

COUNTRY  
CHAPTER

USA

# The UNITED STATES OF AMERICA

BY THE GOVERNMENT OF  
THE UNITED STATES OF AMERICA

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## United States Overview

|  |                                   |                                   |
|--|-----------------------------------|-----------------------------------|
| Resettlement programme since:<br><b>1975</b> | Selection Missions:<br><b>Yes</b> | Dossier Submissions:<br><b>No</b> |
|--|-----------------------------------|-----------------------------------|

### Resettlement Admission Targets for 2011:

|  |                                    |
|--|------------------------------------|
| Admission targets for <b>UNHCR submissions</b> : <i>Note that the U.S. does not have a target for UNHCR submissions, so the figures are an approximate breakdown of the overall U.S. target of 77,000.</i> | <b>62,000</b>                      |
| <b>Total Resettlement Admission Target:</b>  | <b>77,000</b> (plus 3,000 reserve) |

### Regional Allocations for 2011:

| Region                  | Projected FY 2011 Arrivals | FY 2011 Ceiling |
|-------------------------|----------------------------|-----------------|
| Africa                  | 6,500                      | 15,000          |
| East Asia               | 17,500                     | 19,000          |
| Europe/Central Asia     | 1,500                      | 2,000           |
| Latin America/Caribbean | 2,500                      | 5,500           |
| Near East/South Asia    | 24,500                     | 35,500          |
| Allocated from Reserve  |                            | 3,000           |
| <b>Total</b>            | <b>52,500</b>              | <b>80,000</b>   |

### Sub-quota features:

| Designated sub-quota/acceptance for: | 2011 Description, additional comments:              |
|--------------------------------------|---|
| Emergency resettlement procedures    | The U.S. does not have a sub-quota for any category |
| Medical cases                        |   |
| Women-at-risk cases                  |   |
| Unaccompanied children               |   |
| Family Reunion (within programme)    |   |

## 1. Resettlement Policy

The United States has a long tradition of granting refuge to those fleeing persecution.

Since the Second World War, more refugees have found permanent homes in the United States than in any other country. Admissions of refugees of special humanitarian concern to the United States, as well as admission of those for the purpose of family reunification are important tenets of the U.S. refugee resettlement programme.

At the federal level, the **Bureau of Population, Refugees and Migration (PRM)** of the Department of State administers the U.S. Refugee Admissions Programme in conjunction with **U.S. Citizenship and Immigration Services (USCIS)** of the Department of Homeland Security and the **Office of Refugee Resettlement (ORR)** of the Department of Health and Human Services (HHS). Non-governmental organizations play a major role in domestic resettlement activities and, along with the International Organization for Migration (IOM), in overseas processing

## 2. Criteria for Recognition of Refugee Status Eligibility and Asylum

A person must meet the U.S. definition of a refugee found in Section 101(a)(42) of the Immigration and Nationality Act (INA), which closely follows the definition in the 1951 UN Convention. The INA also defines as refugees, under certain circumstances specified by the President, certain persons who are within their country of nationality, or if they do not have a nationality, the country in which they are habitually residing (See Annex B).

## 3. Criteria for Resettlement

To qualify for refugee resettlement to the United States, refugees must:

- 1) Be among those refugees determined by the President to be of special humanitarian concern to the United States;
- 2) Meet the definition of a refugee pursuant to Section 101(a)(42) of the INA (see below);
- 3) Not be firmly resettled in any third country ; and
- 4) Be otherwise admissible under U.S. law.

### Section 101(a)(42) of the Immigration and Nationality Act (INA)

The term “refugee” means:

- (A) any person who is outside any country of such person’s nationality or, in the case of a person having no nationality, is outside any country in which such person last habitually resided, and who is unable or unwilling to return to, and is unable or unwilling to avail himself or herself of the protection of, that country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion, or
- (B) in such circumstances as the President after appropriate consultation (as defined in Section 207 (e) of this Act) may specify, any person who is within the country of such person’s nationality or, in the case of a person having no nationality, within the country in which such person is habitually residing, and who is persecuted or who has a well founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.

The term “refugee” *does not include* any person who ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion.

For purposes of determinations under this Act, a person who has been forced to abort a pregnancy or to undergo involuntary sterilization, or who has been persecuted for failure or refusal to undergo such a procedure or for other resistance to a coercive population control programme, shall be deemed to have been persecuted on account of political opinion, and a person who has a well-founded fear that he or she will be forced to undergo such a procedure or subject to persecution for such failure, refusal, or resistance shall be deemed to have a well-founded fear of persecution on account of political opinion.

## 4. Resettlement Allocations/Processing Priorities

The Administration annually consults with the Congress on the U.S. refugee admissions programme. These consultations provide an opportunity for Congress and Administration representatives: The Department of State, the Department of Homeland Security, and The Department of Health and Human Services; to discuss the international and domestic implications of U.S. refugee policy. These consultations are the culmination of a many-faceted, consultative process that includes discussions with Congressional staff, representatives of state and local governments, public interest groups, international and non-governmental organizations such as the Refugee Council USA (RCUSA) and others

concerned with refugees. During the Congressional consultations, the President's proposed refugee admissions programme for the coming fiscal year is presented. This proposal includes information on refugee admissions levels, groups of refugees of special humanitarian interest to the United States, and processing priorities.

The processing priorities serve as guidelines to determine eligibility for access to the U.S. Government (USG) resettlement programme and as a tool to manage the refugee admissions process within the established annual regional ceiling.

The following priorities are in effect for Fiscal Year 2011 (1 October 2010 - 30 September 2011):

### **Priority One**

UNHCR, U.S. Embassy, or specially-trained nongovernmental organization identified cases: persons facing compelling security concerns in countries of first asylum; persons in need of legal protection because of the danger of refoulement; those in danger due to threats of armed attack in an area where they are located; or persons who have experienced recent persecution because of their political, religious, or human rights activities (prisoners of conscience); women-at-risk; victims of torture or violence, physically or mentally disabled persons; persons in urgent need of medical treatment not available in the first asylum country; and persons for whom other durable solutions are not feasible and whose status in the place of asylum does not present a satisfactory long-term solution. As with all other priorities, Priority One referrals must still establish past persecution or a credible fear of future persecution from the country from which they fled. All nationalities are eligible for processing under Priority One.

### **Priority Two (P-2):**

Specific groups of special concern (within certain nationalities) as identified by the Department of State in consultation with NGOs, UNHCR, DHS, and other area experts as well as some in-country programs. Only those members of the specifically identified groups are eligible for Priority Two processing. Each group will be selected based on its individual circumstances.

**In-country** Priority Two programs include:

#### Former Soviet Union

This Priority Two designation applies to Jews, Evangelical Christians, and Ukrainian Catholic and Orthodox religious activists identified in the Lautenberg Amendment, Public Law No. 101-167, § 599D, 103 Stat. 1261 (1989), as amended ("Lautenberg Amendment"), with close family in the United States.

#### Cuba

Included in this Priority 2 program are human rights activists, members of persecuted religious minorities, former political prisoners, forced-labor conscripts (1965-68), persons deprived of their professional credentials or subjected to other disproportionately harsh or discriminatory treatment resulting from their perceived or actual political or religious beliefs or activities, and persons who have experienced or fear harm because of their relationship – family or social – to someone who falls under one of the preceding categories.

#### Iraqis Associated with the United States

Under various Priority 2 designations, including those set forth in the Refugee Crisis in Iraq Act, employees of the U.S. government, a U.S. government-funded contractor or grantee, and U.S. media and NGOs working in Iraq, and certain family members of such employees, as well as beneficiaries of approved I-130 (immigrant visa) petitions, are eligible for refugee processing in Iraq.

Current P-2 groups **outside the country of origin** include:

Ethnic Minorities and others from Burma in camps in Thailand

Under this existing Priority 2 designation, individuals who have fled Burma and who are registered in nine refugee camps along the Thai/Burma border and who are identified by UNHCR as in need of resettlement are eligible for processing.

Ethnic Minorities from Burma in Malaysia

Under this Priority 2 designation, ethnic minorities from Burma who are recognized by UNHCR as refugees in Malaysia and identified as being in need of resettlement are eligible for processing.

Bhutanese in Nepal

Under this existing Priority 2 designation, Bhutanese refugees registered by UNHCR in camps in Nepal and identified as in need of resettlement are eligible for processing.

Iranian Religious Minorities

Under this existing Priority 2 designation, Iranian members of certain religious minorities are eligible for processing and benefit from a reduced evidentiary standard for establishing a well-founded fear of persecution, pursuant to the 2004 enactment of P.L. 108-199.

Iraqis Associated with the United States

Under various Priority 2 designations, including those set forth in the Refugee Crisis in Iraq Act, employees of the U.S. government, a U.S. government-funded contractor or grantee, and U.S. media and NGOs working in Iraq, and certain family members of such employees, as well as beneficiaries of approved I-130 (immigrant visa) petitions, are eligible for refugee processing.

**Priority Three:**

Nationals of the following countries who are spouses, unmarried sons and daughters under 21 years of age, and parents of persons admitted to the United States as refugees or granted asylum, or persons who are lawful permanent residents or U.S. citizens and were initially admitted to the United States as refugees or granted asylum:

- Afghanistan
- Bhutan
- Burma
- Burundi
- Central African Republic
- Chad
- Colombia
- Cuba
- Democratic People's Republic of Korea (DPRK)
- Democratic Republic of Congo (DRC)
- Eritrea
- Ethiopia
- Iran
- Iraq
- Republic of Congo (ROC)
- Somalia
- Sri Lanka
- Sudan
- Uzbekistan
- Zimbabwe

**Admissibility for Resettlement**

Section 212(a) of the INA lists grounds under which aliens may be excluded from the United States. Refugees may be excluded for the following reasons:

- 1) **Health-related:** Some communicable diseases, physical or mental disorders, and current drug abuse or addiction (Health-related denials may be overcome when the problem has been successfully treated, or upon waiver at the discretion of the Secretary of Homeland Security).

- 2) **Criminal activity:** Individuals, who have committed crimes of moral turpitude, drug trafficking, multiple criminal convictions, prostitution, aggravated felonies or acts involving persecution or torture.
- 3) **Security grounds:** Espionage, terrorist activity, membership in Communist or other totalitarian parties, Nazi persecution or genocide, or individuals who would present a serious security threat. Refugee applicants must clear a series of biographic and biometric checks prior to final approval.

Waivers of certain grounds of inadmissibility may be available in some cases for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest. Requests for waivers for refugees (Form I-602) should be sent to the Field Office Director of the overseas DHS Office with jurisdiction over the case. DHS has sole authority to determine whether or not to waive these ineligibilities for refugees.

## 5. Submission and Processing via Dossier Selection

The U.S. refugee resettlement programme does not admit refugees by dossier selection. All refugee applicants must be interviewed by a DHS officer.

## 6. Submissions and Processing via In Country Selection

With respect to a person applying in a third country for admission to the United States as a refugee, an initial review is undertaken to evaluate cases based on the applicants' situation in temporary asylum, the conditions from which they have fled, U.S. national interest, and other humanitarian considerations. Applicants who claim persecution or a well-founded fear of persecution and who fall within the priorities established for the relevant nationality or region are presented to DHS for determination of eligibility for admission as a refugee under Section 101(a)(42) of the INA.

### 6.1 Case Documentation

Applicants may submit a variety of documentation to corroborate their claims, such as country conditions reports; death certificates; baptismal certificates; prison records; arrest warrants; affidavits of or letters from government officials, friends or family members, and union, political party, or organization membership cards. Refugees are often unable to provide documentary evidence, however, due to the circumstances that give rise to flight. In such cases, testimony, if credible, may be enough to establish eligibility for refugee status without corroborating evidence. If documents are presented, they are reviewed by the interviewing officer for content and authenticity.

### 6.2 Routing of Submissions

All refugee applicants must ultimately be interviewed by a DHS Officer. USG-funded **Resettlement Support Centers (RSCs)**, previously known as Overseas Processing Entities (OPEs), usually managed by resettlement agencies or IOM, prepare cases and schedule interviews within their regions.

Some processing locations have DHS officers permanently assigned who may adjudicate refugee applications (e.g. Rome, Nairobi, Accra, Vienna, Moscow, Athens, Bangkok, New Delhi, Havana, and Mexico City, among other locations).

In locations that do not have a regular DHS presence, the USG and the RSC work together to schedule visits from DHS officers on a circuit ride basis. The vast majority of refugee adjudications are conducted by DHS officers on circuit ride, and the U.S. refugee admissions programme is committed to frequent circuit rides to posts where there are sufficient numbers of UNHCR- and Embassy-referred cases or others who are eligible.

For those cases approved by DHS, the RSCs make preparation for onward movement to the United States by arranging medical examinations and a resettlement agency sponsor. IOM makes travel arrangements once the final clearances have been obtained.

### 6.3 Decision-Making Process

Section 207 of the INA grants the Secretary of Homeland Security the authority to admit, at his/her discretion, any refugee who is not firmly resettled in a third country, who is determined to be of special humanitarian concern, and who is admissible to the United States.

The authority to determine eligibility for refugee status has been delegated to DHS/USCIS. USCIS officers conduct non-adversarial, face-to-face interviews of each applicant to elicit information about the applicant's claim for refugee status and any grounds of ineligibility. U.S. Customs and Border Protection (CBP) screens arriving refugees for admission at the port of entry.

### 6.4 Recourse Processing

There is no formal procedure for appealing the denial of refugee status, although an applicant may file a "request for review" of his case to DHS on the basis of additional evidence or information not available at the time of the interview.

### 6.5 Processing Times

The time required to process a refugee claim varies considerably based on such factors as the availability of a DHS officer to adjudicate the claim, RSC processing capabilities, type of security checks required, and whether an applicant is admissible to the United States. A very rough estimate of the time it takes from DHS approval of the refugee application until departure is generally 4 to 6 months. Emergency cases may be expedited and have occasionally been processed in a very short time, depending on the circumstances

## 7. Emergency Cases/Urgent Cases

U.S. capacity to resettle emergency cases is limited by stringent security clearance procedures, the regulatory requirement for a face-to-face interview with all applicants, and enhanced protocols for detecting and treating tuberculosis overseas. The U.S. does not have a quota for emergency or urgent cases, and does not have a specific processing timeframe for such cases, but under certain circumstances can process urgent cases in 8-10 weeks.

In most cases, the U.S. will encourage UNHCR to transport a case to an Emergency Transit Facility (ETF) for U.S. processing if protection-related concerns require the individual to depart the country of asylum in less than 8-10 weeks.

## 8. Special Categories/Special Needs

The U.S. does not have sub-quotas dedicated to specific needs cases, and accepts UNHCR referrals of all types of special needs cases without imposing a numerical cap.

## 9. Medical Requirements

The **Centers for Disease Control and Prevention (CDC)** provides the Department of State with medical screening guidelines for all examining physicians, which outline in detail the scope of the medical examination for U.S.-bound refugees. The purpose of the medical examination is to identify applicants with health-related conditions that render them inadmissible to the United States.

Medical screening is mandatory for all refugees. Medical exams are performed by U.S. Embassy-contracted panel physicians or by IOM. The costs for medical exams are borne by the USG. Costs for medical treatment necessary to make an already approved refugee ready for travel are usually paid by the USG. Medical exams are valid for 3 months, 6 months or 1 year, depending on the location and the TB classification, and must be valid at the time of departure for the U.S. Screening is generally coordinated by the RSC.

A refugee who is determined (in accordance with regulations prescribed by the Secretary of Health and Human Services) to have a communicable disease of public health significance; a physical or mental disorder and behavior associated with the disorder that may pose, or has posed, a threat to the property, safety, or welfare of the alien or others; or is determined to be a drug abuser or addict, is excludable. As of January 4, 2010, HIV infection is no longer an excludable condition. A waiver for the above excludabilities is available and must be approved by USCIS.

The U.S. provides pre-departure presumptive treatments in certain locations. In FY 2011, this includes presumptive treatment for malaria and parasites in some locations. Although refugees are not required to receive vaccinations prior to departure, the U.S. administers vaccines in locations where an outbreak of disease, such as measles, occurs in a refugee camp or other location where U.S. refugee processing is taking place.

## 10. Orientation (pre-departure)

The Department of State strives to ensure that refugees who are accepted for admission to the United States are prepared for the significant life changes they will experience by providing cultural orientation programs prior to departure for the United States. It is critical that refugees arrive with a realistic view of what their new lives will be like, what services are available to them, and what their responsibilities will be.

Resettlement Support Centers (RSCs) conduct one-to-five day pre-departure cultural orientation classes for eligible refugees at sites throughout the world. In an effort to further bridge the information gap, for certain groups, brief video presentations featuring the experience of recently resettled refugees of the same ethnic group are made available to refugee applicants overseas.

Prior to arrival in the United States, every refugee family receives *Welcome to the United States*, a resettlement guidebook developed with contributions from refugee resettlement workers, resettled refugees, and state government officials. *Welcome to the United States* is printed in 17 languages: Albanian, Amharic, Arabic, Bosnian/Croatian/Serbian, English, Farsi, French, Karen, Karenni, Kirundi, Kiswahili, Nepali, Russian, Somali, Spanish, Tigrinya, and Vietnamese. The guidebook gives refugees accurate information about the initial resettlement process. The *Welcome to the United States* refugee orientation video is available in 17 languages: Af-Maay, Arabic, Bosnian/Croatian/Serbian, English, Farsi, French, Hmong, Karen, Karenni, Kirundi, Kiswahili, Nepali, Russian, Somali, Spanish, Tigrinya, and Vietnamese.

## 11. Travel

Refugees approved by DHS generally enter the United States within four to six months of final approval. Travel is coordinated by IOM, which generally provides interest-free loans for the cost of their transportation to the United States. (A refugee is expected to begin incremental repayment of this loan six months after arrival in the United States, and the total amount is expected to be repaid within 3 1/2 years.) Refugees generally travel coach class and must pay for excess luggage. Refugees carry travel papers prepared by the RSC which they must present to DHS officials at the port of entry to the United States.



## 12. Status on Arrival and the Path to Citizenship

At the U.S. port of entry, refugees are admitted to the United States by DHS officials and authorized employment. After one year, a refugee must file for adjustment of status to lawful permanent resident. Five years after admission, a refugee is eligible to apply for U.S. citizenship.

Refugees who wish to travel abroad before adjusting to Lawful Permanent Resident Status must first obtain advance permission to re-enter the United States from DHS in the form of a Refugee Travel Document. Voluntary return to the country of persecution or availing oneself of services of that country's Government (e.g. passports) may affect the individual's refugee status. The USG does not impede voluntary repatriation, but USG funding is not generally available for refugees wanting to repatriate. Private organizations and UNHCR may be able to assist refugees who choose to repatriate.

## 13. Domestic Settlement and Community Services

### 13.1 Overview of Services (providers and length of eligibility)

The U.S. resettlement program recognizes the desirability for public and private non-profit organizations to provide sponsorship, reception and placement services appropriate to refugees' personal circumstances, and to assist refugees to achieve economic self-sufficiency as quickly as possible. Sponsoring agencies are required to ensure that refugees' basic needs are met: initial housing, essential furnishings and supplies, food or a food allowance, and necessary clothing for a minimum of 30 days after arrival in the United States. Further, sponsoring agencies also provide assistance to access benefits and services, assistance with enrollment in English language training, transportation to job interviews and job training, and orientation about services available in the community and life in the U.S. (employment opportunities, vocational training, education, language classes, personal budgeting, safety, legal requirements, and health care) for a period of no less than 30 days that may be extended up to 90 days after arrival.

Initial reception and placement of refugees is carried out by sponsoring agencies through cooperative agreements with the **Department of State**. Longer term resettlement resources are provided primarily through assistance programs funded by the **Office of Refugee Resettlement (ORR) in the Administration of Children and Families**, Department of Health and Human Services. ORR supports domestic resettlement through funds to states, voluntary agencies and community based organizations to provide for cash and medical assistance, employment and social services. The primary ORR grantees may sub-grant local non-profit organizations, county, and local governments. Private organizations and individuals, such as relatives or friends of the refugee or concerned citizens, may also assist with the refugee's resettlement.

### 13.2 Reception

An IOM representative meets the refugee at his/her port of entry and when necessary, ensures he/she makes his/her onward travel connections. Sponsoring agencies meet the refugees at their final U.S. destination and transport them to their initial housing, which includes furnishings and supplies, food, clothing. The sponsoring agencies provide basic services for a period of no less than 30 days that may be extended up to 90 days.

### 13.3 Orientation

The U.S. resettlement program strives to ensure that refugees who are admitted to the United States are prepared for the significant changes they will experience during resettlement. Pre-departure cultural orientation programs are available for refugees at many sites around the world.

After arrival in the United States, the sponsoring agency provides refugees with community orientation, which includes information about the role of the sponsoring agency and those assisting the refugee, public services and facilities, personal and public safety, public transportation, standards of personal hygiene, the importance of learning English, other services available, personal finance, and information about legal status, citizenship, travel loan repayment, selective service, and family reunification procedures.

Refugees may also receive materials in their native language which provide information about life in the United States to ease the transition to a new society and culture. ORR provides technical assistance in domestic cultural orientation to promote and enhance community orientation and supports English language training by funding ESL programs and/or referral activities.

### **13.4 Housing**

Under the guidelines established for reception and placement services by the Department of State, the resettlement agencies ensure that decent, safe and sanitary accommodation, according to U.S. federal housing quality standards, is made available to the refugee upon arrival.

Refugees reuniting with family may spend some time at their relative's accommodation. ORR provides cash assistance to eligible refugees to cover basic needs such as food, clothing, and housing up to eight months. Within the current code of Federal Regulations, ORR extends social services funding to cover housing expenses.

### **13.5 Health**

Resettlement agencies refer refugees to local health services for a comprehensive health assessment upon arrival in order to identify and treat health problems which might impede employment and effective resettlement. This assessment is provided free of charge. Refugees are eligible to apply for Medicaid or **Refugee Medical Assistance (RMA)** provided by ORR to cover basic health care costs. ORR ensures medical screening for all refugees through RRMA or Medicaid. ORR covers health and mental health needs of eligible refugees up to eight months through the RMA program. RMA provides medical services to those refugees ineligible for Medicaid.

### **13.6 Language Training**

English language ability is critical to a refugee's successful transition in American society. English as a Second Language (ESL) training programs vary among communities. The local resettlement agency is the best source of information about the availability of such programs. ORR funds a technical assistance provider to promote and support English language training.

### **13.7 Education**

Public schools in the United States are operated by local governments so curriculum and facilities vary. Public school education is free for grades Kindergarten to 12 (approximately ages 5 to 18) and is mandatory for children ages 6 to 16. The resettlement agency will be able to provide more information about school registration and other educational resources in the community. ORR supports the integration of refugee children into the American school system through a refugee school impact grant to refugee impacted areas.

### **13.8 Vocational Training**

Refugees should be aware that job mobility in the United States is great and that refugees frequently change jobs as technical skills and English ability improve. Refugees should also be aware that foreign job certification is often not valid in the United States and that further training, testing, and/or certification may be necessary for some jobs. Vocational and technical schools train people for special skilled occupations, such as auto mechanics,

computer programming, and medical and dental assistants. These programs require varying levels of English language ability and often require payment. The local resettlement agency will be able to provide more information about the availability and cost of such programs.

### **13.9 Employment-related training**

ORR employability training services are designed to enable refugees to achieve economic self-sufficiency as soon as possible. Employment related training can include: the development of a self-sufficiency plan, job orientation, job development, job referral, placement, follow-up, English language training, and employability assessment services to include aptitude and skills testing. In addition, services can include career laddering and recertification activities for refugee professionals seeking to fulfill their full career potential.

### **13.10 Employment**

Achieving economic self-sufficiency is the cornerstone of the U.S. resettlement program and getting a job is the first step toward that goal. Many jobs available to newly-arrived refugees are entry-level and refugees are encouraged to improve their language and job skills in order to move up the economic ladder. Refugees receive assistance from the resettlement agency or other employment service program in their community in finding a job, though it may not be in the same field in which the refugee was previously employed. Refugees must have documentation authorizing employment, such as the I-94 form, which they receive from DHS upon arrival, or an Employment Authorization Document (EAD), which they receive from DHS 30 days or more after arrival. The Matching Grant program funded by ORR is particularly focused on intensive case management employability services in support of early self-sufficiency. ORR also provides technical assistance to expand and promote employment opportunities.

### **13.11 Financial Assistance**

The U.S. resettlement program is a public-private partnership. The Department of State provides the sponsorship agency \$1,800 per refugee to provide for their basic needs and core services. Of the \$1,800 per capita funding, \$1,100 must be spent directly on refugees. While affiliates must spend at least \$900 on each refugee, they may choose to allocate up to \$200 of the \$1,100 on other more vulnerable refugees. Federal funding is only intended to provide a portion of the resources needed to serve the refugee. Each sponsoring agency and its affiliates raise private resources, both cash and in-kind, to further address the individual needs of each refugee. The Department of Health and Human Services is the primary funding source in providing financial assistance to states, counties, and local non-profits to assist refugees become economically self-sufficient as quickly as possible. States, counties, non-profits, and communities provide additional resources to support such programs. Refugees are eligible to apply for public benefits, cash or food assistance, to cover a portion of their expenses. The level of benefits varies state by state.

### **13.12 Supplemental Support for Refugee with Special Needs**

The Department of State refugee per capita funding provides \$200 that a local sponsoring agency can utilize for individual refugees with special needs. Additionally, each community in which refugees are resettled is unique, with different strengths and weaknesses. Recognizing this, each sponsoring agency and its affiliates work to determine the most appropriate placement for each refugee, so that that location best matches the individualized needs of that refugee. Once a placement is determined the local affiliate works with other community partners to prepare for the special needs of the refugee. The Department of Health and Human Services programs and discretionary funding allow for the creation of programs to address the diverse needs of refugees and the communities.

### 13.13 Mechanism for sharing information with service providers; including details on expected populations, specific cases, and integration issues

The Department of State shares information about expected populations for resettlement with other federal partners, the sponsoring agencies, and states on an annual and quarterly basis. They in turn provide this information to other service providers. Background information and cultural information is published on certain refugee populations planned for resettlement, which include integration issues. Specific case information is provided to service providers through the Department of State comprehensive database. This gives individual biographic data on each refugee to the sponsoring agency that will resettle the refugee and may be shared with other service providers who will serve that specific case. Pipeline information is available to sponsoring agencies, states, and federal partners. Individual medical data is provided to the Department of Health and Human Services upon arrival of each refugee to ensure appropriate follow-up. Sponsoring agencies, through this database, then provide a status report on each individual refugee at the end of their reception and placement period.

## 14. Family Reunification of Refugees

Family unity is an important element of the U.S. refugee admissions programme. This is reflected in the processing priorities discussed in Section 4, as well as in other refugee and immigrant admissions programmes detailed below.

### 14.1 National Definition of Family

For U.S. immigration purposes, the validity of a marriage is generally determined by the law in the place of celebration.

There are certain exceptions to that rule. For example, refugees may be prevented from complying with formal marriage registration requirements based on circumstances resulting from their flight from persecution. If a marriage is invalid based on a failure to comply with formal registration requirements, a marriage may still be valid for U.S. immigration purposes if the parties were prevented from formal perfection of the marriage due to circumstances relating to their flight from persecution. Examples of circumstances beyond a couple's control and relating to the flight from persecution would include inability to access host country institutions due to refugee camp policies or conditions, discriminatory government policies or practices, and other consequences of the flight from persecution. A couple who has been prevented from formal perfection of the marriage must also show other indicia of a valid marriage. The relevant considerations may include: holding themselves out to be spouses, cohabitation over a period of time, children born to the union, and the performance of a marriage ceremony.

Common law marriages may be accepted for U.S. immigration purposes if the law of the place of celebration allows a couple to marry by agreement, without formal ceremony, licensing, or registration requirements, and recognizes the relationship as a legally valid marriage. However, common law marriages that are not legal in the place of celebration and are simply de facto cohabitation would not be considered a marriage for immigration purposes under U.S. law.

USCIS does not recognize a marriage legally transacted in a foreign jurisdiction if the marriage is contrary to Federal public policy. This includes polygamous marriages, same sex marriages and some minor marriages.

According to the U.S. Immigration and Nationality Act (INA) Section 101(a)(35): The term [terms] "spouse," "wife," or "husband" do not include a spouse, wife or husband by reason of any marriage ceremony where the contracting parties thereto are not physically present in the presence of each other, unless the marriage shall have been consummated.

According to INA Section 101(b)(1)(A)-(E):

- (1) The term "**child**" means an unmarried person under twenty-one years of age who is:
- (A) a child born in wedlock;
  - (B) a stepchild, whether or not born out of wedlock, provided the child had not reached the age of eighteen years at the time the marriage creating the status of stepchild occurred;
  - (C) a child legitimated under the law of the child's residence or domicile, or under the law of the father's residence or domicile, whether in or outside the United States, if such legitimation takes place before the child reaches the age of eighteen years and the child is in the legal custody of the legitimating parent or parents at the time of such legitimation;
  - (D) a child born out of wedlock, by, through whom, or on whose behalf a status, privilege, or benefit is sought by virtue of the relationship of the child to its natural mother or to its natural father if the father has or had a bona fide parent-child relationship with the person;
  - (E) (i) a child adopted while under the age of sixteen years if the child has been in the legal custody of, and has resided with, the adopting parent or parents for at least two years or if the child has been battered or subject to extreme cruelty by the adopting parent or by a family member of the adopting parent residing in the same household: Provided, that no natural parent of any such adopted child shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act; or
    - (ii) subject to the same proviso as in clause (i), a child who:
      - (I) is a natural sibling of a child described in clause (i) or subparagraph (F)(i);
      - (II) was adopted by the adoptive parent or parents of the sibling described in such clause or subparagraph; and
      - (III) is otherwise described in clause (i), except that the child was adopted while under the age of 18 years;

Certain family members may join relatives in the United States by one of the following means:

- **A UNHCR referral** for the purpose of family reunification (Such referrals follow the procedures outlined in Section 6).
- **An Affidavit of Relationship (AOR):** An AOR is a form filed with a resettlement agency by refugees, permanent residents, or American citizens to establish a relationship in order to qualify for consideration under the priority three, family reunification category.
- **Visa 93:** A resettlement authorization for the spouse and unmarried children under 21 of a refugee already resident in the United States.
- **Visa 92:** A resettlement authorization for the spouse and unmarried children under 21 of an asylee already resident in the United States.
- **Regular immigration:** Refugees may also qualify for admission under regular immigration categories if they have the requisite relatives in the United States.

## 14.2 Family Reunification Eligibility

Use of an AOR requires that the relative applying for U.S. resettlement establish refugee status in his own right and be otherwise admissible for entry into the United States, as determined by DHS. An acceptable AOR permits an applicant to be considered under Priority 3. A Visa 93 or Visa 92 petitioner must establish proof of relationship (spouse or unmarried child under 21). While immediate family members do not need to qualify as refugees in their own right in order to be eligible for Visas 92 or 93 and may still be situated in their countries of origin, they must demonstrate that they meet the required standards regarding admissibility to the U.S.

### 14.3 Allocations for Family Reunification

All family reunification cases, whether direct applicants, UNHCR referrals or Visas 93 beneficiaries, count against the annual regional refugee admissions ceiling. Visas 92 beneficiaries do not count against the annual admissions ceiling.

### 14.4 Routing of Applications

UNHCR referrals for the purpose of family reunification follow the procedures outlined in Section 6.

- AOR: A relative in the United States files an AOR with a local branch of one of eleven resettlement agencies with a cooperative agreement with the Department of State. If determined to be eligible, routing then follows the procedures outlined in Section 6.
- Visa 93: A refugee in the United States must file Form I-730 (Refugee/Asylee Relative Petition) with DHS on behalf of his/her spouse and minor, unmarried children, along with supporting documentation to verify the relationship. The I-730 must be filed within two years of the refugee's arrival in the U.S.
- Visa 92: An asylee in the United States must also file Form I-730 (Refugee/Asylee Relative Petition) with DHS on behalf of his/her spouse and minor, unmarried children, along with supporting documentation to verify the relationship.

### 14.5 Case Documentation

When the refugee applicant seeks resettlement in the United States through UNHCR based on family ties, such ties may be supported by a marriage and/or birth certificates, certificates of adoption or approved Form I-130s (Petition for Alien Relative). If these documents are unavailable, a church record, school record or census record showing date and place of birth may be acceptable. If the above documentation is unavailable, the applicant may present a notarized voluntary agency Affidavit of Relationship (AOR), sworn statements of persons who are not related to the principal applicant attesting to the relationship claimed, or, if necessary, such affidavits from persons related to the principal applicant. UNHCR need not request that an AOR be filled out when referring a case under Priority One.


### 14.6 Processing Times


The processing timeline for family reunification cases is a bit longer than that for UNHCR-referred cases, as the AOR must be vetted by USCIS prior to commencing RSC pre-screening. The average processing time is 8 months to 1 year. (Note that in FY 2011 the P-3 program remains suspended due to relationship/identity fraud uncovered in 2008 due to DNA testing. The U.S. hopes to re-start the P-3 program later in FY 2011.)

## 15. References/Resources

The following materials are available from any U.S. Embassy that processes refugees or from the Bureau of Population, Refugees, and Migration at the U.S. Department of State.

 Center for Applied Linguistics (CAL). *Welcome to the United States: A Guidebook for Refugees*. 1996. <http://www.cal.org>

 Committee on the Judiciary of the House of Representatives. *Immigration and Nationality Act*, May 1995. <http://www.uscis.gov>

 U.S. Department of State, Department of Homeland Security, Department of Health and Human Services. *Report to the Congress: Proposed Refugee Admissions for Fiscal Year 2011, October 2010*. <http://www.state.gov/documents/organization/148671.pdf>