

Exhibit

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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,

– against –

ANTONY BLINKEN, *et al.*,

Defendants.

Case No. 18-cv-01388-TSC

I, Melissa A. Schubert, hereby submit this declaration under penalty of perjury:

- (1) I am employed by the U.S. Department of State as the Director of the Afghan Special Immigrant Visa (ASIV) Unit in the South Central Asian Affairs Bureau. I have been the Director of the Afghan SIV Unit since August 13, 2021. The office has responsibility for the formulation and implementation of the Department's policies and initiatives with regard to Chief of Mission (COM) approval application processing, the first step of the Afghan Special Immigrant Visa program. I am responsible for the effective management of COM approval application processing and lead a team of experts to provide approval and non-approval recommendations to Embassy Kabul's COM designee. I work closely with senior leaders and officers including the Deputy Secretary for Management and Resources and the Undersecretary for Management, and the Bureau of South Central Asia and the Bureau of Consular Affairs, as well as National Security Council (NSC) staff, the Department of Defense, the Department of Homeland Security, and other relevant U.S. government agencies on Afghan SIV matters.
- (2) The Afghanistan Special Immigrant Visa Unit (ASIV) was established in 2016 within the Executive Office of the Bureau of Near Eastern and South and Central Asian Affairs (NEA-SCA/EX) to manage the Chief of Mission (COM) process for Embassy Kabul for the Afghan SIV program. The ASIV Unit was established to improve consistency and retain case worker expertise on the statutory requirements for COM approval. ASIV assists the COM or his or her designee in making a determination on COM applications by reviewing application materials; performing data entry; verifying the authenticity of any documentation submitted in support of COM applications; analyzing the documentation with respect to the statutory eligibility requirements for COM approval; and preparing recommendations on whether the

case should be approved or non-approved by the COM or his or her designee (currently the Assistant Chief of Mission or A/COM).

- (3) The purpose of this declaration is to provide information regarding staffing increases, technology improvements, and streamlining efforts that the ASIV Unit has made over the last two years in order to improve processing times and throughput at Step 4 of the Approved Adjudication Plan (AAP) (in which “[t]he COM committee reviews the application or appeal and makes a decision to approve or deny”).

ASIV Staffing Increases and Training

- (4) Reflecting the high priority that the Department of State places on Afghan SIV processing, the Department added 40 staff members to the ASIV Unit in calendar year 2021, a nearly six-fold increase in the size of the unit from February 2021, when the Unit had eight dedicated staff, to 46 staff members as of the date of this declaration. The ASIV Unit is continuing to take steps to hire additional staff, including recruiting for new direct hire positions and working within the Department to bring in existing Department personnel to work in the Unit. Staff include a mix of U.S. government direct hire employees as well as contractors, all of whom are thoroughly trained to perform data entry; to verify employment letters and letters of recommendation to confirm authenticity; and to analyze the applicant’s eligibility against statutory requirements. Training on the entire process takes approximately 90 days for each new staff member. This training ensures that ASIV Unit staff are prepared to undertake timely, accurate, and efficient processing on COM applications in accordance with U.S. law.

Technology Improvements

- (5) The ASIV Unit adopted several software modifications initiated in the summer of 2021, which have improved the Unit’s efficiency.
- (6) First, in August 2021, the Department of State’s Office of Consular Systems and Technology (CA/CST) assisted the ASIV Unit in developing a software modification that allows ASIV Unit staff to automatically batch-upload large selections of COM decision letters to the appropriate database in a matter of seconds. Previously, each COM decision letter had to be individually converted to a PDF file, and then manually uploaded to the appropriate database on an individual basis. This process was time and labor intensive, with accumulative time costs when applied across hundreds of COM applications. Accordingly, the new software modification has greatly improved the ASIV Unit’s efficiency in finalizing COM decisions.
- (7) Second, CA/CST prioritized updates to the appropriate database for COM processing to create a batch upload process for supporting documentation and mass distribution of decision letters. Previously, ASIV Unit members had to individually upload supporting documentation and manually email decision letters. These enhancements saved innumerable hours of work for both the National Visa Center (NVC) and the ASIV Unit, allowing ASIV Unit members to process COM applications more quickly.

- (8) Third, in June 2021, CA/CST created a shared drop box enabling the Unit to ingest large amounts of data from other U.S. government agencies into the Unit's case management system, enhancing the ASIV Unit's ability to ingest data rapidly and supporting the Department's ability to coordinate with other interagency partners as described in Paragraph 10. This data facilitates the verification and analysis critical to the COM approval determination. Before this technological improvement, the Unit would have had to manually enter information for each case into the Unit's case management system.
- (9) Last, several upgrades have been made to the ASIV Unit's web-based case management system, so that:
- Data entry following the transfer of a case from the appropriate database to the web-based case management system (a necessary technological step in completing a COM application) is quicker and more accurate;
 - Active cases can be more easily identified by a variety of categories, including application date and documentation complete date;
 - Cases can be ingested and prioritized more quickly and easily; and
 - Cases related to individual employers can be more effectively tracked, facilitating the ASIV Unit's ability to identify and combat fraud and find alternative points of contact to verify employment in cases where employers and letter of recommendation authors have been unresponsive.

Streamlining of COM Processing

- (10) COM processing has become more streamlined due to the following changes:
- **Increase in COM application intake frequency:** Beginning in July 2021 the ASIV Unit increased its intake of new cases such that the ASIV Unit now receives new cases directly from NVC biweekly. Previously, cases were received on a quarterly basis until mid-2020, and then were received on a monthly basis from July 2020 to July 2021. This has also increased the rate of COM adjudications, thereby improving processing times at Step 4 of the AAP.
 - **Dissolution of the Chief of Mission Committee:** On August 19, 2021, the Chief of Mission dissolved the Chief of Mission (COM) Committee. As such, following that change COM applications are reviewed by the ASIV Unit and then submitted directly to the COM designee for a decision. This change established a more streamlined and expeditious process for the review of COM applications and has decreased the time required for a COM decision by approximately two weeks. Decreasing the time required for a COM decision has improved processing times at Step 4 of the AAP.
 - **Increase in COM approval agenda frequency:** The ASIV Unit also began preparing daily agendas of COM approval applications for the COM designee to review, instead of bimonthly as had previously been the case. This has also increased the rate of COM adjudications, thereby improving processing time at Step 4 of the AAP.

- **Credible Threat Determination:** On August 25, 2021, the Deputy Chief of Mission for Afghanistan determined that any noncitizen who was employed in Afghanistan by or on behalf of the U.S. government, by the International Security Assistance Force (ISAF), or by any successor mission, has experienced or is experiencing an ongoing serious threat as a consequence of the alien's employment. As a result, Afghan SIV applicants no longer need to submit a statement to establish that they have experienced an ongoing serious threat as part of their COM application. This has improved the efficiency of COM processing (and thereby positively impacted Step 4 of the AAP) by reducing the application burden on applicants as well as the processing burden on the ASIV Unit.
- **Streamlined COM processing for U.S. government agencies who employed Afghan SIV applicants and provide letters of recommendation on their behalf:** Following a review of the statutory framework under the Afghan Allies Protection Act of 2009 (AAPA), the Department established a framework by which it can more expeditiously verify the employment details of SIV applicants who worked for or on behalf of another U.S. government agency where that agency is able to verify employment and provide a letter of recommendation to the Department directly on the applicant's behalf. CA/CST has worked closely with the ASIV Unit in order to ingest various information received from interagency partners as part of these efforts. For instance, CA/CST has implemented batch uploading innovations that make these projects possible, by allowing the Department to absorb the information provided in a matter of seconds. This collaboration has produced exceptional results and supported the COM's ability to process COM applicants expeditiously. For instance, these processes eliminate the verification stage of processing on the part of the ASIV Unit, and greatly enhance the speed of the data entry and analysis stages of the COM approval process. As of February 2021, one U.S. agency had identified and verified employment for over 5,000 individuals in the Afghan SIV applicant pool, allowing these applicants to expeditiously obtain decisions on their COM application.
- **Removal of U.S. citizen supervisor requirement:** As of December 21, 2021, the Department ceased requiring that the letter of recommendation in support of the COM application be submitted by a U.S. citizen supervisor or co-signed by a U.S. citizen. The Department's Foreign Affairs Manual guidance was updated in accordance. This has allowed for more approval decisions, as well as more efficient processing of COM applications, positively impacting Step 4 of the AAP.
- **Streamlining of NVC/ASIV letter of recommendation:** The letter of recommendation verification process was updated such that, as of December 21, 2021, NVC deems an application documentarily complete and forwards the application for COM approval without seeking to first verify the letter of recommendation. Instead, this verification is undertaken by ASIV Unit analysts. This facilitates a more efficient process for determining that applications are documentarily complete and referring them to the COM

for review. This supports the Department's efforts to streamline Step 2 and Step 3 of the AAP ("NVC reviews documents and evaluates whether the applicant submitted all of the required items" and "NVC sends completed application or appeal package to the COM Committee"), noting that the COM Committee has been dissolved. Additionally, this approach has not increased Step 4 processing time as the ASIV Unit submits verification requests for both the letter of recommendation and the human resources letter simultaneously.

- (11) The staffing increases, IT upgrades, and streamlining measures outlined above have resulted in a substantial increase in the number of COM applications the ASIV Unit can process and the rate at which the unit can process them. For example, in the six-month period from September 2020 to February 2021, the ASIV Unit processed 2,847 COM applications; in the same six-month period one year later, from September 2021 to February 2022, the ASIV Unit processed 11,144 cases. This represents a nearly 400 percent increase in throughput of cases at the COM stage (Step 4 of the Approved Adjudication Plan). As described in the table below, even with this enormous increase in caseload and throughput, during the same time periods, ASIV also reduced average processing time for all types of cases (that is, new applications, reapplications, appeals of COM denials, revocations of COM approvals, and appeals of revocations) pending COM decision from 578 days to 372 days. When average processing times for these periods are calculated for new COM application cases or reapplications only (as opposed to appeals of COM refusals or revocations of COM approval), the average processing times were reduced from 441 days to 194 days.

| | <u>9/1/20 – 2/28/21</u> | <u>9/1/21 – 2/28/22</u> |
|---|-------------------------|-------------------------|
| Number of all cases ¹ processed | 2,847 | 11,144 |
| Average processing time for all cases ² | 578 days | 372 days |
| Number of new applications and reapplications processed | 1,975 | 9,247 |
| Average processing time for new applications and reapplications | 441 days | 194 days |

¹ Cases here include new applications, reapplications, appeals of COM denials, revocations of COM approvals, and appeals of revocations.

² Average processing times for new applications and reapplications are calculated based on the date the case becomes documentarily complete and ready for COM review by the ASIV unit. However, to date, due to systems limitations the times for appeals of COM denials and appeals of revocations have been calculated from the date the appeal or revocation was filed with the NVC, often long before the applicant provides the supporting documentation necessary for ASIV to review the appeal. In addition, there is no efficient way for the Department to discount from processing times the often significant time spent waiting for the applicant's alleged employer or the letter of recommendation author to respond to requests from ASIV to verify the authenticity of the information provided, a crucial step in fraud prevention. As a result, average processing times over-state the amount of time applicant's are actually spending at the COM stage awaiting government action.

- (12) In considering average processing times at Step 4, it is important to keep in mind that these times include time the Unit spends waiting for responses from third parties outside of the Department's control. There is no efficient way to calculate the time at Step 4 that is attributable to government-controlled actions and distinguish that from the time attributable to third parties, and this could vary significantly case-by-case. However, average processing times over-estimate the time attributable to actions within the Department's control at the COM stage.
- (13) Section 7076 of the Consolidated Appropriations Act, 2019 (Public Law 116-6) allocated 4,000 additional Afghan SIVs for principal applicants but withheld funds until the Secretary of State developed and implemented a system to prioritize the processing of Afghan applicants for SIVs under section 602 of the AAPA. The prioritization system developed by the Department in response to this legislation organizes applicants into tiers based on their relationship with the U.S. government and the intrinsic threats the alien faces due to the nature of their qualifying employment. As a result, higher tier applicants are prioritized over lower tier applicants at the COM stage leading to longer processing times for those lower tiers. When average processing times are broken down by tier for the same six-month time periods one year apart, the reduction in processing times and increase in throughput is even more apparent.

| | Number of cases processed/average processing time (9/1/20 – 2/28/21) | Number of cases processed/average processing time (9/1/21 – 2/28/22) |
|--------|--|--|
| Tier 1 | 290/222 days | 820/61 days |
| Tier 2 | 392/302 days | 2,703/35 days |
| Tier 3 | 329/389 days | 1,427/130 days |
| Tier 4 | 612/410 days | 1,383/226 days |
| Tier 5 | 727/652 days | 2,914/395 days |

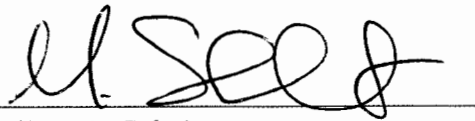
Interagency Review and Litigation Demands

- (14) In addition to case processing, the ASIV Unit has actively participated in the interagency review of the Afghan SIV program undertaken pursuant to Executive Order 14103, including frequent meetings within the Department and with interagency partners, hosted by the National Security Council. The ASIV Unit also provides data contributions to annual and quarterly reports to Congress on the Afghan SIV process, as well as litigation reports as necessary. The ASIV unit is also an active participant in the ongoing review by the Department of State's Office of the Inspector General (OIG) of the Afghan SIV program and has devoted many hours to that process.
- (15) In order to comply with the Approved Adjudication Plan, the ASIV Unit must track class members when their cases are received from NVC as documentarily complete and ready for COM review. Moreover, for the litigation reports, because the Afghan SIV software does not automatically

track the information required by these reports, producing the information requires Unit staff to spend time and resources to manually track and calculate COM approval and non-approval processing information for each class member. The time the Unit spends on these litigation-related tasks detracts from time the Unit could otherwise spend on processing COM applications.

I declare under the penalty of perjury, pursuant to 28 U.S.C. § 1746, that the foregoing is true and correct to the best of my knowledge.

Dated: May 13, 2022

A handwritten signature in black ink, appearing to read 'M. Schubert', written over a horizontal line.

Melissa A. Schubert
Director, Afghan Special Immigrant Visa Unit
Bureau of South Central Asian Affairs
United States Department of State