

Senate Foreign Affairs, Defence and Trade References Committee
Inquiry into Australia's Engagement in Afghanistan, 2021 - 2022

QUESTION ON NOTICE / Written

QoN 015 Hearing 11 October 2021

Topic: LEE visas

Senator Penny Wong

Question

60. What is DFAT's threshold for granting certification to apply for a LEE visa?
- a. Are DFAT contractors eligible to apply for LEE visas if they met this threshold?
61. How many former Australian Embassy Security guards were granted LEE certification by DFAT? How many were rejected?
- a. How many LEE visas were granted to former Australian Embassy security guards and their families?
- b. How many 449 visas were granted to former Australian Embassy security guards and their families?
- c. Were all former Australian Embassy security guards and their families evacuated from Kabul by Australian personnel? If no, how many remain in Afghanistan?
62. How many Australian aid program contractors applied for DFAT LEE certification?
- a. How many were rejected?
- b. Of those who were approved, how many were issued visas?
- c. Of those rejected, were any subsequently issued 449 visas during the evacuation?
- d. Were all Australian aid program contractors evacuated by Australian personnel? If no, how many remain in Afghanistan?

Answer

60. DFAT certification is governed by the eligibility criteria within legislative instrument IMMI 12/127. The instrument at 3 (b) excludes Afghan government or military officials or those employed in a private security capacity, and at 3 (c) excludes those who are nationals or citizens of a country other than Afghanistan.

Applicants need to prove their identity and employment with an Australian Government agency (in this case DFAT), and credibly demonstrate they are at significant risk of individual harm as a result of their employment. There is a time limit (must apply within six months of ceasing employment), but the Minister has the discretion to waive that criterion in exceptional circumstances.

The Foreign Minister has exercised this discretion, in the case of 43 individual certifications in 2021.

Contractors are not ineligible for certification simply because they have not been directly employed by the Australian Government.

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Rather, they must demonstrate they were fully integrated with DFAT: that they were identified directly with our mission and worked with our mission in a sustained and substantial way. They could be regarded effectively as employees of Australia.

As at 22 October, 54 of 82 individuals certified by the Foreign Minister since May 2021 as at-risk DFAT LEE have been contractors.

61. Between 24 May 2021 (when the closure of the Australian Embassy in Kabul was announced), and 26 August 2021 (when the evacuations ended) 160 private security company employees applied for certification. Of that number 12 were certified after being assessed against the criteria of the instrument.

a. and b. All certified private security company employees have been referred to the Department of Home Affairs for the grant of LEE or 449 visas.

On 22 August, the Government decided to consider emergency 449 visas for all applicants who had applied for the LEE program but were not certified. DFAT sent details of 279 unsuccessful applicants to the Department of Home Affairs for 449 visa consideration, which included the 147 private security company employees who had not qualified for certification under the LEE program.

If the individual is approved to be offered a 449 visa by the Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs, the Department of Home Affairs facilitates this grant. For the purposes of a 449 grant, Home Affairs does not track the nature of each individual's relationship with the Australian Government. The Department of Home Affairs is unable to advise how many private security company employees and their family members have received 449 visas.

c. DFAT cannot determine how many private security company employees issued 449 visas have arrived in Australia and how many remain in Afghanistan. Home Affairs is best placed to respond to questions on arrivals.

62. From 24 May until 19 October 2021, a total of 255 applicants have sought certification in relation to delivering Australia's aid program. Of these, 213 were received after evacuations had ceased.

Decisions have been made on 108 applications.

a. Of the 108 applicants for whom decisions have been made, 66 were not successful for LEE visas. Other visa options are available to them.

b. 42 aid contractors have been certified. Of these, 16 have been granted LEE or 449 visas by Home Affairs as at 28 October 2021. The remainder continue to be processed by Home Affairs.

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c. On 22 August 2021, 20 applicants who identified as aid contractors but did not meet the criteria for LEE certification were sent to the Department of Home Affairs for consideration for a 449 visa.

d. DFAT cannot determine how many aid contractors issued 449 visas have arrived in Australia and how many remain in Afghanistan. Home Affairs is best placed to respond to questions on arrivals.