

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

<hr/>		)
AFGHAN AND IRAQI ALLIES UNDER	)	)
SERIOUS THREAT BECAUSE OF THEIR	)	)
FAITHFUL SERVICE TO THE UNITED	)	)
STATES, ON THEIR OWN AND ON BEHALF	)	)
OF OTHERS SIMILARLY SITUATED,	)	)
	)	)
Plaintiffs,	)	)
	)	)
v.	)	Civil Action No. 1:18-cv-01388-TSC
	)	)
MICHAEL POMPEO, <i>et al.</i> ,	)	)
	)	)
Defendants.	)	)
<hr/>		)

**DEFENDANTS’ NOTICE OF LODGING CORRECTED PROGRESS REPORT**

Defendants, through their undersigned counsel, file this notice of lodging for Defendants’ Corrected Progress Report pursuant to the Court’s June 14, 2020 Order, ECF No. 113, and the Court’s June 14, 2020 and September 3, 2020 Minute Orders.

Defendants’ Corrected Progress Report covers the period of July 1, 2020 to September 30, 2020. A copy of the redline of the Corrected Progress Report is attached as Exhibit A, and a copy of the Corrected Progress Report is attached as Exhibit B.

On October 12, 2020, Defendants filed a Progress Report. In light of a subsequent review of the contents of the Progress Report when preparing for a meet and confer with Plaintiffs about the contents of the Progress Reports, Defendants noted the following errors:

Step 7. (Afghan Allies Protection Act of 2009)

- Number of Class Members at the beginning of the reporting period (as of July 1, 2020) – Awaiting government action originally reported as 86, corrected to 80.
- Number of national security cases pending between 90 to 180 days originally

reported as 2, corrected to 1. National security cases pending between 181 to 240 days originally reported as 0, corrected to 1. National security cases pending greater than 241 days originally reported as 8, corrected to 0.

- Number of Class Members at the end of the reporting period (as of September 30, 2020) – Awaiting government action originally reported as 284, corrected to 293. Awaiting applicant action originally reported as 13, corrected to 12. National security cases pending between 90 days to 180 originally reported as 2, corrected to 1. National security cases pending greater than 241 days originally reported as 8, corrected to 2.
- Number of Class Members who began and ended the reporting period in the step – Awaiting government action originally reported as 11, corrected to 4. National security cases pending between 90 to 180 days originally reported as 2, corrected to 1. National security cases pending greater than 241 days originally reported as 8, corrected to 2. Notably, of the four cases where a class member began and ended in the reporting period in Step 7 awaiting government action, one case is not explicitly described as an exception to the terms of the adjudication plan; this case is pending Chief of Mission (COM) deconfliction/validation.

Step 7. (Refugee Crisis in Iraq Act of 2007)

- Number of Class Members at the beginning of the reporting period (as of July 1, 2020) – Awaiting government action originally reported as 2, corrected to 3. Awaiting applicant action originally reported as 9, corrected to 7.

The error in the original reporting was attributable to a gap in real-time data reporting for certain types of cases in the USCIS case tracking Matrix. USCIS has identified the issue with the data

reporting and has taken corrective measure to ensure that future progress reports provide the most current and accurate data for the designated reporting period.

Step 11. (Afghan Allies Protection Act of 2009)

- Number of Class Members at the beginning of the reporting period (as of July 1, 2020) -- Awaiting interview scheduling originally reported as 0, corrected to 1.
- Number of Class Members at the end of the reporting period (as of September 30, 2020) -- Awaiting interview scheduling originally reported as 2, corrected to 5.
- Number of Class Members who entered the step during the reporting period originally reported as 2, corrected to 4.

Step 11. (Refugee Crisis in Iraq Act of 2007)

- Number of Class Members at the beginning of the reporting period (as of July 1, 2020) -- Awaiting interview scheduling originally reported as 0, corrected to 4. Those awaiting interview originally reported as 4, corrected to 0.
- Number of Class Members at the end of the reporting period (as of September 30, 2020) -- Awaiting interview originally reported as 0, corrected to 1.
- Number of Class Members who completed the step during the reporting period originally reported as 4, corrected to 3.

The error in the original reporting was due to a clerical error, where the tag created solely for the purpose of tracking class members was not entered into the database and, thus, did not appear in the database search as a result. As a reminder, the Department of State's information systems were not designed for the purpose of tracking cases rather were designed to solely assist with the adjudication of a single case.

Consistent with Local Civil Rule 7(m), on November 10, 2020, counsel for Defendants discussed this pleading with counsel for Plaintiffs during a meet and confer about the Progress Report. Counsel of Plaintiffs indicated Plaintiffs reserve any comment on the filing of the Corrected Progress Report.

Date: November 17, 2020

Respectfully submitted,

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*Counsel for Defendants*

# Exhibit A

**PROGRESS REPORT**

Defendants submit this Progress Report as required under the Court's June 14, 2020 Order (Docket No. 113) and the Court's June 14, 2020 and September 3, 2020 Minute Orders. The Progress Report is for the period of July 1, 2020 to September 30, 2020.

**I. Class Member Breakdown<sup>1</sup>**Refugee Crisis in Iraq Act of 2007

	<b>Number of Class Members at the beginning of reporting period (as of July 1, 2020)</b>	<b>Number of Class Members at the end of reporting period (as of September 30, 2020)</b>	<b>Number of Class Members who entered the step during the reporting period</b>	<b>Number of Class Members who completed the step during the reporting period</b>	<b>Number of Class Members who began and ended the reporting period in the step</b>
<b>Step 4</b>	[0]	[0]	[0]	[0]	[0]
<b>Step 7</b>	[2 3] (awaiting government action)  [9 7] (awaiting applicant action)  [0] (national security cases pending between 90 to 180 days)  [0] (national security cases pending between 181 to 240 days)  [0] (national security cases pending	[5] (awaiting government action)  [7] (awaiting applicant action)  [0] (national security cases pending between 90 to 180 days)  [0] (national security cases pending between 181 to 240 days)  [0] (national security cases pending	[9]	[4] (approved)  [3] (denied)	[0] (awaiting government action)  [6] (awaiting applicant action)  [0] (national security cases pending between 90 to 180 days)  [0] (national security cases pending between 181 to 240 days)  [0] (national security cases pending

<sup>1</sup> The parties acknowledge that this report may include SIV applicants outside of the Court's class definition that the parties have nonetheless agreed to treat as class members because no class identification methodology can perfectly capture class members given the manner in which Defendants maintain records for SIV applicants.

	greater than 241 days)	greater than 241 days)			greater than 241 days)
<b>Step 11</b>	[0 4] (awaiting interview scheduling)  [4 0] (awaiting interview)	[0] (awaiting interview scheduling)  [0 1] (awaiting interview)	[0]	[4 3]	[0] (awaiting interview scheduling)  [0] (awaiting interview)
<b>Step 13</b>	[46] (cases in administrative processing)  [39] (national security cases pending greater than 120 days)  [39] (national security cases pending greater than 180 days)  [34] (national security cases pending greater than 1 year)	[53] (cases in administrative processing)  [39] (national security cases pending greater than 120 days)  [39] (national security cases pending greater than 180 days)  [34] (national security cases pending greater than 1 year)	[16]	[14]	[44] (cases in administrative processing)  [39] (national security cases pending greater than 120 days)  [39] (national security cases pending greater than 180 days)  [34] (national security cases pending greater than 1 year)
<b>Step 14</b>				[9] visas issued	

## II. Performance Standards for the Iraqi SIV Program

### A. Standards Met

For the period of this Progress Report, Defendants met the performance standards in the Joint Adjudication Plan for government controlled Steps 2, 3, 4, 5, 7, 8, 10, and 12.

### B. Standards Not Met

For the period of this Progress Report, Defendants did not meet the performance standards in the Joint Adjudication Plan for Steps 11 and 13.

#### Step 11

- a. *Performance Standard*: “After the NVC determines the application is complete, the NVC will offer the applicant the next available interview within 10 days of making that determination. The NVC will schedule the interview within 60 days of contacting the applicant unless the applicant requests a different interview location or interview time or unless there are reasonable circumstances for the delay as explained in the Progress Reports.”
- b. *Actual Performance*: NVC did not schedule any interviews at Embassy Baghdad and therefore could not schedule interviews within 10 days of determining an application complete.
- c. *Explanation*: As of December 31, 2019, Embassy Baghdad suspended all consular services due to considerable damage done by Iranian-backed militia supporters who attacked the Embassy compound. Public visa services will not resume until the Consular CAC is reconstructed, approximately 18-24 months from the start of construction; this project has not commenced due to difficulties associated with the global pandemic. Some cases which were near completion at the time of the attack were able to be processed to completion by Consulate General Erbil, which is not an IV processing post. Other cases were sent to regional posts for processing. As noted in the Adjudication Plan, the Department of State suspended all routine visa services worldwide due to the COVID-19 worldwide pandemic.

#### Step 13

- a. *Performance Standard*: “All cases refused under INA section 221(g) for administrative processing that is solely within the Department of State’s control, including Advisory Opinions, will be completed within 90 days. For class members currently in Step 13 who are in administrative processing that is solely with the Department of State’s control, administrative processing will be completed within 90 days of the date of the Court’s approval of the Plan. All cases refused under INA section 221(g) for administrative processing that is not solely with the Department of State’s control and which require additional processing time to reconcile any national security concerns, *see* AAPA § 602(b)(4)(B), RCIA § 1242(c)(2), will be identified in the progress report in the following manner: number of cases pending greater than 120 days; number of cases pending greater than 180 days; and number of cases pending greater than one year. For the purpose of



progress reporting, the beginning date for these cases is the date the consular officer placed the case in administrative processing.”

- b. *Actual Performance:* Notwithstanding the Department of State’s suspension of all routine visa services worldwide due to the COVID-19 pandemic, the Department continued the administrative processing of cases in Step 13, as feasible. On average, administrative processing for those cases was completed within 345 days. During this period, 36% of Iraqi case closures fell within the 90-day processing time.
- c. *Explanation:* As noted in the Adjudication Plan, the Department of State suspended all routine visa services worldwide due to the COVID-19 worldwide pandemic. Factors that contributed to the Department of State’s inability to meet the target timeframe for administrative processing under Step 13 included reduced staffing and delays within the interagency process. Additionally, when the administrative processing of old cases is completed in Step 13, the average processing time reflects the age of those cases. Even though 36% of the cases in Step 13 were completed within the 90-day target timeframe for this quarter, the closure of older cases pushed the overall average above 90 days.

**CORRECTED PROGRESS REPORT**

Defendants submit this Progress Report as required under the Court's June 14, 2020 order (Docket No. 113) and the Court's June 14, 2020 and September 3, 2020 Minute Orders. The Progress Report is for the period of July 1, 2020 to September 30, 2020.

**I. Class Member Breakdown<sup>1</sup>**Afghan Allies Protection Act of 2009

	<b>Number of Class Members at the beginning of reporting period (as of July 1, 2020)</b>	<b>Number of Class Members at the end of reporting period (as of September 30, 2020)</b>	<b>Number of Class Members who entered the step during the reporting period</b>	<b>Number of Class Members who completed the step during the reporting period</b>	<b>Number of Class Members who began and ended the reporting period in the step</b>
<b>Step 4</b>	[8,020]	[7,646]	[779]	[1,153]	[6,867]
<b>Step 7</b>	[86 80] (awaiting government action)  [12] (awaiting applicant action)  [2 1] (national security cases pending between 90 to 180 days)  [0 1] (national security cases pending between 181 to 240 days)	[284 293] (awaiting government action)  [13 12] (awaiting applicant action)  [2 1] (national security cases pending between 90 to 180 days)  [0] (national security cases pending)	[442]	[222] (approved)  [3] (denied)	[11 4] (awaiting government action) <sup>2</sup>  [10] (awaiting applicant action)  [2 1] (national security cases pending between 90 to 180 days)  [0] (national security cases pending between 181 to 240 days)

<sup>1</sup> The parties acknowledge that this report may include SIV applicants outside of the Court's class definition that the parties have nonetheless agreed to treat as class members because no class identification methodology can perfectly capture class members given the manner in which Defendants maintain records for SIV applicants.

<sup>2</sup> Of the four cases where a class member began and ended the reporting period in Step 7 awaiting government action, one case is not explicitly described as an exception to the terms of the adjudication plan; this case is pending COM deconfliction/validation.

	[8 0] (national security cases pending greater than 241 days)	between 181 to 240 days [8 2] (national security cases pending greater than 241 days)			[8 2] (national security cases pending greater than 241 days)
<b>Step 11</b>	[0 1] (awaiting interview scheduling)  [2] (awaiting interview)	[2 5] (awaiting interview scheduling)  0 (awaiting interview)	[2 4]	[2]	[0] (awaiting interview scheduling)  [0] (awaiting interview)
<b>Step 13</b>	[271] (cases in administrative processing)  [230] (national security cases pending greater than 120 days)  [227] (national security cases pending greater than 180 days)  [176] (national security cases pending greater than 1 year)	[254] (cases in administrative processing)  [229] (national security cases pending greater than 120 days)  [227] (national security cases pending greater than 180 days)  [176] (national security cases pending greater than 1 year)	[49]	[62]	[247] (cases in administrative processing)  [229] (national security cases pending greater than 120 days)  [227] (national security cases pending greater than 180 days)  [176] (national security cases pending greater than 1 year)
<b>Step 14</b>				[1,160] visas issued	

## II. Performance Standards for the Afghan SIV Program

### A. Standards Met

For the period of this Progress Report, Defendants met the performance standards in the Joint Adjudication Plan for government controlled Steps 2, 3, 5, 7, 8, 10, and 12.

### B. Standards Not Met

For the period of this Progress Report, Defendants did not meet the performance standards in the Joint Adjudication Plan for Steps 4, 11, and 13.

#### Step 4

- a. *Performance Standard*: “The COM Committee will adjudicate a completed application or appeal within 120 days of receipt from the NVC. For class members currently in Step 4, the COM Committee will adjudicate the completed application or appeal within 120 days of the date of the Court’s approval of the Plan.”
- b. *Actual Performance*: Notwithstanding the Department of State’s complete worldwide suspension of routine visa services due to the COVID-19 pandemic, the COM Committee continued to adjudicate completed applications or appeals, as feasible, and with support from staff located in Washington, D.C. On average during this reporting period, the COM Committee adjudicated a completed application or appeal from a class member within 1,100 days of receipt from NVC.
- c. *Explanation*: As noted in the Adjudication Plan, the Department of State suspended all routine visa services worldwide due to the COVID-19 pandemic. The COM Committee nevertheless continued to adjudicate completed applications or appeals, as feasible. Reductions in staffing at Embassy Kabul related to the COVID-19 pandemic, high caseload volume, and implementation of the congressionally-mandated prioritization plan (which requires high priority tiers to be processed first, leaving low priority tiers to wait longer for review and analysis) contributed to the Department of State’s inability to meet the target timeframe.

#### Step 11

- a. *Performance Standard*: “After the NVC determines the application is complete, the NVC will offer the applicant the next available interview within 10 days of making that determination. The NVC will schedule the interview within 60 days of contacting the applicant unless the applicant requests a different interview location or interview time or unless there are reasonable circumstances for the delay as explained in the Progress Reports.”
- b. *Actual Performance*: NVC was not able to schedule interviews at Embassy Kabul as the Visa Section at the U.S. Embassy has been closed to the public due to COVID-19. It was unable to provide visa services that require an in-person appearance or interview. Therefore, NVC could not schedule interviews within 10 days of determining an application complete.

- c. *Explanation:* As noted in the Adjudication Plan, the Department of State suspended all routine visa services worldwide due to the COVID-19 pandemic. NVC did not schedule appointments at Embassy Kabul because it was not open for consular services due to COVID-19. The Embassy's website states: "The Visa Section at the U.S. Embassy in Kabul is currently closed to the public due to COVID-19. We are unable to provide immigrant and nonimmigrant visa services that require an in-person appearance or interview." The NVC did schedule interviews at other embassies as they reopened to the public.

### Step 13

- a. *Performance Standard:* "All cases refused under INA section 221(g) for administrative processing that is solely within the Department of State's control, including Advisory Opinions, will be completed within 90 days. For class members currently in Step 13 who are in administrative processing that is solely with the Department of State's control, administrative processing will be completed within 90 days of the date of the Court's approval of the Plan. All cases refused under INA section 221(g) for administrative processing that is not solely with the Department of State's control and which require additional processing time to reconcile any national security concerns, see AAPA § 602(b)(4)(B), RCIA § 1242(c)(2), will be identified in the progress report in the following manner: number of cases pending greater than 120 days; number of cases pending greater than 180 days; and number of cases pending greater than one year. For the purpose of progress reporting, the beginning date for these cases is the date the consular officer placed the case in administrative processing."
- b. *Actual Performance:* Notwithstanding the Department of State's suspension of all routine visa services worldwide due to the COVID-19 pandemic, the Department continued the administrative processing of cases in Step 13, as feasible. On average, administrative processing for those cases was completed within 138 days. During this period, 63% of Afghan case closures fell within the 90 day processing time, but closure of a handful of cases over a year old increases the statistic.
- c. *Explanation:* As noted in the Adjudication Plan, the Department of State suspended all routine visa services worldwide due to the COVID-19 pandemic. Factors that contributed to the Department of State's inability to meet the target timeframe for administrative processing under Step 13 included reduced staffing and delays within the interagency process. Additionally, when the administrative processing of old cases is completed in Step 13, the average processing time reflects the age of those cases. Even though the majority of cases in Step 13 were completed within the 90-day target timeframe for this quarter, the closure of nine Afghan cases that were created prior to 2020 pushed the overall average above 90 days.

## Exhibit B

**PROGRESS REPORT**

Defendants submit this Progress Report as required under the Court's June 14, 2020 Order (Docket No. 113) and the Court's June 14, 2020 and September 3, 2020 Minute Orders. The Progress Report is for the period of July 1, 2020 to September 30, 2020.

**I. Class Member Breakdown<sup>1</sup>**Refugee Crisis in Iraq Act of 2007

	<b>Number of Class Members at the beginning of reporting period (as of July 1, 2020)</b>	<b>Number of Class Members at the end of reporting period (as of September 30, 2020)</b>	<b>Number of Class Members who entered the step during the reporting period</b>	<b>Number of Class Members who completed the step during the reporting period</b>	<b>Number of Class Members who began and ended the reporting period in the step</b>
<b>Step 4</b>	[0]	[0]	[0]	[0]	[0]
<b>Step 7</b>	[3] (awaiting government action)  [7] (awaiting applicant action)  [0] (national security cases pending between 90 to 180 days)  [0] (national security cases pending between 181 to 240 days)  [0] (national security cases pending	[5] (awaiting government action)  [7] (awaiting applicant action)  [0] (national security cases pending between 90 to 180 days)  [0] (national security cases pending between 181 to 240 days)  [0] (national security cases pending	[9]	[4] (approved)  [3] (denied)	[0] (awaiting government action)  [6] (awaiting applicant action)  [0] (national security cases pending between 90 to 180 days)  [0] (national security cases pending between 181 to 240 days)  [0] (national security cases pending

<sup>1</sup> The parties acknowledge that this report may include SIV applicants outside of the Court's class definition that the parties have nonetheless agreed to treat as class members because no class identification methodology can perfectly capture class members given the manner in which Defendants maintain records for SIV applicants.

	greater than 241 days)	greater than 241 days)			greater than 241 days)
<b>Step 11</b>	[4] (awaiting interview scheduling)  [0] (awaiting interview)	[0] (awaiting interview scheduling)  [1] (awaiting interview)	[0]	[4 3]	[0] (awaiting interview scheduling)  [0] (awaiting interview)
<b>Step 13</b>	[46] (cases in administrative processing)  [39] (national security cases pending greater than 120 days)  [39] (national security cases pending greater than 180 days)  [34] (national security cases pending greater than 1 year)	[53] (cases in administrative processing)  [39] (national security cases pending greater than 120 days)  [39] (national security cases pending greater than 180 days)  [34] (national security cases pending greater than 1 year)	[16]	[14]	[44] (cases in administrative processing)  [39] (national security cases pending greater than 120 days)  [39] (national security cases pending greater than 180 days)  [34] (national security cases pending greater than 1 year)
<b>Step 14</b>				[9] visas issued	



## II. Performance Standards for the Iraqi SIV Program

### A. Standards Met

For the period of this Progress Report, Defendants met the performance standards in the Joint Adjudication Plan for government controlled Steps 2, 3, 4, 5, 7, 8, 10, and 12.

### B. Standards Not Met

For the period of this Progress Report, Defendants did not meet the performance standards in the Joint Adjudication Plan for Steps 11 and 13.

#### Step 11

- a. *Performance Standard*: “After the NVC determines the application is complete, the NVC will offer the applicant the next available interview within 10 days of making that determination. The NVC will schedule the interview within 60 days of contacting the applicant unless the applicant requests a different interview location or interview time or unless there are reasonable circumstances for the delay as explained in the Progress Reports.”
- b. *Actual Performance*: NVC did not schedule any interviews at Embassy Baghdad and therefore could not schedule interviews within 10 days of determining an application complete.
- c. *Explanation*: As of December 31, 2019, Embassy Baghdad suspended all consular services due to considerable damage done by Iranian-backed militia supporters who attacked the Embassy compound. Public visa services will not resume until the Consular CAC is reconstructed, approximately 18-24 months from the start of construction; this project has not commenced due to difficulties associated with the global pandemic. Some cases which were near completion at the time of the attack were able to be processed to completion by Consulate General Erbil, which is not an IV processing post. Other cases were sent to regional posts for processing. As noted in the Adjudication Plan, the Department of State suspended all routine visa services worldwide due to the COVID-19 worldwide pandemic.

#### Step 13

- a. *Performance Standard*: “All cases refused under INA section 221(g) for administrative processing that is solely within the Department of State’s control, including Advisory Opinions, will be completed within 90 days. For class members currently in Step 13 who are in administrative processing that is solely with the Department of State’s control, administrative processing will be completed within 90 days of the date of the Court’s approval of the Plan. All cases refused under INA section 221(g) for administrative processing that is not solely with the Department of State’s control and which require additional processing time to reconcile any national security concerns, *see* AAPA § 602(b)(4)(B), RCIA § 1242(c)(2), will be identified in the progress report in the following manner: number of cases pending greater than 120 days; number of cases pending greater than 180 days; and number of cases pending greater than one year. For the purpose of

progress reporting, the beginning date for these cases is the date the consular officer placed the case in administrative processing.”

- b. *Actual Performance:* Notwithstanding the Department of State’s suspension of all routine visa services worldwide due to the COVID-19 pandemic, the Department continued the administrative processing of cases in Step 13, as feasible. On average, administrative processing for those cases was completed within 345 days. During this period, 36% of Iraqi case closures fell within the 90-day processing time.
  
- c. *Explanation:* As noted in the Adjudication Plan, the Department of State suspended all routine visa services worldwide due to the COVID-19 worldwide pandemic. Factors that contributed to the Department of State’s inability to meet the target timeframe for administrative processing under Step 13 included reduced staffing and delays within the interagency process. Additionally, when the administrative processing of old cases is completed in Step 13, the average processing time reflects the age of those cases. Even though 36% of the cases in Step 13 were completed within the 90-day target timeframe for this quarter, the closure of older cases pushed the overall average above 90 days.

**CORRECTED PROGRESS REPORT**

Defendants submit this Progress Report as required under the Court's June 14, 2020 order (Docket No. 113) and the Court's June 14, 2020 and September 3, 2020 Minute Orders. The Progress Report is for the period of July 1, 2020 to September 30, 2020.

**I. Class Member Breakdown<sup>1</sup>****Afghan Allies Protection Act of 2009**

	<b>Number of Class Members at the beginning of reporting period (as of July 1, 2020)</b>	<b>Number of Class Members at the end of reporting period (as of September 30, 2020)</b>	<b>Number of Class Members who entered the step during the reporting period</b>	<b>Number of Class Members who completed the step during the reporting period</b>	<b>Number of Class Members who began and ended the reporting period in the step</b>
<b>Step 4</b>	[8,020]	[7,646]	[779]	[1,153]	[6,867]
<b>Step 7</b>	[80] (awaiting government action)  [12] (awaiting applicant action)  [1] (national security cases pending between 90 to 180 days)  [1] (national security cases pending between 181 to 240 days)	[293] (awaiting government action)  [12] (awaiting applicant action)  [1] (national security cases pending between 90 to 180 days)  [0] (national security cases pending between 181 to 240 days)	[442]	[222] (approved)  [3] (denied)	[4] (awaiting government action) <sup>2</sup>  [10] (awaiting applicant action)  [1] (national security cases pending between 90 to 180 days)  [0] (national security cases pending between 181 to 240 days)

<sup>1</sup> The parties acknowledge that this report may include SIV applicants outside of the Court's class definition that the parties have nonetheless agreed to treat as class members because no class identification methodology can perfectly capture class members given the manner in which Defendants maintain records for SIV applicants.

<sup>2</sup> Of the four cases where a class member began and ended the reporting period in Step 7 awaiting government action, one case is not explicitly described as an exception to the terms of the adjudication plan; this case is pending COM deconfliction/validation.

	[0] (national security cases pending greater than 241 days)	[2] (national security cases pending greater than 241 days)			[2] (national security cases pending greater than 241 days)
<b>Step 11</b>	[1] (awaiting interview scheduling)  [2] (awaiting interview)	[5] (awaiting interview scheduling)  [0] (awaiting interview)	[4]	[2]	[0] (awaiting interview scheduling)  [0] (awaiting interview)
<b>Step 13</b>	[271] (cases in administrative processing)  [230] (national security cases pending greater than 120 days)  [227] (national security cases pending greater than 180 days)  [176] (national security cases pending greater than 1 year)	[254] (cases in administrative processing)  [229] (national security cases pending greater than 120 days)  [227] (national security cases pending greater than 180 days)  [176] (national security cases pending greater than 1 year)	[49]	[62]	[247] (cases in administrative processing)  [229] (national security cases pending greater than 120 days)  [227] (national security cases pending greater than 180 days)  [176] (national security cases pending greater than 1 year)
<b>Step 14</b>				[1,160] visas issued	

## II. Performance Standards for the Afghan SIV Program

### A. Standards Met

For the period of this Progress Report, Defendants met the performance standards in the Joint Adjudication Plan for government controlled Steps 2, 3, 5, 7, 8, 10, and 12.

### B. Standards Not Met

For the period of this Progress Report, Defendants did not meet the performance standards in the Joint Adjudication Plan for Steps 4, 11, and 13.

#### Step 4

- a. *Performance Standard*: “The COM Committee will adjudicate a completed application or appeal within 120 days of receipt from the NVC. For class members currently in Step 4, the COM Committee will adjudicate the completed application or appeal within 120 days of the date of the Court’s approval of the Plan.”
- b. *Actual Performance*: Notwithstanding the Department of State’s complete worldwide suspension of routine visa services due to the COVID-19 pandemic, the COM Committee continued to adjudicate completed applications or appeals, as feasible, and with support from staff located in Washington, D.C. On average during this reporting period, the COM Committee adjudicated a completed application or appeal from a class member within 1,100 days of receipt from NVC.
- c. *Explanation*: As noted in the Adjudication Plan, the Department of State suspended all routine visa services worldwide due to the COVID-19 pandemic. The COM Committee nevertheless continued to adjudicate completed applications or appeals, as feasible. Reductions in staffing at Embassy Kabul related to the COVID-19 pandemic, high caseload volume, and implementation of the congressionally-mandated prioritization plan (which requires high priority tiers to be processed first, leaving low priority tiers to wait longer for review and analysis) contributed to the Department of State’s inability to meet the target timeframe.

#### Step 11

- a. *Performance Standard*: “After the NVC determines the application is complete, the NVC will offer the applicant the next available interview within 10 days of making that determination. The NVC will schedule the interview within 60 days of contacting the applicant unless the applicant requests a different interview location or interview time or unless there are reasonable circumstances for the delay as explained in the Progress Reports.”
- b. *Actual Performance*: NVC was not able to schedule interviews at Embassy Kabul as the Visa Section at the U.S. Embassy has been closed to the public due to COVID-19. It was unable to provide visa services that require an in-person appearance or interview. Therefore, NVC could not schedule interviews within 10 days of determining an application complete.

- c. *Explanation:* As noted in the Adjudication Plan, the Department of State suspended all routine visa services worldwide due to the COVID-19 pandemic. NVC did not schedule appointments at Embassy Kabul because it was not open for consular services due to COVID-19. The Embassy's website states: "The Visa Section at the U.S. Embassy in Kabul is currently closed to the public due to COVID-19. We are unable to provide immigrant and nonimmigrant visa services that require an in-person appearance or interview." The NVC did schedule interviews at other embassies as they reopened to the public.

### Step 13

- a. *Performance Standard:* "All cases refused under INA section 221(g) for administrative processing that is solely within the Department of State's control, including Advisory Opinions, will be completed within 90 days. For class members currently in Step 13 who are in administrative processing that is solely with the Department of State's control, administrative processing will be completed within 90 days of the date of the Court's approval of the Plan. All cases refused under INA section 221(g) for administrative processing that is not solely with the Department of State's control and which require additional processing time to reconcile any national security concerns, see AAPA § 602(b)(4)(B), RCIA § 1242(c)(2), will be identified in the progress report in the following manner: number of cases pending greater than 120 days; number of cases pending greater than 180 days; and number of cases pending greater than one year. For the purpose of progress reporting, the beginning date for these cases is the date the consular officer placed the case in administrative processing."
- b. *Actual Performance:* Notwithstanding the Department of State's suspension of all routine visa services worldwide due to the COVID-19 pandemic, the Department continued the administrative processing of cases in Step 13, as feasible. On average, administrative processing for those cases was completed within 138 days. During this period, 63% of Afghan case closures fell within the 90 day processing time, but closure of a handful of cases over a year old increases the statistic.
- c. *Explanation:* As noted in the Adjudication Plan, the Department of State suspended all routine visa services worldwide due to the COVID-19 pandemic. Factors that contributed to the Department of State's inability to meet the target timeframe for administrative processing under Step 13 included reduced staffing and delays within the interagency process. Additionally, when the administrative processing of old cases is completed in Step 13, the average processing time reflects the age of those cases. Even though the majority of cases in Step 13 were completed within the 90-day target timeframe for this quarter, the closure of nine Afghan cases that were created prior to 2020 pushed the overall average above 90 days.