obligations while ensuring the security and integrity of the U.S. immigration system.

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Topics

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