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Fifteen Years On: Protecting Iraqi Wartime Partners

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I. Executive Summary

On March 20, 2003, American troops invaded Iraq. Today, fifteen years later, the conflict in Iraq has faded from the headlines: Iraq declared the defeat of ISIS complete in 2017,¹ levels of U.S. military personnel in Iraq are gradually declining,² and the U.S. mission in Iraq no longer faces the same public scrutiny. However, thousands of local partners, who were essential to the U.S. mission, remain in danger in Iraq.

Thousands of Iraqis worked with U.S. forces, diplomats, contractors, and other government personnel to assist the U.S. mission in Iraq. Many were killed, abducted, tortured, or threatened as a result. In response to passionate advocacy from veterans, diplomats, and other Americans who relied on local allies to advance their work in Iraq, Congress acted to provide Iraqi wartime partners, in danger for their work with the United States, with two different pathways to safety: the Iraqi Special Immigrant Visa (SIV) program and the Iraqi Direct Access Program (DAP). Fifteen years after the U.S. invasion, however, neither pathway offers a meaningful avenue to escape danger in Iraq.

This report outlines the threats faced by Iraqi wartime partners of the United States, the legal pathways established by the U.S. Congress to address the situation, and the reasons why these programs fail to offer meaningful protection to Iraqi partners.

This report recommends that:

- The Department of State and its implementing partners should ensure that applications for the now expired Iraqi SIV program are rapidly assessed, as each one of them has been pending since at least September 30, 2014;
- Congress should reallocate the remaining visas that were previously authorized to the Iraqi SIV program to the smaller Afghan/Iraqi SIV program,³ which only provides 50 visas per year, to facilitate a pathway to safety for exceptionally qualified Afghans and Iraqis;
- The Administration should take urgent steps to facilitate the admission of Iraqi wartime partners through the increasingly backlogged Direct Access Program (DAP), including conducting regular circuit rides to the U.S. Embassy in Baghdad and allocating resources to facilitate security checks;

¹ BBC News, Iraq Declares War with Islamic State is Over, Dec. 9, 2017, <http://www.bbc.com/news/world-middle-east-42291985>.

² Jim Garamone, "Pentagon Announces Troop Levels in Iraq, Syria," U.S. Department of Defense, Dec. 6, 2017, <https://www.defense.gov/News/Article/Article/1390079/pentagon-announces-troop-levels-in-iraq-syria/>.

³ U.S. Department of State, "Special Immigrant Visas (SIVs) for Iraqi and Afghan Translators/Interpreters", <https://travel.state.gov/content/travel/en/us-visas/immigrate/siv-iraqi-afghan-translators-interpreters.html>.

- The Administration should immediately accelerate and increase refugee admissions and consider Iraqi wartime partners' need for resettlement in the annual ceiling for refugee admissions; and
- The Department of State should ensure that applicants are able to complete their applications to the DAP by:
 - o Ensuring that applicants are not asked for duplicative documents;
 - o Informing applicants when documents are still outstanding and applications are incomplete with enough specificity to allow an applicant to provide any missing information; and
 - o Considering applications holistically when human resources verification letters are unavailable because the applicants' employer no longer exists, and ensuring that applicants' U.S. supervisors are contacted before individual cases are closed.

II. Dangers Faced by Iraqi Allies

Hundreds of Iraqis who worked for the U.S. government were killed, wounded, abducted, or threatened because of their work. An internal document from a military contractor obtained by journalists showed 667 casualties—from serious injuries to assassinations—among Iraqi employees for just that contractor through 2008.⁴

As just one example, Captain Allen Vaught (Ret.) of the U.S. Army Reserves reported that his unit's work relied on translators who worked "[f]or as little as \$5 a week, and with no weapons or body armor," and who "served loyally as though they were U.S. soldiers."⁵ Regrettably, two of Captain Vaught's five translators were assassinated by militias who opposed the U.S. mission in Iraq.

These stories are all too common: because members of the Avisa family served the U.S. mission, "the brother was kidnapped and tortured, and the children were bullied in the schoolyard, accused of being spies even by the principal."⁶ Othman, a translator, went on

⁴ T. Christian Miller, "Chart: Iraqi Translators, a Casualty List," ProPublica, Dec. 18, 2009, <https://www.propublica.org/article/chart-iraqi-translators-a-casualty-list>.

⁵ Allen Vaught, "Refugee Ban Trapped My Iraqi Translator: Veteran," Jan. 31, 2017, <https://www.usatoday.com/story/opinion/2017/01/31/trump-ban-iraq-muslim-translators-column/97250702/>. See also: Fox4News, "Dallas Army Vet Fights to Bring Iraqi Translator to U.S.," Dec. 9, 2016, <http://www.fox4news.com/news/dallas-army-vet-fights-to-bring-iraqi-translator-to-us> ("I mean, one was burned alive," he explained. "Another was hung from a light post — the electrical lines.").

⁶ Tim Arango, "Visa Delays Put Iraqis Who Aided U.S. in Fear," N.Y. Times, July 12, 2011, <http://www.nytimes.com/2011/07/13/world/middleeast/13baghdad.html>.

missions with U.S. troops and survived bombings and ambushes, but also faced additional danger outside of work. He received a letter containing death threats and had a mysterious man follow him when he left work. Even after leaving his job for fear for his safety, he continued to face serious threats.⁷

In addition to the threats faced by individuals, attacks on U.S.-affiliated Iraqis also impeded the work of U.S. government offices work in Iraq. A memorandum from Embassy Baghdad to then-Secretary of State Condoleezza Rice reported that:

. . . insurgents' intimidation campaign has touched our LES [locally engaged staff] personally: two of our LES employees have been gunned down in execution-style murders, and two others barely escaped a similar fate in August. Our LES employees live in fear of being identified with the Embassy of the U.S. . . .

For the first half of 2005 ten of 14 [resignations] were due to security concerns. Of 58 job offers, thirteen employees did not show up for work or resigned within 30 days. The reality is that the embassy can offer them little protection outside the International Zone (IZ) and is not in a position to grant their repeated requests to house them and their families within the IZ.⁸

The danger faced by Iraqi wartime partners led U.S. military leaders and other government offices to express their strong support for efforts to protect these crucial allies.⁹ In the words of Gen. David Petraeus (Ret.): "There is an implicit moral obligation to those who share risk. It's very important for the future as well."¹⁰ In other words, it is crucial to protect those who serve alongside U.S. Government personnel not only because of their invaluable service, but also because the United States needs to maintain its reputation as a loyal and trustworthy partner in future conflicts.

III. Lack of Access to Legal Pathways to Safety

In response to advocacy from U.S. diplomats and military leaders, Congress enacted the Refugee Crisis in Iraq Act (RCIA) in 2008. The RCIA created two programs to benefit Iraqi

⁷ Diane Smith, "This Iraqi Interpreter, Called A Traitor At Home, Finds Peace In Texas," Task and Purpose, July 14, 2016, <https://taskandpurpose.com/iraqi-interpreter-called-traitor-home-finds-peace-texas/>.

⁸ Al Kamen, "LES Means More," Washington Post, Nov. 9, 2005, <http://www.washingtonpost.com/wp-dyn/content/article/2005/11/08/AR2005110801504.html>.

⁹ CBS News, "The List: A Mission to Save Iraqi Lives," May 16, 2008, <https://www.cbsnews.com/news/the-list-a-mission-to-save-iraqi-lives/>.

¹⁰ Morgan Chalfant, "Petraeus: 'Moral Obligation' to Allow Iraqi, Afghan Translators into U.S.," Free Beacon, Feb. 4, 2017, <http://freebeacon.com/national-security/petraeus-moral-obligation-allow-iraqi-afghan-translators-u-s/>.

wartime partners who came under threat because of their service to the U.S. mission¹¹: the Iraqi Special Immigrant Visa (SIV) program¹² and the Direct Access Program (DAP) for U.S.-Affiliated Iraqis.¹³ Both were intended to provide a safe and legal pathway for wartime partners to escape threats against themselves and their families. The Iraqi SIV program benefitted those who worked for the U.S. government or contractors, and DAP covered, in addition to those workers, broader classes of family members and those employed by U.S.-based media or NGOs.¹⁴

As Congress discussed the need to protect Iraqi partners, then-Congressman Mike Pence urged his colleagues to take urgent action: “I think there is nothing more important than the United States of America saying to people in Iraq or anywhere in the world, if you stand by us, we will stand by you.”¹⁵ Yet, fifteen years after Iraqis first began risking their lives to partner with U.S. troops, neither the Iraqi SIV program nor DAP offer our stranded Iraqi partners an effective path to safety.

A. The Iraqi Special Immigrant Visa (SIV) Program

On September 30, 2014, the Iraqi SIV program closed to new applicants; only those who applied prior to that date are able to continue their applications.¹⁶ As of September 30, 2017, the most recent date for which data is available at the time of this report, there were at least 160 Iraqi SIV cases still pending.¹⁷ However, even when subtracting these 160 cases from the contingent of visas authorized by Congress for issuance to Iraqi SIV applicants, more than 400 visas remain that will go unused because the program is no longer accepting new applications.

Even when the Iraqi SIV program was accepting new applications, the program was plagued by long delays and bureaucratic red tape, much like the current Afghan SIV program:¹⁸

¹¹ Congress also created the Afghan SIV Program and a smaller, permanent program that provides 50 visas per year to benefit either Afghans or Iraqis with recommendations from a general or flag officer. P.L. 109-163, Section 1059, P.L. 111-8, Section 602.

¹² National Defense Authorization Act of 2009, P.L. 110-81, Section 1244.

¹³ Id. at Section 1243.

¹⁴ National Defense Authorization Act of 2009, P.L. 110-81, Sections 1243 and 1244.

¹⁵ Hearing, Subcommittee on the Middle East and South Asia, House Committee on Foreign Affairs, “Iraqi Volunteers, Iraqi Refugees: What Is America’s Obligation?” Mar. 26, 2007, 110-46, <http://archives.republicans.foreignaffairs.house.gov/110/34477.pdf>.

¹⁶ U.S. Department of State, “Special Immigrant Visas for Iraqis - Who Were Employed by/on Behalf of the U.S. Government,” <https://travel.state.gov/content/travel/en/us-visas/immigrate/special-immig-visas-iraqis-employed-us-gov.html> (“The deadline to apply for COM approval was September 30, 2014. Applications submitted after this date cannot be accepted or processed.”).

¹⁷ Joint Department of State/Department of Homeland Security Report: Status of the Iraqi Special Immigrant Visa Program, October 2017, https://travel.state.gov/content/dam/visas/SIVs/Report_of_the_Iraqi_SIV_Program-October_2017.pdf.

¹⁸ International Refugee Assistance Project, “A Question of Honor: The Ongoing Importance of the Afghan Special Immigrant visa Program,” March 2017, <https://refugeerights.org/wp-content/uploads/2016/03/A-Question-of-Honor-The-Ongoing-Importance-of-the-Afghan-SIV-Program.pdf>

Embassy staff mistranslated names out of Arabic or used different transliterations on different forms. Staff confused applicants with people carrying similar names. Reviewers had even shoved aside pages-long applications because they preferred the blank spaces in the form to be filled with “None,” “N/A,” or just left blank. . . . [T]here was no standard request — different reviewers had requested different responses.¹⁹

Congress intervened, requiring that SIV applications be “processed so that all steps under the control of the respective departments incidental to the issuance of [SIVs], including required screenings and background checks, should be completed not later than 9 months after the date on which an eligible alien submits all required materials to complete an application for such visa.”²⁰

A group of Afghan and Iraqi SIV applicants each waited for more than three years from the time that they applied without receiving a final response regarding their SIV application; three had waited for more than five years.²¹ Only after IRAP brought a lawsuit in U.S. federal court did these allies receive a response to their applications.²² Note that the 160 outstanding Iraqi SIV applications have all been pending for at least three years, as the deadline to apply was September 30, 2014.

Regardless of the severity of the delays, the Iraqi SIV program is no longer available to allies who began their service alongside U.S. government personnel after September 30, 2013. This excludes those who aided U.S. forces in the effort against ISIS and those who are currently serving alongside U.S. soldiers, diplomats, and aid workers.²³ As mentioned above, more than 400 visas made available by Congress for issuance to Iraqi SIV applicants will go unused, unless they are allocated elsewhere.

Recommendations:

- The Department of State and its implementing partners should ensure that Iraqi Special Immigrant Visa (SIV) applications are rapidly assessed, as each one of them has been pending since at least September 30, 2014;

¹⁹ Eline Gordts, “America’s Afghan And Iraqi Interpreters Risk Lives But Wait Years In Danger For Visas,” Huffington Post, June 23, 2013, https://www.huffingtonpost.com/2013/06/23/afghan-iraq-interpreters-siv_n_3481555.html.

²⁰ National Defense Authorization Act for Fiscal Year 2014, P.L. 113-66, Section 1218.

²¹ Complaint at para. 179, *Nine Iraqi Allies Under Serious Threat Because of Their Faithful Serv. to the United States v. Kerry*, 168 F. Supp. 3d 268, 274 (D.D.C. 2016).

²² International Refugee Assistance Project, Press Release: U.S. Government Agrees to Act on Cases of Iraqi and Afghan Allies Suing Over Failure to Act on Visa Applications, Mar. 21, 2016, <https://refugeerights.org/press-release-u-s-government-agrees-to-act-on-cases-of-iraqi-and-afghan-allies-suing-over-failure-to-act-on-visa-applications/>.

²³ The deadline to apply to the program was September 30, 2014, but applicants had to have completed at least one year of service by that deadline. Thus, anyone who began work after September 30, 2013, was unable to access the Iraqi SIV program.

- Congress should reallocate the remaining visas that were previously authorized to the Iraqi SIV program to the smaller Afghan/Iraqi SIV program, which only provides 50 visas per year, to facilitate a pathway to safety for exceptionally qualified Afghans and Iraqis.

B. The Direct Access Program (DAP)

The Direct Access Program (DAP) for U.S. affiliated Iraqis is still open to new applicants. Rather than needing an individual referral to the United States Refugee Admissions Program (USRAP) from UNHCR, individuals who can demonstrate their U.S. affiliation can directly request consideration for refugee resettlement to the United States. These individuals receive the same U.S. government security screening as other refugees. However, submitting a DAP application in no way guarantees an individual's acceptance to the United States for refugee resettlement. And although DAP continues to accept new applications from Iraqi wartime partners, it too fails to provide access to safety because of extensive delays and prohibitions on refugee resettlement.

Between 2009 and 2014, 97,662 Iraqi refugees were resettled to the United States—including those referred as individuals from UNHCR and DAP applicants.²⁴ In June 2014, as ISIS was rapidly gaining territory in Iraq, the U.S. Embassy evacuated all non-essential staff, including staff who would have conducted in-person interviews for the Direct Access Program. At that time, 38,000 Iraqis were waiting for interviews.²⁵ U.S.-affiliated Iraqis were also directly threatened by ISIS and were applying to DAP at a rate of 2,000 per month, even as the process was suspended.²⁶ By January 2017, the backlog had swelled to 58,000 applicants.²⁷ According to IRAP's experience providing *pro bono* legal assistance and advice to thousands of DAP applicants, even individuals who applied prior to the Embassy shutdown in 2014 have faced delays of three or more years to obtain an interview.²⁸

²⁴ U.S. Department of State, Refugee Processing Center, Summary of Refugee Admissions as of 31 January 2018, <http://www.wrapsnet.org/admissions-and-arrivals/>.

²⁵ Miriam Jordan, "Iraqis Who Served U.S. Seek Visas . . . and Wait," Wall Street Journal, <https://www.wsj.com/articles/iraqis-who-served-u-s-seek-visas-and-wait-1417392618>.

²⁶ *Id.*

²⁷ Reuters, "Trump Refugee Order Dashes Hopes of Iraqis Who Helped the U.S.," Jan. 28, 2017, <http://fortune.com/2017/01/28/trump-refugees-iraqi-translators/>.

²⁸ Johnnie Jindrich, "Soldier wants Iraqi interpreter who helped him to come live in the United States," WQAD, Sept. 26, 2016, <http://wqad.com/2016/09/26/american-soldier-on-a-quest-to-get-iraqi-interpreter-who-helped-u-s-troops-to-the-united-states/> (describing an Iraqi military translator who applied to DAP in 2011 and was still pending in 2016).

C. The Effect of Executive Actions on Iraqi Wartime Partners

The situation for Iraqi wartime partners grew even more dire with the executive actions taken by President Donald Trump. On January 27, 2017, President Trump signed Executive Order 13769, which barred travelers to the United States from seven countries, including Iraq, suspended refugee admissions to the United States for 120 days, and slashed the ceiling for refugee admissions to the United States from 110,000 to 50,000 refugees for fiscal year 2017.²⁹

Iraqis who had been through years of processing, after years of loyal service to the U.S. mission, saw themselves banned from entry to the United States in an instant.³⁰ Hameed Darweesh, who worked as a translator with U.S. forces for ten years, was already in flight when the Executive Order was signed, which immediately impacted his legal status while he was flying to New York's JFK Airport. Upon arrival, he was handcuffed, detained overnight, and scheduled for deportation to Iraq. Only after IRAP and legal partners filed a petition for emergency judicial review was he released and admitted to the United States.³¹ Another Iraqi SIV recipient, Munther, and his family were removed from a flight to the United States after they had boarded the plane.³²

Reports suggested that the White House quickly requested a "list" of Iraqi partners who should be exempt from the Executive Order.³³ Within a few days, the White House issued an exemption for all Iraqi SIV recipients, allowing SIV recipients to travel - however, maintaining the ban on Iraqi refugees, including those in the DAP.³⁴

Soon thereafter, questions arose about the Executive Order's impact on collaboration with Iraqi partners: Iraqi Prime Minister Haider al-Abadi immediately ordered that American contractors be banned from Iraq, and the status of training programs for Iraqi pilots, officers, and officials who come to the United States for training was thrown into question.³⁵

²⁹ Executive Order 13769, "Protecting the Nation from Foreign Terrorist Entry into the United States," January 27, 2017.

³⁰ Allen Vaught, "Refugee Ban Trapped My Iraqi Translator: Veteran," Jan. 31, 2017, <https://www.usatoday.com/story/opinion/2017/01/31/trump-ban-iraq-muslim-translators-column/97250702/> (noting that Sam, an Iraqi translator, was banned from entry after completing years of processing).

³¹ Nicholas Kulish, "Iraqi Immigrant, Caught in a Trump Policy Tangle, Is Allowed to Stay," N.Y. Times, Jan. 28, 2017, <https://www.nytimes.com/2017/01/28/us/iraqi-immigrant-donald-trump-airport-detention.html>.

³² David Zucchino, "Visa Ban Amended to Allow Iraqi Interpreters into U.S.," N.Y. Times, Feb. 2, 2017, <https://www.nytimes.com/2017/02/02/world/middleeast/trump-visa-ban-iraq-interpreters.html>.

³³ Jeremy Herb, "Pentagon Recommending Exemptions to Immigration Ban for Iraqis Working with U.S. Forces," Politico, Jan. 30, 2017, <https://www.politico.com/story/2017/01/trump-immigration-ban-pentagon-iraqis-234373>.

³⁴ David Zucchino, "Visa Ban Amended to Allow Iraqi Interpreters into U.S.," N.Y. Times, Feb. 2, 2017, <https://www.nytimes.com/2017/02/02/world/middleeast/trump-visa-ban-iraq-interpreters.html>.

³⁵ Paul McLeary, Molly O'Toole, and Kavitha Surana, "Pentagon Scrambles to Make Exception for Iraqi Translators," Foreign Policy, Jan. 30, 2017, <http://foreignpolicy.com/2017/01/30/pentagon-scrambles-to-make-exception-for-iraqi-translators/>.

After a flurry of legal challenges, including from IRAP, Executive Order 13769 was rescinded and replaced by Executive Order 13780. This order did not apply to Iraqi SIV applicants but again suspended refugee resettlement for an additional 120 days beginning March 16, 2017, and slashed refugee admissions to 50,000 for fiscal year 2017.

On October 24, 2017, on the day that refugee resettlement was supposed to resume, Executive Order 13815 was issued, suspending refugee resettlement from Iraq to the United States for at least an additional 90 days.³⁶ Thus, subject to legal challenges and court-imposed injunctions, refugee resettlement from Iraq, including DAP, was suspended from January 27, 2017, to at least January 22, 2018, and possibly indefinitely. In the first and second quarter of the new fiscal year, no circuit rides to facilitate USCIS interviews with DAP applicants within Iraq were scheduled in Baghdad, further delaying the resettlement process. It remains unclear whether resettlement from Iraq has resumed.³⁷ Additional security screening measures imposed on the U.S. refugee program are expected to severely curtail refugee resettlement from Iraq for the foreseeable future.³⁸

Total Iraqi refugee and SIV admissions to the U.S. generally exceeded 10,000 per year since fiscal year 2008 through fiscal year 2016.³⁹ Despite the White House and Pentagon's reported interest in ensuring that Iraqi partners can continue to travel to safety in the United States, only 96 Iraqis have been admitted to the United States as refugees in the first five months of fiscal year 2018, long after the initial 120-day travel ban expired.⁴⁰

Current refugee admissions levels call for only 17,500 refugees to be admitted from the entire Middle East region in fiscal year 2018—fewer than the number of Iraqi refugees alone admitted in fiscal years 2009, 2010, 2012, 2013, and 2014.⁴¹ Yet the Administration is expected to fall far short of this number, given exceptionally low admissions early in the year and the imposition of additional security screening measures.⁴² Even if refugee admissions of Iraqi wartime allies were to drastically accelerate to 100 Iraqis per month, those applying to DAP today could expect to be resettled in more than 40 years.

³⁶ International Refugee Assistance Project, "The Evolution of the Muslim Ban - an Explainer," last updated Jan. 31, 2018, <https://refugeerights.org/wp-content/uploads/2018/02/The-Muslim-Bans-An-Overview-1.pdf>.

³⁷ Any Iraqis who were admitted through DAP during this period were admitted either subject to a case-by-case waiver or pursuant to a court-imposed injunction.

³⁸ Laura Koran and Tal Kopan, "US increases vetting and resumes processing of refugees from 'high-risk' countries," CNN Jan. 29, 2018, <https://www.cnn.com/2018/01/29/politics/us-refugee-vetting-measures/index.html>; Miriam Jordan, "New Scrutiny Coming for Refugees from 11 'High-Risk' Countries," New York Times, Jan. 29, 2018, <https://www.nytimes.com/2018/01/29/us/muslim-refugees-trump.html>.

³⁹ U.S. Department of State, Refugee Processing Center, Cumulative Arrivals by State for Refugee and SIV - Iraqi, <http://www.wrapsnet.org/admissions-and-arrivals/>.

⁴⁰ U.S. Department of State, Refugee Processing Center, Refugee Admissions Report, Jan. 31, 2018, <http://www.wrapsnet.org/admissions-and-arrivals/>.

⁴¹ Id.

⁴² Akilah Johnson, "US refugee resettlement program has been nearly dismantled, advocates say," Feb. 7, 2018, <https://www.bostonglobe.com/metro/2018/02/06/refugee-resettlement-program-has-been-nearly-dismantled-advocates-say/PnwTi42Eu4COI5d7YcetbJ/story.html>.

In sum, DAP is plagued by a massive backlog of applicants, who face significant delays in the application process. These delays can be attributed to ISIS' march through Iraqi territory and decreased refugee processing capacity due to security concerns in Baghdad, which have been exacerbated by a yearlong ban on processing, decreased refugee admissions, and the implementation of even stricter security protocols due to President Trump's executive actions.

Recommendation:

- The Administration should take urgent steps to facilitate the admission of Iraqi wartime partners through the Direct Access Program (DAP), including conducting regular circuit rides to the U.S. Embassy in Baghdad, allocating resources to facilitate security checks, and considering Iraqi wartime partners' need for resettlement in the annual ceiling for refugee admissions.

D. Bureaucratic Hurdles

Iraqis in both the DAP and SIV programs have also faced delays and arbitrary denials due to bureaucratic red tape. IRAP has witnessed hundreds of instances of Iraqis and Afghans who are unable to move forward with their SIV and DAP applications because their former employers refuse to provide documentation of their service, their employing companies are now defunct, or the applicant's case is considered incomplete without the applicant being told what information is missing from the application.

Applicants to both the SIV and DAP programs are required to provide documentation of their service and, for SIV and some DAP applicants, proof that they were employed by entities receiving U.S. government funding. In the DAP, the International Organization for Migration (IOM) contracts with the Department of State to compile Iraqis' applications. Individual Iraqis are asked to provide human resources letters and evidence of contracts between their employers and the U.S. government. Naturally, this documentation is difficult or impossible to obtain, especially for former employees of now-defunct companies. As one would expect, employers did not generally provide their employees with copies of contracts between the company and the U.S. government. Additionally, the U.S. government did not require that contractors maintain records or provide the evidence required for SIV or DAP applications to employees, and major U.S. military contractors like Global Linguist Solutions have refused to provide former employees with such documentation.⁴³

Applicants are also asked to provide a personal recommendation letter from a U.S. citizen supervisor. Military supervisors' email addresses change frequently, making it difficult for

⁴³ Jacob Resneck, "Iraqi Translator for US Military Now Stuck in Greece," PRI, March 24, 2016, <https://www.pri.org/stories/2016-03-24/iraqi-translator-us-military-now-stuck-greece>.

Iraqi employees to maintain contact with their supervisors. Given the years-long delays in application processing, DAP applicants may be asked repeatedly to obtain contact information for U.S. government employees or former contractors whose contact information has changed. Note that Iraqi civilians are asked to provide the U.S. government with information that should be much easier to locate for U.S. government officials than Iraqi civilians, such as contracts signed by the U.S. government and the whereabouts of U.S. government employees.

Other applicants provide the required documentation when applying to DAP but nonetheless face extraordinary delays in their cases. IRAP has recorded dozens of instances of individuals who have provided documentation of their service to DAP but, after a year or much longer, IOM lists their files as incomplete or closes their applications without any communication as to what additional evidence they need to supply. At least one Iraqi interpreter, Omar, was killed while waiting for his DAP application to be processed. He was not informed by the Department of State that his application was incomplete - information that would have allowed his processing to continue if he had known to complete his file.⁴⁴

IRAP has documented several instances of individuals in which IOM closed their cases because their files were assessed as incomplete, but the applicants were not informed of what additional information would be needed to complete the applications. In one instance, an IRAP client, Samer, provided documents showing that he personally contracted with U.S. Armed Forces and also worked on behalf of U.S. contractors, and he provided letters of support and verification from several U.S. citizen supervisors. After more than two years of waiting, Samer was notified that his case was closed because his application was incomplete. His supervisors confirmed that they were never contacted, and Samer was not told what documentation was lacking from his file.

An IRAP client, Mahmoud, who applied to DAP in May 2016, provided evidence to IOM that he worked for a U.S. contractor. Under DAP guidelines, Mahmoud was required to provide a letter verifying his employment from his employer, but that company is now defunct. Mahmoud provided documentation from his employer and a letter from his former supervisor, a U.S. citizen soldier, verifying his work. More than one year later, IOM wrote to the applicant noting that he needed to provide a letter of verification from the company because he was "not a direct USG employee but an employee of a contractor." Even though a U.S. citizen soldier had confirmed his employment and valuable service, his application is considered incomplete because he cannot provide information from his former employer, a military contractor that no longer exists.⁴⁵

⁴⁴ Kirk Johnson, *To Be a Friend is Fatal* 283-96 (2013); see also State Department email on file, obtained by IRAP through FOIA request, confirming that Omar's file was incomplete but that the State Department had not adequately communicated to Omar which information was missing from his file.

⁴⁵ For a similar story, see Kathy Welsh, "Maloney Helps Local Veteran Secure Visa for his Iraqi Interpreter," Hudson Valley News Network, Dec. 14, 2014, <http://hudsonvalleynewsnetwork.com/2017/12/14/maloney-helps-local-veteran-secure-visa-iraqi-interpreter/> (noting a U.S. military supervisor vouching for his interpreter who could not obtain documentation from a defunct military contractor).

While applicants work through this frustrating Catch-22, they remain in danger in Iraq and are unable to access the program that Congress established in recognition of the threats that Iraqi wartime partners face.

Recommendations:

- The Department of State and IOM should ensure that applicants are able to complete their applications to the Direct Access Program by:
 - o Ensuring that applicants are not asked for duplicative documents;
 - o Informing applicants when documents are still outstanding and applications are incomplete with enough specificity to allow an applicant to provide the missing information; and
 - o Considering applications holistically when human resources verification letters are unavailable because the applicants' employer no longer exists, and ensuring that applicants' U.S. supervisors are contacted before individual cases are closed.

IV. Conclusion

For fifteen years, local partners have provided invaluable services on the ground to the U.S. mission in Iraq. Many of them were threatened as a result of their service and continue to live in danger. Despite Congress' acknowledgement that these loyal Iraqi partners should be provided with legal avenues to safety in the U.S., the existing pathways have proven insufficient. Both the Iraqi Special Immigrant Visa (SIV) program, which no longer accepts new applications, and the Direct Access Program (DAP) for U.S. affiliated Iraqis, which is severely backlogged, are inadequate for ensuring Iraqi allies' lives are protected. To maintain its reputation as a loyal wartime partner, the United States must act to ensure that Iraqi allies have a path to safety that is fair, transparent, and expeditious, addressing the current backlog of Iraqi allies waiting to escape danger.