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Afghan Adjustment Act (AAA) Frequently Asked Questions

General Questions

Q: What is an adjustment act?

A: An adjustment act is a piece of legislation that, if passed, gives a specific population of immigrants to the United States the ability to apply for lawful permanent residence.

Q: What would the Afghan Adjustment Act do?

A: The Afghan Adjustment Act would:

- Allow certain eligible Afghans to apply for lawful permanent residence in the United States;
- Establish an Interagency Task Force responsible for creating and implementing a strategy to continue the relocation and resettlement of eligible Afghan partners from Afghanistan over the next ten years, and providing much-needed intra-governmental coordination;
- Requires the State Department to create an office capable of reviewing visa applications and providing other consular services for Afghans as long as there is no operational embassy in Afghanistan;
- Expand Special Immigrant Visa eligibility for Afghans who worked and served alongside U.S. forces, including members of the Afghan National Army Special Operations Command, the Afghan Air Force, the Female Tactical Teams of Afghanistan, and the Special Mission Wing of Afghanistan, as well as certain Afghan family members of U.S. service people and veterans.

Q: Who is eligible to apply for adjustment (lawful permanent residence) if the Afghan Adjustment Act passes?

A: All must be citizens or nationals of Afghanistan or have last habitually resided in Afghanistan AND meet ONE of the following criteria:

- (1) have been inspected or admitted to the U.S. before the President signs the bill into law (this includes Afghans who entered the U.S. on visas),
- (2) were paroled into the U.S. between July 30, 2021 and when the President signs the bill into law,
- (3) have had their travel to the U.S. facilitated or coordinated by the U.S. government,
- (4) arrives in the U.S. after the President signs the bill into law and supported the U.S. mission in Afghanistan (there will need to be guidance from the Administration on who meets this criteria), or
- (5) Spouses and unmarried children under the age of 21 of principal applicants, including the spouse and unmarried children under the age of 21 of principal applicants who are deceased and battered spouses, who would otherwise be eligible, to apply even if their marriages were terminated in the last two years.



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Special Immigrant Visas

Q: What new populations are eligible for a Special Immigrant Visa? Who is not eligible for a Special Immigrant Visa?

A: Under current law, Afghans who were employed by the U.S. government or military for a minimum of one year are eligible to apply for a Special Immigrant Visa. If the Afghan Adjustment Act becomes law, additional Afghan Allies can apply for a Special Immigrant Visa, these include:

- (1) members of the Afghanistan National Army Special Operations Command,
- (2) the Afghan Air Force,
- (3) the Special Mission Wing of Afghanistan,
- (4) the Female Tactical Teams of Afghanistan and
- (5) spouses and unmarried children under the age of 21 of certain members and veterans of the armed forces.

Q: Are Special Immigrant Visas (SIV) only available to U.S. allies and not for those in other humanitarian situations, such as women teachers, journalists, etc.?

A: This bill does NOT extend Special Immigrant Visa eligibility to other categories of at-risk Afghans who worked with/for American NGOs, media, etc. Separately (unrelated to the Afghan Adjustment Act) Afghans who worked for American NGOs would qualify for the P2 program under the U.S. Refugee Admissions Program (USRAP). Other at-risk Afghans would need to be brought through either USRAP, humanitarian parole, or another eligible visa category.

Adjustment Application Process

Q: Are there fees to apply for adjustment?

A: The Afghan Adjustment Act prohibits the Department of Homeland Security (DHS) from charging any fees for:

- (1) an application for adjustment of status or employment authorization, or
- (2) the issuance of a permanent resident card or an employment authorization document.

Q: What does the adjustment application process include?

A: The adjustment application process includes submitting an application, an interview and meeting the vetting requirements that are equivalent to those used for the U.S. Refugee Admissions Program.

Q: What is the streamlined adjustment process and who is eligible?

A: The streamlined adjustment process allows certain eligible Afghans to apply and be granted adjustment without waiting until they have been present in the United States for two years.

Eligible Afghans include:

- (1) Special Immigrant Visa applicants who have received Chief of Mission Approval;
- (2) Received a Priority 1 or 2 referral to the U.S. Refugee Admissions Program; or



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- (3) SIV applicants with a pending application that was submitted on or before July 31, 2018.

Q: What are the adjustment process requirements for those not eligible for the streamlined process?

A: All other eligible Afghans can file adjustment applications and will have the same vetting and interview requirements. The differences are:

- 1) DHS cannot adjust an eligible Afghans status until they have been present in the U.S. for two years;
- 2) DHS, in consultation with the Department of Defense, will maintain a vetting database with information on applicants not eligible for the streamlined process; and
- 3) Secretary of Homeland Security may not waive any applicable ground of inadmissibility under section 212(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)) that arises due to criminal conduct that was committed— (i) on or after July 30, 2021; (ii) within the United States; and (iii) by an applicant for adjustment of status under this subsection, nor waive any applicable ground of inadmissibility under section 212(a)(2)(C) (drug trafficking) or (3) (espionage and terrorism) of the Immigration and Nationality Act (8 U.S.C. 1182(a)).

Q: Do Afghans have to wait until they are in the U.S. for two years before submitting an adjustment application?

A: No. No Afghan has to wait to apply for adjustment. The two year requirement applies to DHS approving an adjustment application. Eligible Afghans will be encouraged to apply once DHS has issued implementation guidance after the President signs the Afghan Adjustment Act into law.

Q: When is the deadline for applying for adjustment?

A: There are two deadlines by which eligible Afghan must submit their adjustment applications. Applications for adjustment must be submitted by the later of these two dates:

- (1) the date that is 1 year after the date on which final implementation guidance is published; or
- (2) the date that is 1 year after the date on which such an individual becomes eligible to apply for adjustment of status.

Q: When can we expect implementation guidance from the Administration?

A: The Afghan Adjustment Act requires the Administration to publish interim implementation guidance within 180 days of the President signing the bill into law and final implementation guidance within 1 year of the bill becoming law.

Q: While USCIS and other agencies are reviewing the adjustment of status application, what temporary legal status do Afghans have in the interim if their humanitarian parole has expired?

A: The bill provides a temporary lawful protection status throughout the entire duration of the adjustment application process. No applicant may be removed from the U.S., nor considered



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unlawfully present or an unauthorized alien while DHS is processing their adjustment application.

Humanitarian Parole

Q: Can humanitarian parole be renewed while an adjustment application is pending?

A: With very limited exceptions, humanitarian parole cannot be extended or renewed for Afghans who already have parole after their adjustment application has been submitted. The exceptions are: An individual may be authorized for an additional period of parole if such individual—

- (1) within the period described in paragraph (1)(B), seeks an extension to file an application for adjustment of status under this bill; or
- (2) has previously submitted to a vetting equivalent of the vetting requirements in the bill.

Q: Does the Afghan Adjustment Act address the thousands of pending Humanitarian Parole applications submitted by U.S.-based Afghan petitioners that are currently pending with DHS?

A: The bill does not directly address individual humanitarian parole applications but it does order the Administration to take steps to help facilitate better processing - the office in lieu of an embassy and the interagency taskforce.

Other Questions:

Q: The Afghan Adjustment Act requires the Department of State to implement an office that serves the consular functions of an embassy, where will the office be located?

A: The bill does not identify a location for the office the State Department must set up. The State Department will decide on the location of the office in lieu of an embassy.

Q: Is this act similar to or different in any way from previous adjustment acts?

A: The Afghan Adjustment Act is both similar and different from previous adjustment bills. Congress has passed adjustment bills for all previous U.S. wartime withdrawals and we are asking for the same this time but unlike some of the previous adjustment acts, there is a specific closed timeframe for implementation.