



# HOW THE BIDEN ADMINISTRATION EXPLOITED THE BOTCHED AFGHANISTAN WITHDRAWAL TO IMPORT COUNTLESS UNVETTED AFGHANS INTO THE U.S.

## TOP LINES

- The U.S. offers lawful permanent resident status to Afghan allies who meaningfully contributed to the war effort. The screening and vetting process is extensive as many applicants have derogatory information in their background, past affiliation or association with the Taliban or other malicious actors, and unreliable identity documents. There is also a legitimate concern that the Taliban or other terrorist groups could try to exploit the application process as a means of getting a terrorist into the U.S. to conduct a future attack on the homeland.
- The Biden Administration's mismanagement of the military operation wind-down in Afghanistan created a chaotic environment where 100,000 unvetted, visa-less Afghans were allowed onto evacuation planes.
- Instead of following the established vetting procedures in a controlled environment at a military base closer to Afghanistan, the Biden Administration exploited U.S. immigration law to allow the Afghan evacuees into our country and vet them later.
- Despite very few Afghan evacuees qualifying for a Special Immigrant Visa or refugee status, the Biden Administration doubled down by granting immigration benefits, like work permits and Social Security numbers, but not a lawful immigration status to Afghans it allowed into the country.
- The Department of Defense Inspector General found that this process potentially exposed threats to our national security and the public's safety.

## INTRODUCTION

The Biden Administration's [mismanagement](#) of the military operation wind-down in Afghanistan ahead of the 20th anniversary of the September 11, 2001, terrorist attacks was a strategic failure and one with profound homeland security implications. Despite a two-decade military presence in Afghanistan, the Taliban quickly gained control over vast amounts of the country and, by August 13, 2021, occupied Kandahar and Herat—Afghanistan's second and third largest cities, respectively. On August 15, the Taliban reached the capital city of Kabul, causing the U.S. evacuation to [deteriorate rapidly](#). The tragic culmination of the wind-down blunder was the late August [suicide bombing](#) at the Kabul airport that [killed](#) 13 U.S. servicemembers and 170 Afghans. In total, the U.S. evacuated approximately 124,000 people from Kabul, including about 6,000 U.S. citizens, but a still unknown number of Americans were [stranded](#) in Kabul after the last plane departed on August 31, 2021.

While the Afghanistan withdrawal is best remembered for the chaos at the Kabul airport and the country's quick fall into Taliban rule, one should not overlook how the Biden

Administration's mismanagement of the withdrawal upended the orderly vetting process previously in place for a special immigration status Congress created for the Afghan allies who assisted the U.S. military effort. While America generously granted lawful permanent resident status (LPR) through the Special Immigrant Visa (SIV) for the Afghans who risked their lives and the safety of their families, the program's success depended on following extensive security protocols to ensure only true allies were benefitting. Confronted with the quickly deteriorating situation in Kabul of their own making, the Biden Administration jeopardized the integrity of the SIV program by allowing a disorderly mass exodus of Afghans from their homeland and resettling them in the United States without going through the proper vetting channels.

Instead of following the established procedures to screen and vet applicants for the SIV, including in-person interviews, the Department of Homeland Security (DHS) allowed approximately 100,000 unvetted and visa-less evacuated Afghans into the United States. As national security concerns and SIV ineligibility became apparent in most of this population, the Biden Administration utilized a multi-step process to provide these aliens with work permits, Social Security numbers, and an exemption from deportation. This is all part of an intentional move to radically remake our immigration system that allows any alien who wants to come to the U.S. the ability to do so without Congress passing new laws. In doing so, the Biden Administration undercut every American's desire for safe and secure communities.

By exploiting Americans' sympathies for our true Afghan allies, the Biden Administration deliberately misrepresented who was on those planes. This misdirection is consistent with how the administration has tried to frame the border crisis as simply being "asylum seekers" despite the overwhelming evidence that they are economic migrants who do not qualify for asylum. Taken together, a pattern emerges that suggests that the Biden Administration views eligibility criteria and numerical limits as optional and will not serve as an obstacle to the goal of processing as many aliens into the country as possible. They seem to view our immigration laws and eligibility requirements as "barriers" to overcome in the name of a "compassionate" immigration policy, regardless of the potential threats to our national security and the public's safety.

## **BACKGROUND ON SPECIAL IMMIGRANT VISAS FOR AFGHANS WHO ASSISTED THE U.S. MILITARY EFFORT**

In recognition of the meaningful contributions some Afghans made to the U.S. military mission during the War on Terror and the danger such involvement could pose to them and their families, Congress created the [Special Immigrant Visa \(SIV\)](#), an immigration status that results in a green card (lawful permanent resident or LPR) and a path to becoming a naturalized U.S. citizen. Specifically, there are two SIV programs under which Afghans who aided the U.S. military are permitted to immigrate to the U.S.:

1. SIV for Afghan interpreters/translators; and
2. SIV for Afghans [employed by, or on behalf of, the U.S. government](#).

To be eligible for the first SIV program, an Afghan had to have worked as an interpreter or translator for the U.S. military. Congress established an annual cap of 50 principal interpreters or translators plus their derivative family members, meaning spouses and unmarried children. To be eligible for the second SIV program, an Afghan had to work directly with the U.S. government or for contractors providing services on behalf of the U.S.

government for at least 1 year (the requirement used to be 2 years until President Biden [signed legislation](#) in July 2021 reducing it and had to face the risk of repercussions because of this employment. Between fiscal year 2009 (FY 2009) and FY 2013, Congress capped the program to 1,500 principal aliens per year, with unused numbers rolling over into the next FY. Over the years, Congress has continued increasing the total number of principal SIVs available and has currently allowed for the issuance of [34,500 visas](#) to principal aliens since December 19, 2014.

In the approximately 15 years that the SIV Afghanistan program existed before the Kabul withdrawal, approximately 2,000 Afghans [were admitted](#) to the U.S. under the first program, and approximately 74,000 Afghans were [admitted into the U.S.](#) under the second program. Most of these totals are family members of the principal alien who provided meaningful assistance in the war effort. As of 2021, there were around [18,000 pending applications](#) from principal applicants, including incomplete applications.

The screening and vetting process is extensive—as it must be—as many applicants have derogatory information in their background, past affiliation or association with the Taliban or other malicious actors, and unreliable identity documents. There is also a legitimate concern that the Taliban or other terrorist groups could try to exploit the application process as a means of getting a terrorist into the U.S. to conduct a future attack on the homeland. In order to obtain an SIV, the applicant must submit a petition to DHS, be otherwise eligible for an immigrant visa (green card), and be otherwise admissible to the U.S. Once the application is approved, the alien is subject to an in-person visa interview at a U.S. embassy or consulate abroad for further screening and vetting scrutiny and to determine visa eligibility. After obtaining the visa, the SIV recipient may travel to the U.S. but still must be admitted into the country after further screening by U.S. Customs and Border Protection at the port of entry. Finally, once admitted into the U.S., the alien obtains LPR status.

Given heightened national security concerns, this in-depth screening and vetting process outside of the U.S. is critical to ensuring that the alien does not pose a threat to the American people or the homeland should he or she be admitted into the country. The process can be lengthy, in some cases going on for years before a final decision is rendered. While there may be inefficiencies in the SIV vetting process that could be improved, an extensive review is necessary to protect the homeland and the integrity of the immigration system.

What follows is a multi-step process the Biden Administration took to provide immigration benefits, but not a lawful immigration status, to the nearly 100,000 Afghans it allowed into the U.S. who do not qualify for SIV or refugee status.

## **STEP 1: ALLOW TENS OF THOUSANDS OF UNVETTED, VISA-LESS AFGHAN “EVACUEES” INTO THE U.S.**

During a White House [press briefing](#) on July 8, 2021, before the withdrawal turned chaotic, President Biden promised to take care of the Afghans who were “very vital” in aiding the American military effort since 9/11. In this context, President Biden was speaking about Afghans with approved SIV, meaning those who have cleared all screening, vetting, and eligibility analyses. To them, the president said, “Our message to those women and men is clear: There is a home for you in the U.S. if you so choose, and we will stand with you just as you stood with us.”

If the situation played out this way, it would be uncontroversial. Instead, as Kabul quickly fell into upheaval, a deliberate decision was made by the Biden Administration to allow as many as possible unvetted, visa-less Afghans onto U.S. planes and create the new term “Afghan evacuees” to identify this population. Since the term “Afghan evacuees” is not an immigration status recognized under U.S. immigration law, the approximately 100,000 Afghans that departed Kabul are inadmissible aliens, meaning that legally they should be denied entry into our country. Because of this, the Biden Administration should have landed the planes in a safe neighboring country to conduct vetting at one of the “intermediate staging bases” known as “lily pads.” Under this scenario, only Afghans who went through the entire SIV process would be allowed to leave the lily pad and travel to the U.S., while our federal government could work with allies in the region for the resettlement of ineligible Afghans.

Instead, the Biden Administration used the disruption caused by the mass exodus to alter the orderly process the U.S. government typically used to evaluate SIV Afghan applicants. The first step was DHS Secretary Mayorkas’s decision to allow all the unvetted, visa-less Afghans into the U.S. and try to figure out who they were once on American soil. To accomplish this, Secretary Mayorkas reimagined his statutory parole authority to allow Afghans into the country without a visa. Under [section 212\(d\)\(5\)](#) of the Immigration and Nationality Act, the DHS Secretary may parole into the country an otherwise inadmissible alien but only on a case-by-case basis for “urgent humanitarian reasons” or “significant public benefit.” By categorically granting parole, Secretary Mayorkas essentially overrode U.S. immigration law and created a side door for entry into the country.

## **STEP 2: GRANT WORK PERMITS TO AFGHAN “EVACUEES” BEFORE VETTING IS COMPLETED**

After DHS paroled all the Afghan evacuees into the country, they were initially housed on U.S. military bases. Because they were allowed into the U.S. through unlawful use of categorical parole, these Afghans immediately became eligible for work permits, known as Employment Authorization Documents (EADs), despite not establishing eligibility for any lawful immigration benefit. Instead of allowing the screening and vetting process that should have occurred overseas to take place while the Afghan evacuees were contained on military bases, DHS’s U.S. Citizenship and Immigration Services decided to issue the work permits first, allow the Afghans into the interior of the country, and resolve vetting issues later. This policy is another example of how the Biden Administration cast aside normal adjudication processes in favor of expeditiously releasing the Afghan evacuees into the interior of the country.

## **STEP 3: GRANT TEMPORARY PROTECTED STATUS TO KEEP ALL AFGHAN EVACUEES IN THE U.S. INDEFINITELY**

In the initial 6 months since the Afghan evacuees landed in the U.S., [growing evidence](#) mounted that nearly all of this population was ineligible for SIV or refugee status. A number of them also started being charged with serious crimes committed in communities across the Nation, including sexual assault. While parole got the Afghan evacuees into the country and awarded them work permits, it is temporary and easily revocable by a future administration.

This brings us to the final step in the Biden Administration’s intentional plan to establish a large visa-less Afghan population in the U.S. In March 2022, Secretary Mayorkas designated Afghanistan for Temporary Protected Status (TPS). Under [section 244 of the INA](#), the DHS secretary may designate a foreign country for TPS due to one or more of the following circumstances: (1) ongoing armed conflict; (2) an environmental disaster; or (3) extraordinary and temporary conditions. The statute additionally requires that the ongoing armed conflict “would pose a serious threat to [the] personal safety” of the country’s nationals if returned; the environmental disaster requires that the home country is “unable, temporarily, to handle adequately the return”; and the extraordinary and temporary conditions must prevent the alien “from returning to the state in safety.”

TPS is a particularly lucrative “temporary” immigration status that gives aliens in the U.S. at the time of the designation, regardless of if they are here lawfully, a work permit (EAD), Social Security number, and driver’s license. With the exception of the Trump Administration, other administrations have extended TPS designations for conditions that have little-to-no nexus to the original country conditions. Activist courts had further prolonged the longevity of TPS by blocking attempts by the Trump Administration to terminate some TPS designations when DHS determined that the conditions no longer existed.

## **RAMIFICATIONS OF BYPASSING ESTABLISHED SCREENING AND VETTING PROTOCOLS**

On August 29, 2021, President Biden tasked DHS with leading “Operation Allies Welcome,” the administration’s evacuation and resettlement process. DHS Secretary Mayorkas promised the American people that every Afghan resettled in the U.S. would be subject to a “multi-layered, multi-agency screening and vetting process” to ensure that national security risks are identified and not allowed into the country. A [Department of Defense \(DoD\) Inspector General \(IG\)](#) investigation would prove that Mayorkas’s assurances rang hollow and that the Biden Administration’s decision to bypass the established screening and vetting protocols exposed the American people and the homeland to harm.

Specifically, the DoD IG found that the Afghan parolees were not vetted by the Office of the Director of National Intelligence’s National Counterterrorism Center (NCTC) using all available data before releasing them into the interior of the country. According to the DoD IG, half of the Afghan evacuees were screened through DHS’s Automated Biometric Identification System (IDENT). The other half were screened by DoD’s Automated Biometric Identification System (ABIS). This split in vetting enrollment is problematic because IDENT does not include all the information contained in ABIS. Reminiscent of the intelligence gathering and sharing shortcomings that failed to stop the 9/11 terrorists before the attacks, the DoD IG found that DoD has agreements with “foreign partners” that prohibit the sharing of some information in the ABIS system outside of DoD.

This meant that DHS, the very department created in response to the 9/11 terrorist attacks, was denied access to the full amount of vetting information known to the federal government. In particular, IDENT does not include, and thus DHS was deprived of awareness of DoD’s “tactical patrol reports from ground units, tactical operation debriefings, after-action reports, detention operations, and fingerprints on improvised explosive devices.”

There is legitimate cause for concern that the Biden Administration had jeopardized national security by releasing the Afghan evacuees into the country before vetting was complete.

After DHS and DoD concluded the initial screening, again with DHS's being incomplete, the files were moved to DoD's National Ground Intelligence Center (NGIC). According to the IG, by September 17, 2021, NGIC identified 31 Afghans allowed into the U.S. with derogatory information, but only three could be located. About 6 weeks later, NGIC "had identified 50 Afghan personnel in the U.S. with information in DoD records that would indicate potentially significant security concerns." DoD defines "significant security concerns" as "individuals whose latent fingerprints have been found on improvised explosive devices and known or suspected terrorists."

## CONCLUSION

Congress created the SIV status for Afghans who meaningfully assisted in the war effort, and refugee status is available for those fleeing persecution on a protected ground. These include screening and vetting requirements overseas due to heightened national security and fraud concerns. The Biden Administration deviated from all these standards in an intentional effort to reimagine our immigration laws without Congress actually changing them. Of the 100,000 Afghans evacuated on U.S. planes, it appears that very few qualify for SIV or refugee status. This means that nearly all of them should have been denied entry into the U.S. Instead, the Biden Administration jeopardized national security and the safety of the American people by allowing unvetted Afghans into the country anyways. The administration doubled down by giving them work permits and releasing them before vetting was completed and then went even further with the TPS designation that ensures that few will ever be deported despite lacking a lawful immigration status. The DoD IG issued an alarming report showing that glaring gaps existed in the vetting of at least half of the Afghan evacuees, and a concerning number with national security flags have yet to be located since that information turned up.

The botched military withdrawal will have long-standing, tragic consequences that underscore the need for careful planning and whole-of-government coordination when it comes to vetting aliens to enter the U.S., particularly those from dangerous parts of the world. American citizens and Afghan allies who qualified for SIV were abandoned in a country overrun with Taliban, while the Biden Administration prioritized the safety of the unvetted Afghans who pushed their way onto evacuation planes. The American people welcome the allies who earned a visa through the SIV Afghanistan program, but that is conditioned on the extensive screening and vetting procedures the U.S. government is expected to follow to ensure that only qualified aliens who do not pose a threat to our homeland receive the visa. The Biden Administration did a disservice to all the true Afghan allies by blurring the lines between those who qualify for SIV with the general Afghan population that made it onto those airplanes. This approach was dishonest to the American people, and the subsequent decision to give the ineligible Afghans separate immigration benefits runs afoul of our immigration laws, DHS's mission to protect the homeland, and the confidence of the American people that the administration is upholding the rule of law. In doing so, the Biden Administration undercut every American's desire for safe and secure communities.

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