



USFOR-A/U.S. Embassy Kabul BSA FAQs:
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General Information:

NOTE: The U.S. – Afghanistan Security and Defense Cooperation Agreement, also known as the Bilateral Security Agreement (BSA) is scheduled to enter into force on January 1, 2015.

Beginning January 1 and continuing until approximately June 1, 2015, the US Embassy expects the Afghan Government will institute a transition period allowing for phased application of Afghan law to BSA contractors and contractor employees regarding entry/exit requirements (visas) and issuance of weapons permits as set forth in this fact sheet. The specifics of the arrangement (agreed to between the United States government and the Afghan government) will be released publicly when signed by the Afghan government. Any definitions contained in the BSA apply to the terms used in this fact sheet. This fact sheet only applies to BSA contractors and the non-Afghan employees working under those contracts or subcontracts. For the purposes of this fact sheet “BSA Contractors” or “BSA Contractor Employees” mean “U.S. Contractor” or “U.S. Contractor Employee” as defined by the BSA. It does not apply to other companies, nor does it apply to non-Afghan employees working under other contracts or subcontracts.

The answers reflect our best, most up-to-date understanding of the facts at the time of publication. Information and answers are subject to change at any time and without notice; please check back here often.

If you have additional questions, please contact KabulBSAInquiries@state.gov.

This document is for informational purposes only. Contractors and contractor employees are urged to seek independent advice from appropriate professionals (attorneys, accountants, business experts, etc.) on all subjects relevant to the topics discussed in this document. This document does not constitute legal advice or opinion of any kind. No lawyer-client, advisory, fiduciary or other relationship is created. The U.S. government will not be liable for any damages, losses or causes of action of any nature arising from any use of this document or of the answers contained herein.

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Entry/Exit & Visas

1. Will BSA contractor employees be required to have valid passports and visas after 1 January 2015?

BSA contractor employees are to enter Afghanistan in conformity with Afghan law. A valid passport is necessary after January 1, 2015. During the transitional period, these contractor employees are expected to be able to enter, exit, work and be present in Afghanistan with (1) a valid passport and a U.S. issued certificate indicating that they are a U.S. contractor or contractor employee.

As noted above, the Afghan government has agreed to phase in application of Afghan law with respect to entry/exit procedures to accommodate the large number of employees of contractors needing visas with a transition period. During the transition period, procedures will be developed by the Afghan government to allow for the issuance of one-year multiple entry visas inside of Afghanistan to this group of individuals; we also expect there to be a way to attain such a visa at the ports of entry and/or at Afghan consulates, but details are unclear at this time.

At that time, all employees of contractors (who do not already have a visa) are strongly recommended to submit their visa applications. Please check this website [here](#) frequently to receive notification of those procedures. It has been agreed that those procedures will not require

a work permit, but will require that the employees' company have a valid business registration license from the Afghan Investment Support Agency (AISA); AISA will coordinate with other government ministries and agencies which may also need to approve certain aspects of the operations of that company (for example, with the Civil Aviation Administration for aviation companies or Ministry of Interior for private security companies). No fines or penalties will be charged to those employees of contractors who have never held a visa. Those with expired visas will have to pay fines, as they have done in the past.

2. What information is available regarding Afghan visas?

The website for the Embassy of Afghanistan in Washington, D.C. can be located [here](#).

General information regarding Afghan visas can be found [here](#).

The English-language Afghan Visa Application Form is available in PDF format [here](#).

3. How long are Afghan visas valid?

Afghan visa validity is determined by Afghan law, and subject to the type of visa. However, under the agreed provisions of the BSA, contractor employees should ultimately be able to obtain one-year, multiple-entry visas without having a work permit. In order to obtain an Afghan visa for a contractor employee, the contractor must have a valid business registration license from AISA.

4. Can U.S. and NATO contractor employees already in Afghanistan obtain a visa?

Yes. Please see below.

a. Do contractor employees already in the country have to leave the country before obtaining a visa or renewing a visa?

No. Contractor employees should apply for a visa, through their employer, at the Passport/Visa Office of the Ministry of the Interior. At present contractors are receiving a single-entry visa at the Visa Office; we anticipate that this will soon change.

b. Do contractor employees already in the country need to apply for visas individually? Do they need to apply in person?

No, consistent with current Afghan government practices, contractors may submit block or group applications on behalf of their employees already in the country, with no personal appearance required.

c. Are contractor employees already in the country required to have work permits prior to obtaining or renewing a visa?

Contractor employees should not apply for work permits at this time.

5. Are BSA contractor employees already in the country, subject to any fines or penalties stemming from the lack of, or the expiration of, a visa?

During the transitional period, BSA contractors and contractor employees shall not be subject to fines, penalties or punishments based upon the lack of a visa. Possession of an expired visa will likely continue to be subject to penalties, as it has in the past.

6. Can BSA contractor employees traveling to Afghanistan obtain visas prior to arriving in Afghanistan?

Yes. Afghan visas may be obtained at any Afghan Embassy or Consulate worldwide, but currently, we understand that only single entry visas are being issued. At present, the Afghan government does not require the personal appearance of an applicant, provided that the individual presenting the visa application has a letter of authorization.

7. Can BSA contractors submit block or group visa applications and payments on behalf of their employees traveling to Afghanistan?

Yes. It is our current understanding that the Afghan government permits contractors to submit block or group applicants and payments on behalf of their employees. We are aware that group payments have been accepted by the Afghan consulates in the United States.

8. What should BSA contractor employees expect at commercial airport terminals upon arrival in Afghanistan after Jan 1?

Contractor employees should be prepared to present their passport, visas, and employment letters if/when asked. Those contractor employees arriving at or departing from an Afghan commercial airport terminal after 1 January without a visa should continue to use visa exemption letters (as they have in the past) until they receive a visa during the transition period.

9. How will passports and visas be checked and/or issued at military air terminals?

These policies and procedures are currently under development. For contractor employee passengers on MilAir or a contracted airline arriving or departing from a military air terminal in Afghanistan, we expect no changes from present procedures, until procedures are in place for those employees of BSA contractors to be issued 1-year multiple entry visas. We will update this fact sheet to reflect when such procedures are in place and when changes are expected at military air terminal ports of entry.

Nonetheless, if contractor employees will be exiting the country from US installations at any time they MUST obtain and carry a visa exemption letter and have a valid passport.

10. Are BSA contractor employees performing their contractual duties in Afghanistan required to obtain work permits?

No work permits will be required.

11. Will there be Afghan government personnel operating at the points of entry/departure to ensure compliance with visa, passports, and work permits?

Consistent with the BSA, the Afghan government may request that its personnel be positioned at military airports to account for entry and exit. But during the transition period while procedures are being developed for employees of contractors to receive visas, we do not anticipate Afghan government personnel positioned in those locations.

12. How long does the visa and licensing process take?

Timeframes for visa issuance and licensing will vary according to individual circumstances.

Taxation

13. In the case of non-Afghan BSA contractors, should they continue to pay the normal withholding taxes required by Afghan law when making payments to Afghan individuals or Afghan companies?

Yes. BSA contractors are subject to Afghan requirements regarding employer withholding of personal income tax from United States contractor employees who normally reside in Afghanistan and from BSA contractor employees who are Afghan nationals for payment to Afghanistan as required by the laws and regulations of Afghanistan. Please consult with Afghan tax experts.

14. Are the wages of BSA contractor employees subject to Afghan income or similar tax?

Contractor employees who do not normally reside in Afghanistan and who are not Afghan nationals shall not be liable to pay any tax or similar or related charges assessed by the Afghan government within the territory of Afghanistan on their activities and associated income, relating to a contract or sub-contract with or in support of U.S. forces. Their presence in Afghanistan solely for the purpose of performing their contractual duties that fall within the purview of the BSA does not render them subject to taxation as someone who “normally” resides in Afghanistan.

15. In the case of non-Afghan contractors, are the profits, receipts, and earnings associated with a contract or subcontract with or in support of U.S. forces subject to Afghan tax of any sort?

Contractors are not liable to pay any tax or similar or related charges assessed by the Afghan government within the territory of Afghanistan on their activities and associated income relating to or on behalf of U.S. forces under a contract or subcontract with or in support of U.S. forces. However, contractors that are Afghan legal entities are not exempt from corporate profits tax that may be assessed by the Afghan government within the territory of Afghanistan on income received due to their status as contractors. Contractors are also expected

to withhold taxes in accordance with Afghan law when making payments to Afghan companies or Afghan legal entities. Please consult with Afghan tax experts.

Business & Professional Licensing

16. Are contractors required to obtain Afghan business registration licenses?

BSA contractors are subject to registration in Afghanistan, via an expedited process that will include issuance of a business registration license valid for three years and payment of a reasonable, standard, one-time service charge to the Afghanistan Investment Support Agency (AISA) as required by the laws and regulations of Afghanistan. BSA contractors shall otherwise be exempt from all other Afghan licenses and similar requirements in relation to their entry into, or execution of, contracts and subcontracts with or on behalf of U.S. forces. These procedures are still being developed by the Afghan government but AISA is expected to attain approvals from any other Afghan ministries or agencies that may be required for the company to operate in Afghanistan.

17. Are professional licenses issued by other countries valid as having a license in Afghanistan?

Afghanistan agrees to accept as valid all professional licenses issued by authorities of the United States to members of the force or of the civilian component, U.S. contractors or U.S. contractor employees in relation to the provision of services as part of their official or contractual duties.

18. What are the key points of contact for business licensing in Afghanistan?

The Afghan Ministry of Foreign Affairs (MFA): Trade, Transit and Investment Directorate

Website: www.mfa.gov.af

Telephone: +93(0)20-210-0377

Address: Malik Azghar Road, Kabul, Afghanistan

Email: contact@mfa.gov.af

The Afghanistan Investment Support Agency (AISA)

Website: www.aisa.af.org

Telephone: 0093(0) 20-210-3404

Address: Opposite Ministry of Foreign Affairs, Kabul, Afghanistan

Email: invest@aisa.org.af

The Afghan Ministry of Commerce and Industry (MoCI)

Website: www.commerce.gov.af

Telephone: 0093-(0)700-225-718

Address: Darul Aman Road, Karte Se, Kabul, Afghanistan

Weapons Permits

19. Are BSA contractor employees authorized to carry weapons after 1 January 2015?

USCENTCOM/USFOR-A general policy is that DOD contractors and contractor employees should be unarmed. An arming authorization is an exception to policy. Contractor employees will not be authorized weapons unless required to be armed to perform contracted duties. All DOD contractors and contractor employees are prohibited from possessing weapons in Afghanistan except:

- A. DOD contractors and contractor employees providing armed security services inside NATO/U.S. Agreed Facilities and Areas; and
- B. DOD contractors and contractor employees who regularly (i.e., at least weekly) perform their contractual duties outside of Agreed Facilities in support of NATO/U.S. missions, including the provision of training, advice, and assistance to Afghan National Security Defense Forces.

Per the BSA effective 1 January 2015, US contractors performing security services in Afghanistan are subject to all relevant requirements of Afghan laws and regulations. During the transition period, the Ministry of Interior will accept group applications for weapons permits from BSA contractors whose contractor employees carry a weapon for self-protection in order to perform duties outside of Agreed Facilities and Areas in support of U.S.' missions, including the provision of training, advice and assistance to Afghan National Security and Defense Forces. Applications will consist of the name of the BSA contractor, the names of the contractor employees seeking licenses, two passport sized photographs of each employee, the type and serial number of weapon each employee will carry, the dates the contractor employees will be present in Afghanistan, and a certificate indicating that U.S. Forces have authorized the contractor employees to carry weapons in furtherance of their his contractual duties. There will be a licensing fee and a licensing card will be issued by the Ministry of Interior. For further information please contact USFOR-A Armed Contractor Oversight Division at DSN 318-436-7367, or usfora.acod.org@afghan.swa.army.mil.

20. If authorized to carry a weapon, what rules apply to contractor employees regarding the use of force?

Outside U.S. bases, Afghan law applies. Inside U.S. bases, BSA contractor employees will receive appropriate guidance regarding the Rules for the Use of Force.

21. Are BSA contractor employees authorized to apply for an Afghan weapons permit if they have been denied authority to carry weapons by USFOR-A or any other element, unit, or organization of the United States Department of Defense?

No.

22. Will BSA contractor employees already in the country be required to disarm? If so, will they all be required to disarm?

USCENTCOM/USFOR-A general policy is that DOD contractors and contractor employees should be unarmed. An arming authorization is an exception to policy. Contractor employees will not be armed unless required to be armed to perform contracted duties as described in Question #19.

23. If required to disarm, where will weapons be stored and how will they be sent back to the home nation of the contractor companies?

Weapons will be stored and transported in accordance with previously-established policy and procedures.

Importation & Exportation

24. What rules will apply regarding imports and exports?

Contractors may import into, export out of, re-export out of and transport and use in Afghanistan any equipment, supplies, materiel, technology, training, or services. The authorizations in this provision of the BSA do not cover the activities of contractors that are not related to the presence of U.S. forces in Afghanistan. For BSA contractors, identifying documents shall be provided to indicate that such equipment, supplies, materiel, technology, training, or services being imported by contractors are for U.S. forces' purposes and not for any private commercial purposes.

Contractors, and those contractor employees who are not Afghan nationals, may import into, export out of, re-export out of and transport and use in Afghanistan personal effects. The imported quantities shall be reasonable and proportionate to personal use. The property referred to in this provision of the BSA may not be sold or otherwise transferred in Afghanistan to persons who are not entitled to import such items duty free unless such transfer is in accordance with agreed procedures, including on payment of any taxes or fees due as a result of such transaction, established by the Joint Commission.

The importation, exportation, re-exportation, transportation, and use of any articles brought into Afghanistan pursuant to the above information shall not be subject to restrictions, such as licensing, inspection, or verification, except as provided in the BSA, or taxes and customs duties or other charges assessed by government authorities in Afghanistan within the territory of Afghanistan. If Afghan authorities suspect the abuse of the privileges granted above to contractors and contractor employees, then relevant Afghan authorities reserve the right of inspection of such personal effects when arriving or departing from civilian airports in Afghanistan or in personal vehicles at border crossings.

The relevant Afghan authorities reserve the right of verification of any container imported by contractors and contractor employees containing items for U.S. forces' purposes in Afghanistan or for personal use, as described above. Without causing undue delay, and upon presentation by the relevant Afghan authorities of information to U.S. forces authorities that a contractor is

abusing the authority granted above, U.S. authorities shall open and verify suspected shipments or containers intended for import in the presence of the Afghan authorities. Afghan authorities shall consent to the security requirements of U.S. forces and upon request by U.S. forces authorities permit such verifications to take place within agreed facilities and areas or other areas as mutually agreed.

Wearing of Uniforms

28. Are contractors and the contractor employees authorized to wear military uniforms?

The BSA does not allow contractors or contractor employees to wear military uniforms.

Jurisdiction

25. Are contractors and contractor employees subject to Afghan criminal and civil jurisdiction?

Yes, Afghanistan maintains the right to exercise jurisdiction over contractors and contractor employees. But the settlement or adjudication of contract claims shall be carried out in accordance with the terms of the contract.

26. Does Afghan labor law apply to non-Afghan contractor employees hired by non-Afghan contractors?

There is no BSA provision that applies Afghan labor law to the non-Afghan employees of non-Afghan contractors. The terms of their contracts apply.

27. Is the United States government seeking to obtain the same immunities for contractors that USG and Coalition personnel process?

There is no intention to seek any deviation from the BSA in this regard.

For additional and/or updated information, visit the Embassy of Afghanistan website at <http://www.embassyofafghanistan.org/page/resource-guide>