

May 24, 2023

The Honorable Xavier Becerra
Secretary of Health and Human Services
U.S. Department of Health & Human Services
200 Independence Avenue, S.W.
Washington, DC 20201

RE: Ensuring Continuity of Services and Meeting Unmet Needs of Afghan Arrivals

Dear Secretary Becerra:

On behalf of 54 national, state, and local organizations, we write to urge you to strengthen the U.S. capacity to welcome and serve [Afghan arrivals](#) who were paroled into the United States since July 31, 2021. Now is an important time to take every possible step to ensure that the Afghan arrivals whom we are resettling in the United States have a safe place to call home. This matter is urgent, as tens of thousands of evacuated Afghans risk losing authorization to live, work, and receive community services in the United States.

Specifically, we urge the Office of Refugee Resettlement (ORR) to:

1. **Guarantee continuity of service provision** for Afghans whose parole periods will begin to expire this August 2023 -- at minimum for Afghans who have submitted their applications for re-parole.¹
2. **Extend eligibility for legal services** for Afghans who entered the United States at the southern border - and were paroled in under INA §212(d)(5)² and issued a Notice to Appear (NTA) in immigration court.

We appreciate the steps ORR has taken to ensure Afghan arrivals and our communities have the resources they need, particularly around supplemental funding to support access to counsel and legal services, as well as other case management [services](#). We are equally grateful to ORR for ensuring [continuity of services](#) for Ukrainian parolees who arrived via the southern border before the establishment of the *Uniting for Ukraine* program and whose parole is considered for extension by U.S. Citizenship and Immigration Services (USCIS).

This August, approximately 75,000 evacuated Afghans will suddenly see their parole periods expire, coinciding with a termination of their eligibility for ORR services, immigration “status,” and work authorization. Recognizing that USCIS has not, as of this writing, gone live with its new re-parole application process, it is imperative that ORR do everything in its power to minimize the disruption of services, such as English language classes, job training, medical and mental healthcare, etc. Continued efforts to support Afghans with asylum claims while submitting re-parole applications in an orderly and timely fashion will be imperative in ensuring there is not a lapse in eligibility and provision of ORR funded services; however, given the challenges to preparing asylum applications, capacity of pro bono legal services, and the long delays in asylum adjudications—particularly as DHS prepares for implementation of its new asylum rule—continuity of services is crucial to ensure Afghans have resources they need to pursue long-term status.

¹ Once USCIS issues an announcement and guidance for the Afghan re-parole application process.

² 8 U.S.C. § 1182(d)(5).

Although we affirm the investment by ORR into the resettlement infrastructure, refugee resettlement agencies were asked to resettle record numbers of arrivals with a then-dismantled program. We were asked to do the impossible, and we delivered: Afghans are now in permanent housing, have employment, are taking care of their families, and [integrating in their new communities](#). However, that stability is precarious and vulnerable to disruption with any gap in services or employment. Therefore, it is critically important that ORR works with interagency partners to ensure USCIS rapidly adjudicates re-parole applications so that Afghans maintain work authorization and don't lose their jobs, their homes, and their access to legal counsel to ensure permanent immigration status.

We recognize that ORR has [repeatedly made it clear](#) that defensive asylum applications for Afghans who are in removal proceedings before the Executive Office of Immigration Review (EOIR) are not an allowable expense with ORR funds;³ only affirmative asylum applications filed with USCIS are allowable under current ORR funding. However, given that certain Afghans are arriving at the southern border via port parole (making them eligible for resettlement benefits) but also receiving notices to appear, requiring them to appear in immigration court, ORR should consider allowing ASA funding to support their access to legal services. Indeed, the Afghanistan Supplemental Appropriations Act emphasizes that legal assistance should be provided to those entering the United States via INA § 212(d)(5) and that the text does not preclude offering such assistance to those in defensive asylum proceedings where they've already been paroled into the U.S. and the parole period remains valid.

Expanding the criteria for allowable expenses for legal services would support the providers and resettlement sites already assisting Afghan arrivals - a very unique population with particularly acute needs and asylum claims. Organizations who handle removal defense cases already primarily represent folks from Central America and often with gang-related claims. Further, organizations who typically handle removal defense are already overworked, understaffed, and underfunded organizations. Ensuring consistency in providers who are able to assist Afghans -- particularly the immigration attorneys connected to resettlement sites who are already handling affirmative asylum cases for evacuated Afghans -- makes the most sense for efficiency and quality of the services.

Afghans are crossing the southern border because they have run out of options for safety -- despite efforts by the administration to conduct the evacuation and ongoing relocation of at-risk Afghans who were left behind, a small fraction of Afghans are eligible for CARE manifests out of Afghanistan. Challenges are exacerbated by [food insecurity](#), [limited livelihoods](#), and threat of harm against those who assisted the U.S. mission in Afghanistan, as well as the complete lack of refugee processing in host countries like Pakistan with high numbers of Afghans. For the vast majority of vulnerable Afghans who remain in life-threatening conditions without a timely path to permanent protection, or reunification with loved ones, in the United States, [more than 2,000](#) of them have made the difficult choice to brave the dangerous trek up to and through Mexico. This dangerous journey is made with the hope for a new life in safety and with family.

Thank you for your attention to this urgent matter. Please contact Meredith Owen at mowen@cwsglobal.org with any questions or to schedule an engagement to discuss.

Sincerely,

³ "Asylum seekers who are in removal proceedings under EOIR may only seek asylum through the defensive asylum process."

Afghan American Community Organization
Afghan Coalition
Afghan Refugee Relief
Afghan-American Community Organization (AACO)
Afghan-American Foundation
Afghans For A Better Tomorrow
Association of Wartime Allies
Bethany Christian Services
Cache Refugee and Immigrant Connection
CAIR-Washington
Center for Victims of Torture
Central American Refugee Center (CARECEN NY)
Church World Service
Community Legal Services in East Palo Alto
Community Refugee & Immigration Services - CRIS
Conklin Immigration Law LLC
CWS Jersey City
Dorcas International Institute of RI
Exodus Refugee Immigration, Inc.
Georgia Asylum and Immigration Network (GAIN)
Ghafoor Foundation
Greater Boston Legal Services
Gutierrez Berrios & Co.
HIAS Pennsylvania
International Institute on Peace Education
International Refugee Assistance Project (IRAP)
Jesuit Refugee Service/USA
Journey's End Refugee Services
Lutheran Family Services (Nebraska)
Lutheran Immigration and Refugee Service
Lutheran Social Services of the National Capital Area (LSSNCA)
MetroWest Legal Services
Michigan Immigrant Rights Center
MPower Change
National Partnership for New Americans
Nooristan Foundation
North Suburban Legal Aid Clinic
Prime Counsel, PLLC
Project ANAR
Refugee Advocacy Lab
Refugee Congress
RefugeeOne
Refugees International
RefugePoint
Safe Harbor Clinic, Brooklyn Law School
The Advocates for Human Rights
The Interfaith Center of New York
The International Rescue Committee
The Lamia Afghan Foundation
VECINA
Volunteer Lawyers Project of CNY, Inc.

We Are All America
Women for Afghan Women (WAW)
Wylie & Washburn LLC

CC: The Honorable Alejandro Mayorkas, Secretary of the Department of Homeland Security