



Contractor Shura

The overall Classification
of this brief is:

UNCLASSIFIED

8 January 2015



Agenda

- Opening Remarks: MG Mike Murray
- Legal Background: BSA/SOFA and Presidential Decree: LEGAD
- Visas: Embassy/LEGAD
- Arming: Mr. Mark Illg/LT Grabowski
- Business Licenses: Embassy
- Key Takeaways: LEGAD
- Key Contacts
- Open Discussion: Panel

NOTE: None of the information presented in these slides or presented today is intended to provide a substitute for private legal counsel. This information does not create any private rights of relief.



Opening Remarks

- All BSA/SOFA articles are in force, the below documents provide additional guidance:
 - MOU 5030, dated 19 Sep 14
 - Presidential Decree, dated 31 Dec 14
- PD does not relieve US/NATO personnel from BSA/SOFA implementation
- PD provides for a transition period 1 Jan – 1 Jun 2015 to allow for gradual application of Afghan law to U.S. contractors relating to issues covered by a few
- All US/NATO personnel will be in compliance with all BSA/SOFA articles NLT 1 Jun 15
 - Documents required for Multi-entry Visas must be worked **NOW**.
 - All Arming Re-certifications including GIRoA weapons permits will be complete NLT 31 Mar 15

COMPLY NLT 31 MARCH 2015



Legal Background

BSA/SOFA and Presidential Decree (Farman)

- BSA/SOFA are now in effect
 - Impending PD does not relieve US/NATO personnel from BSA/SOFA implementation
- Contractors must now comply with Afghan law consistent with the BSA/SOFA
- PoA has signed Presidential Decree #38, providing relief to US/NATO contractors by phasing-in application of Afghan law to them on certain issues.
 - *Afghan government still needs officially publish the PD for it to be in force.*
- That PD will provide a bridging period through June 1 for visa, business licenses and contractor charter flights and will clarify other guidance with regard to work permits, weapons arming, etc.

IMPLEMENTATION OF THE PD IS DEPENDENT UPON GIRoA



Presidential Decree (Farnam) Contractor Requirements

- **1-Year Multiple Entry/Exit Visas:**

- US/NATO Forces' contractors and contractor employees will not be required to have visas to enter/exit Afghanistan until 1 June 2015. All that is required is a passport and a US/NATO Contractor certificate; however,
 - Contractors and their employees should still make every effort to obtain the 1 year multiple-entry visas **NOW**.
 - New contractors should obtain the visas prior to departing their country
- No financial penalties, or judicial prosecution for lack of a visa prior to 1 Jun 15
- Groups of visa applications are authorized and encouraged
- Expeditors at GIRoA commercial airports NLT 15 Feb 2015
- One time processing fee (\$200.00) per first-time visa applicant, plus the visa costs (\$360 for one year visa)
- Possession of a valid AISA business license is a prerequisite to applying for a one-year multi-entry business visa.



COMPLY NLT 31 MARCH 2015



Requirements (cont.)

- **Contractor Charter Flights:** Shall continue current aviation practices, procedures and operations into, out of, and within Afghanistan with no changes until June 1, 2015.
- **Work Permits:** Contractors are not required to obtain work permits to perform their duties.
- **Withholding Tax:** Contractor employing LN employees must withhold personal income taxes for these employees. **It is extremely important that you seek legal counsel on all taxation issues.**
- **AISA Business Licenses:** The BSA requires U.S. contractors to obtain a valid Afghan business license.
 - Contractors are required to obtain a license from Afghanistan Investment Support Agency (AISA). Licenses are valid for 3 years under the BSA and SOFA. Licenses for other contracts are valid for 1 year.
 - A valid AISA business license is a prerequisite to applying for a one-year multi-entry business visa. Currently held licenses are valid until expiration.
 - **Specific AISA licensing procedures for U.S. contractors are still being developed.**
 - AISA currently offers 11 different business licenses that vary by business sector: The initial fee for a business license ranges from \$700 to \$2,000 USD, depending on the type of license.

Afghanistan Investment Support Agency (AISA)

Website: <http://www.aisa.org.af/>

Telephone: 0093(0) 20-210-3404

Address: East part of Charman-e-Hozory, near the National Olympic building, Kabul, Afganistán

Email: invest@aisa.org.af





Contractor Arming

- Beginning 1 January 2015, arming authorizations for civilian contractors must comply with the provisions of the Bilateral Security Agreement (BSA), signed 30 September 2014
- CENTCOM policy states that arming of contractors and contractor employees is prohibited; however Exceptions to Policy (ETP) can be granted in certain situations
- Arming authorizations are considered an **exception** to policy. Two narrow ETP categories exist:
 - **Armed Security**: (5030 MOU) DOD contractors and contractor employees providing armed security services inside NATO/U.S. Agreed Facilities and Areas; and
 - **Self-Defense / Personal Protection Arming**: (BSA/PD) DOD contractors and contractor employees who regularly (i.e., at least weekly) perform their contractual duties outside of Agreed Facilities in support of NATO/U.S. missions, including the provision of training, advice, and assistance to Afghan National Security Defense Forces.
- Contractors must obtain weapons permits from GIRoA in order to carry weapons
 - PD #38, signed 31 Dec 14 allows for bulk application for GIRoA weapons permits



Timeline For Transitioning to New Requirements

- New requirements effective 1 January 2015
- 90 day transition period to fully comply with the new requirements by submitting an ETP request and obtaining approval by 31 MAR 15.
 - If a contractor employee does not fall under one of the two ETP categories, then that employee **must disarm** as of 1 January 2015 (no transition period)
 - ROs will supervise and coordinate weapons turn in.
 - Weapons will be stored in accordance with garrison commander's directive and in coordination with JSO.
 - Arming authorization is not complete until a weapons permit is issued by GIROA

COMPLY NLT 31 MARCH 2015



Recertification of Armed Contractor Employees

- ETP requests must be submitted through CAAMS and will include:
 1. Individual RO memo (no blanket/group RO memos)
 - Must be specific to each individual – no more group memos
 - RO must be an O-6/GS-15 or higher, and be appointed by an O-7/SES or above.
 - **No “boilerplate” language!** The RO must specify who, what, where, when, and why each person needs a weapon.
 2. Newly issued SPOT letter of authorization (dated on or after 1 DEC 14) – Required
 3. Newly signed DD Form 2760, RUF/LOAC training acknowledgments, and signed training and liability statements
 4. Weapons qualifications; existing qualifications may be used, however, qualifications are only valid for 12 months
 5. Summary of the required background investigation
 6. New certification that the LN or OCN has been biometrically enrolled, screened, and cleared
 7. Acknowledgement that the contractor employee has complied with Afghan law and regulation for licensing and weapons permit; provide a copy of the GIRoA weapons permit or license to ACOD upon receipt
- RO will notify ACOD of disarmed personnel
- Weapons from disarmed personnel must be processed for return or removal from Afghanistan NLT 31 Mar 15

Currently armed DOD contractors must submit a new ETP request or disarm



Civilian Arming Authorization Management System (CAAMS)

- NEW web-based application automating the submission, review, approval, and compliance management of civilian and contractor arming requests in Afghanistan
 - CAAMS Website (registration): <https://www.jccs.gov>
 - Mandatory as of 5 Jan 15
 - Contractors/Vendors can log in and be able to see their contract only - and have the ability to upload documents for their employees
- Contractors/COR must upload all relevant documents for individual arming requests
 - COR completes biometric verification, quality control, and submits RO memo for each contract employee
- Once arming packet is complete, ACOD performs quality control and completes legal review
 - Arming Authorization Letter is generated, signed, and uploaded into CAAMS
 - GIROA weapons permit/license is uploaded in CAAMS



Key Takeaways

1. Obtain your visa.
 - Documents required for visas must be worked **NOW**
 - Get your gold seal on your visa exemption certificate
2. Obtain AISA business license as soon as possible if you do not have one.
3. Fly into/out of military air terminals to the extent possible/authorized.
4. If you meet the requirements to be armed, apply **NOW**.
 - If you do not meet the requirements, you will be disarmed
5. Consult your employer/KO/local private legal counsel for advice.



Important Contacts

- **BSA Policy**
 - Mr. Mark Illg, USFOR-A Senior Commander Advisor
 - Email: usforabsajc@afghan.swa.army.mil
- **SOFA Policy**
 - COL Edward Henderson, International Agreements Branch
 - Email: edward.henderson@hq.isaf.nato.int
- **Embassy BSA Support**
 - Ms. Mary Eileen, Pol/Mil Officer
 - Ms. Amy Holman, ECON Officer
 - Web Site: <http://kabul.usembassy.gov/pol-mil.html>
 - Inquiry Email: KabulBSAInquiries@state.gov
- **Armed Civilian Oversight**
 - CAPT Kevin Sheil, Armed Civilian/Contractor Oversight
 - LT Michael Grabowski, Operations Officer/COR
 - Email: usfora.acod.org@afghan.swa.army.mil
 - CAAMS Website: <https://www.jccs.gov>
- **CENTCOM-Joint Theater Support Contracting Command (C-JTSCC)**
 - COL Scot Benza, Senior Contracting Official-Afghanistan (SCO-A)
 - Email: C3_Ombudsman-SCO-A@afghan.swa.army.mil



Sample Certificate



HEADQUARTERS
Resolute Support
Kabul, Afghanistan
APO AE 09356



U.S./NATO CONTRACTOR CERTIFICATE

_____ is the holder of _____ **Passport #** _____
This U.S./NATO certificate confirms that he/she is a contractor employee of _____
a U.S./NATO Contractor, who is supplying goods or services in Afghanistan,
to or on behalf of U.S./NATO forces under contract or subcontract number _____ with or
in support of United States forces, NATO, NATO Member States, or Operational Partners.

Pursuant to Presidential Order (Farman) #38 issued 31 December 2014, U.S./NATO contractor employees are entitled to enter, exit, work, and be present in Afghanistan requiring only a valid passport and this U.S./NATO issued certificate, which verifies their identity and their relationship with U.S./NATO forces.

National authorities of all countries are requested to afford favorable consideration to the expeditious transit of all U.S./NATO contractor personnel through their respective territories and customs areas, in order to promote the development and security of Afghanistan.

ON BEHALF OF THE UNITED STATES and THE NORTH ATLANTIC TREATY ORGANIZATION

Patrick M. McCarthy
Captain, United States Navy
Senior Legal Advisor
Resolute Support/
United States Forces-Afghanistan



Visa Certificates are ONLY valid until 1 June 2015