



# **SOFA/BSA GUIDELINES for CONTRACTORS IN AFGHANISTAN**

**V6**

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**Produced in coordination with:**

**Afghanistan Central Business Registry**

**Ministry of Foreign Affairs**

**Ministry of Interior Affairs**

**Afghan Border Police**

**Resolute Support International Agreements Branch**

**Resolute Support/USFOR-A Legal Advisor**

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# TABLE OF CONTENTS

<b>Entry Into and Exit from Afghanistan.....</b>	<b>2</b>
<b>Obtaining and Afghan Visa.....</b>	<b>3</b>
<b>Obtaining and Afghan Business License.....</b>	<b>6</b>
<b>Afghan Taxes and Exemptions.....</b>	<b>10</b>
<b>Carrying a Weapon in Afghanistan.....</b>	<b>12</b>
<b>Points of Contact.....</b>	<b>14</b>

This document is intended as a familiarization tool to assist new or potential NATO and Department of Defense contractors in understanding the business environment in Afghanistan. While Headquarters Resolute Support / United States Forces-Afghanistan provides the following familiarization, we cannot act as counsel to private entities and our ability to provide additional guidance is limited. Please be aware that laws in Afghanistan can change without notification to NATO and the Department of Defense. This guide should not take the place of a company performing due diligence in learning the governing laws of Afghanistan.

# ENTRY INTO AND EXIT FROM AFGHANISTAN

Afghan visa requirements for U.S. and NATO contractors went into effect on 1 September 2015. All U.S. and NATO contractor employees must have a valid national passport and Afghan visa at the time of entry into Afghanistan. Entry into an Afghan commercial or military airport without a visa is a violation of Afghan law and the entrant risks fines and/or deportation. It is Afghan law that visa holders must acquire a visa entry stamp upon entry and exit.

## Quick Facts

Under the BSA and SOFA, Contractors are required to have a passport with an Afghan visa, in accordance with Afghan law, to enter and exit Afghanistan. Under Afghan law, Contractors MUST get a visa entry stamp within 48 hours of arrival from an Afghan official. Failure to do so will result in fines, delays, and inability to renew visas or re-enter the country.

### Arrival at a Commercial Airport

Upon arrival at a commercial airport, contract employees should have their visas checked and entry-stamped. The only requirements for contractor entry and exit under the BSA and SOFA are a passport and an Afghan visa, in accordance with Afghan law. Fingerprints may also be collected upon arrival.

### Arrival at a Military Airport

Afghan Border Police have posts at all BSA/SOFA-designated military airports. These police officers will conduct visa inspection and apply entry stamps. If the Afghan Border Police are not present at the time of arrival, contractors have 48 hours beyond the arrival date/time on their ticket in which to secure an entry stamp from the Afghan Border Police. **NOTE: There is currently no codified process for obtaining a retroactive visa stamp. Failure to get the visa entry stamp could result in significant delays when attempting to depart, and will result in the holder being denied re-entry after departure.**

# OBTAINING AN AFGHAN VISA

The Afghan Ministry of Foreign Affairs (MoFA) is responsible for issuing visas for contractor employees entering Afghanistan. A list of Afghan Diplomatic Missions can be found at:

<http://mfa.gov.af/en/page/4183/3884>

Processing times may vary and contractors should provide for plenty of time to obtain visas prior to entry into Afghanistan. Interviews may be required for first time visa applicants.

## Procedures for Obtaining New Visas

Send the following documents to MoFA through the Ministry of Commerce and Industry, Central Business Registry and Intellectual Property:

- 1) A letter from a senior company representative which introduces the company and includes a list of the company's employees applying for visas, the country of citizenship for each employee, and the passport number for each employee. Each applicant will need to produce a US Letter of Authorization (LOA) or NATO equivalent. Countries which do not use a LOA are advised to produce and certify an official document containing the same information found in an LOA in order to enable processing.
- 2) A copy of each employee's passport for processing.
- 3) A NATO Contractor's Certificate and Letter of Introduction from the Resolute Support International Agreements Branch identifying the company's president, vice president (if applicable), and representative in Afghanistan.
- 4) The date, location, and details of the person who will provide the passports to the relevant diplomatic mission where the company will drop off passports and visa applications.

## Quick Facts

New visas may be obtained through Afghan Diplomatic Missions worldwide.

Visa renewals may be obtained through the MoI Passport Department in Kabul or Afghan Diplomatic Missions worldwide.

All documents from the company should be on official letterhead.

5) If using a third party to drop off or pick up passports, a power of attorney granting that third party authority to do so.

6) A copy of the company's valid Afghan business license.

Please allow time for MoFA to validate the request and contact the appropriate diplomatic mission. At the time identified, the designated individual should take the following documents to the designated diplomatic mission:

1) Original passports for all employees who are applying for visas.

2) Completed visa application forms (contact the appropriate diplomatic mission to determine if they require notarization)\*

3) One 4 x 5 cm photo per application

4) Payment (Fees are set by Afghan law)

### Renewing Valid Visas

Contractors may renew their valid visas at either the Mol Passport Office in Kabul, or through MoFA diplomatic missions abroad. Renewals through the Mol Passport Office for visas issued after 1 January 2016 require an entry stamp on the visa. The Mol Passport Office also requires contractor employees to provide original passports, visa application forms, 4 x 5 photos, and payment, as well as:

1) A letter on company letterhead providing the names of those renewing their licenses

2) A copy of the company's Central Business Registration (CBR) license (formerly known as 'AISA License')

3) A copy of a photo identification for each applicant (this should not be a military or NATO identification card; however a company identification card is acceptable)

4) A copy of the applicant's official Letter of Authorization from the Department of Defense or the appropriate NATO contracting agency,

5) If using a third party expediter agency, a letter of introduction from the company to the Mol introducing the expediter and any couriers they will use.

## Frequently Asked Visa Questions

1) *My employees are naturalized Americans born in Afghanistan, do they require visas?*

If an individual is traveling to Afghanistan using an American passport that indicates their place of birth as Afghanistan rather than an Afghan passport, they do not require a visa.

2) *Can I travel to Afghanistan without a visa and get one upon arrival?*

No, a “plane-side visa” is not an option.

3) *MoFA is asking for different documents (including contracts) than the ones mentioned in this document, what do I do?*

Please e-mail [cj4iaccsointagrops@hq.rs.nato.int](mailto:cj4iaccsointagrops@hq.rs.nato.int) and provide copies of what you have already given MoFA and a copy of their demand for additional documents.

4) *I am a contractor doing a site survey at Bagram Airfield. I'll be flying in on a military aircraft, staying for two days, and then flying out on a military aircraft. Do I need a visa?*

Yes. As of May 2016 the ABP check visas in military terminals. However, you may arrange with the MoFA for a short-duration visa, instead of the one (1) year multi-entry visa.

Additional visa information can be found at: <http://www.mfa.gov.af/en/page/consular-affairs/visa-information>

\* Forms may be downloaded from the MoFA website:

[http://www.mfa.gov.af/Content/files/Visa%20Application%20Form%20\(English\).pdf](http://www.mfa.gov.af/Content/files/Visa%20Application%20Form%20(English).pdf)

\*\* Fees vary based on applicants and application location.

# OBTAINING AN AFGHAN BUSINESS LICENSE

Under the BSA and SOFA, all companies operating in Afghanistan are required to have a business license. This process was previously managed by the Afghanistan Investment Support Agency (AISA). In 2016, AISA was incorporated into the Ministry of Commerce and Industry (MOCI) and is now part of the Afghanistan Central Business Registry & Intellectual Property (ACBR). **Procedures for obtaining a business license have not changed under ACBR.** Licenses are required, under the BSA/SOFA, to be valid for three (3) years and the cost varies based on the type of the contractor's business.

## Quick Facts

ACBR issues 3-year licenses required to operate a business in Afghanistan, as required by the BSA/SOFA.

ACBR requires a \$90 processing fee to produce a letter that supports getting your 1-year Multiple Entry Visa.

### Conditions for Issuing a New License:

- The presence of the president, vice president, or equity partner with the contracted company is obligatory when starting the company registration process; if these individuals are not present, their legal representative with a power of attorney should represent the company. All application documents should be authenticated by the Embassy or Consulate of Afghanistan.
- Upon submission or properly completed application forms, ACBR will have four business days to obtain the approval of line agencies for technical evaluation for specialized licenses; the agencies are obliged to notify ACBR regarding their agreement or disagreement during these four days.
- Along with the application form, the following documents should be provided by each company when applying for a BSA license:
  - Original passport and visa of the president, vice president and equity partners or their legal representative along with three color copies of their passport and visas.
  - Original IDs (Tazkera) of the president, vice president and equity partners, if they are Afghan citizens.

- 4 photos of the president, vice president and equity partners.
  - Official/stamped contract letter or leasing documents confirmed by area representative (village elder) or property owner. If the company is located inside US or NATO bases the contractor must bring an official letter from the administration of that base.
  - A copy of the contact person's Tazkera, address and telephone number must be provided.
- According to Article 109 of Income Tax law, none of the equity partners, company president or vice president can register a new company without tax clearance of their previous company/companies.
  - The new license or license extension fee established by Afghanistan's Investment High Commission will be based on the type of business according to the relevant approved fee structure table.
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### **Conditions for Opening a Branch:**

If a foreign contracting company intends to open a branch in Afghanistan, the company must meet all of the conditions and provide the same documentation as if applying for a new business license, plus the following:

- Approval letter from the foreign company's Board of Directors authenticated by the Afghan Embassy in that country and Afghan Ministry of Foreign Affairs
  - An official letter of introduction from the Ministry of Foreign Affairs (MoFA) to ACBR
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### **Conditions for License Renewal:**

US/NATO contracting companies who obtain ACBR Investment Licenses are obligated to provide their annual financial report to ACBR in order to apply for a license extension. The ACBR License extension process is as follows:

- The company representative must contact ACBR within 90 days of the solar year (December-February) in which their license expires in order to obtain an "inquiry letter" and process it in the relevant agencies.
- The company name must be verifiable through HQ Resolute Support. The license shall be extended for three years subsequent to settling of the previous year's \*tax obligations, which would be confirmed by receipt of official letter (in response to the inquiry letter) by ACBR.
- Photos of company president and vice president (one for each) must be provided
- If the company's address changes, the contract for the newly rented, leased or purchased property must be provided.

- Companies must provide their license throughout the relevant Ministries (for Risk Management and Security Companies, license from the Ministry of Interior and other relevant Afghan Government Agencies)

\*Obtaining the annual tax clearance letter from Ministry of Finance within the prescribed timeline is **obligatory** for the company; otherwise the company's license will be invalidated.

## BUSINESS LICENSE FEE SCHEDULE

NOTE: For investments under \$100,000, please contact ACBR to inquire about license fees.

Activity	Sector	Minimum Investment in U.S. Dollars		New & Renewal Fee in Afghan Afghani (₹)
		Investment Type	Amount	
Construction/Road Building	Construction	Large Investment	\$10,000,000	200,000₹
Industry	Manufacturing	Large Investment	\$1,000,000	70,000₹
Equipment Production, Consumer Goods, Cloth and Steel mill and Steel Production	Production	Large Investment	\$10,000,000	70,000₹
Production and Process of Agriculture and Animal Products, Bee Farm	Agriculture	Large Investment	\$10,000,000	70,000₹
Mining and Quarrying, Storage and Refining of Oil	Mining	Large Investment	\$10,000,000	70,000₹
Ground and Air Transport, Freight, Lease and Renting Services	Services	Large Investment	\$10,000,000	200,000₹
Logistics, Technology, Technical, Exhibition, Cleaning and Hotel Services, Distribution of Oil	Services	Large Investment	\$10,000,000	200,000₹
Telecommunication and Aviation	Services	Large Investment	\$10,000,000	400,000₹
Education, Entertainment, Health, Broadcasting, ISP and Advertisement Services	Services	Large Investment	\$1,000,000	100,000₹
Security Services and Risk Management	Services	Large Investment	\$1,000,000	1,000,000₹
Consultancy, Human Resources, Financial, Legal and Insurance Services	Services	Large Investment	\$1,000,000	400,000₹

### Frequently Asked Business License Questions

1) How long does it take to get an ACBR license?

ACBR has introduced office automations and procedures which have reduced the processing time from months to days. If your ACBR license has been delayed for longer than 10 business days, contact the International Agreements Branch.

*2) ACBR will not allow us to keep our company name, why?*

Afghanistan does not allow companies to have certain names. Try to pick a similar name and ensure you document the relationship of that company to the parent organization with ACBR (e.g., Acme Company, a branch of Acme American LLC).

*3) My company was referred to another Ministry for approval, why?*

The CBR license replaces many of the professional licenses required under Afghan law. As such, ACBR will often send applications to other Ministries for approval. ACBR is working with other ministries to set up a “one-stop licensing shop” under the Ministry of Commerce and Industry. This is still several months away.

*4) Are there companies I can hire to assist me?*

Yes, but the ACBR can assist with answering questions in English over the phone and possibly save your organization some money. There are also many companies offering to assist with obtaining ACBR licenses and visas. Please be careful when choosing one as they vary greatly in skill level. USFOR-A and NATO cannot endorse one expediting company over another.

*5) Will I be asked to pay any hidden charges?*

No. There are only two charges that you will be asked to pay at ACBR when applying for a business license:

- 1) \$90 fee for a letter to the Ministry of Foreign Affairs which is necessary to get visas.
- 2) The licensing fee per the fee schedule. Note that the fee schedule in this guide is for information purposes, and does not serve as the official reference. ACBR can update their fee schedule without notifying our office.



# AFGHAN TAXES AND EXEMPTIONS

Contractors must follow Afghan tax law. The Afghan Revenue Department (ARD) has means to apply serious penalties to companies who do not comply. Unless the ARD violates some article of the U.S. Security and Defense Cooperation Agreement (SDCA) or NATO Status of Forces Agreement (SOFA), United States Forces-Afghanistan (USFOR-A) and Resolute Support will not intervene on behalf of a contractor.

Contractors must file annual Afghan tax returns and may be responsible for withholding and paying certain taxes. In general, if the goods or services directly benefit NATO or USFOR-A, they are tax exempt. If they indirectly benefit NATO/USFOR-A (rental equipment, real estate, etc.) they are taxable.

## Procedures for Obtaining a Tax Exemption

- 1) Have the **government/NATO contracting officer** complete a Tax Exemption Request Letter. If the contracting officer does not have the format for the tax exemption letter, have them contact IAB.
- 2) Send the completed Tax Exemption Request Letter to IAB for authentication. IAB cannot accept these documents from the contractors themselves, they must come from the contracting agency.
- 3) Take the authenticated Tax Exemption Request Letter, your application for tax exempt status in Dari, and any other required documents to the Ministry of Finance Exemption Office for approval. For more guidance please refer to ARD's Guide 07, which can be found on the Ministry of Finance website.

## Quick Facts

Tax clearance is required to obtain or renew ACBR licenses.

Even with a tax exemption, your company may still be liable for certain taxes.

All contractors must file an annual tax return in Afghanistan.

## Frequently Asked Tax Questions

*1) If I am tax exempt does that mean I do not have to do anything?*

No. Your company is responsible for receiving a tax exemption authorization, filing annual tax returns, and paying applicable taxes on goods or services which do not directly benefit NATO or USFOR-A. You must have a tax clearance letter in order to renew your ACBR license.

*2) If I am tax exempt, why do I have to pay taxes?*

Afghanistan collects certain types of taxes by requiring the party purchasing goods or services to withhold a percentage of the payment to pay the tax owed by the seller. This is called a withholding tax and is similar to the withholding of a portion of an employee's salary to pay that employee's income tax. Per the BSA and SOFA, contractors must withhold on the salaries of Afghan employees for personal income tax purposes. Additionally, Afghan legal entities are subject to corporate profits tax under the BSA and SOFA.

*3) My company just received a large tax assessment, what do I do?*

If you believe your company has been improperly taxed, first seek the assistance of an Afghan tax attorney. If necessary, contact the International Agreements Branch.

*4) I was assessed taxes, but the assessor said I could settle the debt for half the cost if I paid in cash. Is this legitimate?*

No. If this occurs please contact your corporate counsel and report the matter to Afghan and U.S. or NATO officials. This is different than the fee assessed if tax liability goes to ARD collections.

*5) ARD asked to provide my contract for tax exemption. Am I required to provide it?*

No. Contracts should **NOT** be released to the Afghans. Notify your contracting officer and the International Agreements Branch if any Afghan entity requires you to provide a copy of your contract.

# CARRYING A WEAPON IN AFGHANISTAN

It is USFOR-A policy that contractors will not be armed. Exceptions to this policy may be granted for contractors who regularly perform contract operations outside of U.S. or NATO installations. If an exception is granted, the contractor must usually obtain an Afghan weapons permit (AWP).

For requests to arm on a US contract, contractors must work with their Department of Defense chain of command to complete all training and documentation necessary to submit an exception to policy request.

The request is reviewed by the Armed Contractor Oversight Division (ACOD) and forwarded to the approval authority. See USFOR-A FRAGO 16-143, MOD 1 for specific guidance. Once an Arming Authorization Letter (AAL) is approved by the commander USFOR-A, a contractor can then apply for an Afghan weapons license

If approved by the ACOD and once a contractor has an AAL, a Letter of Introduction will be forwarded to the International Agreements Branch on HQ RS for a stamp. Once stamped, the contractor or their representative must pick it up from IAB and take it to the MoI Counter-Terrorism Directorate for processing.

- Gather the following documents and translate them into Dari:

- Copy Letter of Authorization (LOA)
- Copy of Arming Authorization Letter
- Copy of the Afghan business license (company name should match the LOA)
- Two (2) 4 x 5 photos
- Completed Application Form
- Completed Statement of Understanding of Afghan Law
- Copy of passport
- Letter of Introduction (Signed by ACOD and Stamped by IAB)

## Quick Facts

Contractors are generally not authorized to be armed.

Exceptions may be authorized for contractors who regularly perform duties outside of U.S. or NATO installations.

An Afghan Weapons Permit may be required depending on the contract.

Contractors may subcontract with MoI approved Private Security Companies (PSC) for security.

Take the complete application package to the Mol Counter-Terrorism Directorate. A charge will be assessed for each permit issued. A copy of the Afghan weapons permit must be on file with the ACOD after it is received by the contractor from the Mol.

For further information on arming policy and questions concerning Arming Authorization Letters, contact the ACOD.

**CONTRACTORS ARE SUBJECT TO AFGHAN LAWS**

# POINTS OF CONTACT

The Afghan Ministry of Foreign Affairs (MoFA)

Website: [www.mfa.gov.af](http://www.mfa.gov.af)

Telephone: +93 020-210-7408

Address: Malik Azghar Road, Kabul

E-mail: Ahmad Seiar Daqeeq, [seiardaqeeq@gmail.com](mailto:seiardaqeeq@gmail.com); Sahar Ghazi, [saharghazi@outlook.com](mailto:saharghazi@outlook.com)

The Afghan Ministry of Interior Affairs (Moi): Passport/Visa Department

Website: [www.moi.gov.af](http://www.moi.gov.af)

Telephone: +93 020-210-2945

Address: Shahr-e-Now Road, Kabul

The Afghanistan Central Business Registry & Intellectual Property (ACBR)

Website: [www.acbr.gov.af](http://www.acbr.gov.af) or [www.aisa.org.af](http://www.aisa.org.af) (until ACBR website is updated)

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