

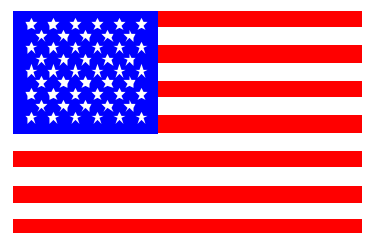
COUNTRY  
CHAPTER

USA

# The UNITED STATES OF AMERICA

BY THE GOVERNMENT OF  
THE UNITED STATES OF AMERICA

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## 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. Admission 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 resettlement programme in conjunction with the Citizenship and Immigration Services (CISDHS) 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 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

Applicants for refugee admission into the United States must meet all of the following criteria:

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

## 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), the American Council for Voluntary International Action (InterAction), 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 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 2004 (1 October 2003 - 30 September 2004):

### **Priority One**

UNHCR or U.S. Embassy 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 a creditable fear of persecution or history of persecution in the country from which they fled. All nationalities are eligible for processing under Priority One.

### **Priority Two:**

#### **Groups of Special Concern:**

–Includes specific groups (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 processing.

Each group will be selected based on its individual circumstances. For example, a priority two designation was developed for the Mushunguli, nationals of Somalia.

In-country Priority Two programs include:

**Cuba –**

Emphasis given to former political prisoners, members of persecuted religious minorities, human rights activists, forced-labor conscripts, 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, dissidents, and other refugees of compelling concern to the United States.

**Former Soviet Union (FSU) –**

Jews, Evangelical Christians, and certain members of the Ukrainian Catholic or Orthodox Churches. Preference among these groups is accorded to those with close family in the United States.

Note: Jews, Evangelical Christians, and Ukrainian Catholic and Orthodox religious activists may establish refugee status for U.S. admission by asserting a fear of persecution and asserting a credible basis of concern about the possibility of such persecution. (Lautenberg Amendment)

**Vietnam –**

McCain amendment programs as well as any new referrals, should they arise.

**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:

- Burma
- Burundi
- Colombia
- Congo (Brazzaville)
- Democratic Republic of the Congo
- Iran
- Liberia
- Somalia
- Sudan

## 5. 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 Attorney General).
2. Criminal activity: Individuals who have committed crimes of moral turpitude, drug trafficking, multiple criminal convictions, prostitution, murder 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 (A name check is required for all refugee applicants over the age of 16. In some cases, this requires administrative processing in Washington). 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 Officer in-Charge 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.

## **6. Submissions and Processing via Dossier Selection**

The U.S. refugee resettlement programme does not admit refugees by dossier selection

## **7. 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.

### **7.1 Case Documentation**

The situation of refugees often makes it difficult for the applicant to produce adequate documentation to verify a claim to a certain priority. Thus, while available documentation should be presented before a final decision is reached (including primary documents such as birth certificates, baptismal records or household registries or secondary evidence such as affidavits of relatives and friends), documents may not be required if the refugee's claim to processing in a certain priority appears credible.

## **7.2 Routing of Submissions**

All refugee applicants must ultimately be interviewed by a DHS Officer. USG-funded Overseas Processing Entities (OPEs), usually managed by voluntary agencies or IOM, prepare cases and schedule interviews within their regions. Some processing locations have DHS officers permanently assigned who may adjudicate refugee applications (including Rome, Nairobi, Accra, Vienna, Moscow, Athens, Bangkok, New Delhi, Havana, Mexico City, Frankfurt, Ho Chi Minh City, and Islamabad). In other locations, which do not have a regular DHS presence, the USG and the OPE work together to schedule visits from DHS officers on a circuit ride basis. 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 OPEs make preparation for onward movement to the United States by arranging medical examinations, security name checks and a resettlement agency sponsor. IOM makes travel arrangements once the final clearances have been obtained.

## **7.3 Decision-Making Process**

Section 207 of the INA grants the Attorney General the authority to determine who is inadmissible to the United States as a refugee. The Attorney General has delegated this authority to DHS. DHS makes the final determination as to admissibility and priority of a refugee applicant after the interview.

## **7.4 Recourse Processing**

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

## **7.5 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, OPE processing capabilities, type of security name checks required, and whether an applicant is admissible to the United States. A very rough estimate of the time from DHS approval of a refugee’s admission to the United States 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

# **8. Emergency Cases**

## **8.1 Emergency Cases**

DHS and the Department of State have agreed to specific procedures for processing limited numbers of emergency cases each year. Emergency cases are defined as cases in which the risk to the refugee is so great that processing must be completed within 7 days.

All such cases must be referred by UNHCR offices in the field to the UNHCR Resettlement Office in Geneva, which refers the case to the designated USG authorities in Washington. Upon acceptance of the case, the USG will initiate processing on an emergency basis.

## **8.2 Urgent Cases**

The U.S. Program tries to be responsive to urgent cases. However, these cases must follow the same procedures outlined in Section 7 above. Processing may be expedited by the USG in appropriate situations.

# **9. Special Categories**

## **9.1 Refugees with Medical Needs**

Such cases may be processed under Priority One, following procedures outlined in Section 7. Refugees with medical needs who fall under other priorities are also eligible, except for limited instances where the medical condition is grounds for exclusion (see Section 5 above).

## **9.2 Survivors of Violence and Torture**

Such cases may be processed under Priority One, following procedures outlined in Section 7.

## **9.3 Women at Risk**

Such cases may be processed under Priority One, following procedures outlined in Section 7.

## **9.4 Children**

Unmarried children under the age of 21 who are accompanying or following to join a refugee parent are eligible for derivative refugee status. Unaccompanied minors may also qualify as refugees if they satisfy all requirements for admission to the United States as refugees. The U.S. refugee admissions programme works with UNHCR to determine whether third-country resettlement is in the best interest of the child.

Unaccompanied minors may be placed in the priority for which their parents would have been eligible if the parents were prevented from applying because of imprisonment, death or other compelling reasons. Only certain authorized voluntary agencies can sponsor unaccompanied minors who are placed in foster care upon arrival in the United States.

## **9.5 Elderly**

Age is not a factor in U.S. refugee admissions.

## 10. 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.

### 10.1 Policy concerning Family Reunification of Refugees

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 7).
- An Affidavit of Relationship (AOR): An AOR is a form filed with a voluntary 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.

### 10.2 Criteria for Family Reunification

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.

### 10.3 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.

### 10.4 Routing of Applications

UNHCR referrals for the purpose of family reunification follow the procedures outlined in Section 7.

- AOR: A relative in the United States files an AOR with a local branch of one of ten voluntary agencies with a (resettlement) cooperative agreement with the Department of State. If determined to be eligible, routing then follows the procedures outlined in Section 7.

- 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.

### **10.5 Verification of Relationships**

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.

### **10.6 Processing and Decision-Making**

AOR: After initial screening of an AOR recipient by the OPE, processing and decision-making generally follows procedures outlined in Section 7.

Visa 92 and Visa 93: After the Department of State's National Visa Center receives an I-730 form approved by DHS, the file is sent to the U.S. Embassy having jurisdiction over the beneficiary's place of residence. Approved Visas 92 and 93 recipients must be interviewed by either a DHS or consular officer and meet other admissions standards (e.g. medical) before departure. Upon arrival in the United States, Visa 93 recipients are granted refugee status while Visa 92 beneficiaries are granted asylee status.

## **11. Medical Requirements**

Medical screening is mandatory for all refugees. Medical exams are performed by U.S. Embassy-contracted 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 normally are valid for 1 year and must be valid at the time of departure for the U.S. Screening is generally coordinated by the processing OPE

## **12. Travel**

Refugees approved by DHS generally enter the United States within four to six months of final approval. Travel is coordinated by IOM. Refugees generally receive interest-free loans for the cost of their transportation through IOM. (A refugee is expected to begin incremental repayment of this loan 6 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 documents prepared by the OPE which they must present to DHS officials at the port of entry to the United States.

## **13. Status on Arrival**

At the U.S. port of entry, DHS admits a refugee to the United States and authorizes employment. After one year, a refugee is eligible for adjustment of status to lawful permanent resident. Five years after admission, a refugee is eligible to apply for U.S. citizenship. Refugees who have not yet adjusted to Lawful Permanent Resident Status who wish to travel abroad must obtain advance permission to re-enter 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, under certain circumstances, be considered abandonment of 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.

## **14. Domestic Settlement and Community Services**

The U.S. resettlement programme recognizes the desirability for public and private nonprofit 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, food or a food allowance, necessary clothing, and transportation to job interviews and job training for a minimum of 30 days after arrival in the United States. Further, sponsoring agencies also provide orientation and information about services available in the community (employment opportunities, vocational training, education, language classes, and health care) for a minimum of 90 days after arrival.

### **14.1 Actors**

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 programmes funded by HHS and local and national non-profit organizations. State, county, and local governments also assist in resettlement efforts. Private sponsors, such as relatives or friends of the refugee, may also assist with the refugee's resettlement.

### **14.2 Orientation**

The U.S. resettlement programme 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 programmes 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 public services and facilities, personal safety, public transportation, standards of personal hygiene, and information about legal status, citizenship 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.

### **14.3 Reception**

An IOM representative meets the refugee at his port of entry and when necessary, ensures he/she makes his onward travel connections. Sponsoring agencies meet the refugees at their final U.S. destination, transport them to their initial living quarters and assist them in obtaining initial housing, furnishings, food, clothing, and basic employment services for a minimum of 30 days.

### **14.4 Housing**

Under the guidelines established for reception services by the Department of State, the resettlement agencies ensure that decent, safe and sanitary accommodation is made available to the refugee upon arrival. Refugees reuniting with family may spend some time at their relative's accommodation.

### **14.5 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 Refugee Medical Assistance (RMA) or Medicaid to cover basic health care costs.

### **14.6 Language Training**

English language ability is critical to a refugee's successful transition in American society. English as a Second Language (ESL) training programmes vary among communities. The local resettlement agency is the best source of information about the availability of such programmes.

### 14.7 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.

### 14.8 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 programmes 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 programmes.

### 14.9 Employment

Achieving economic self-sufficiency is the cornerstone of the U.S. resettlement programme 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 may receive assistance from the resettlement agency 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 an Employment Authorization Document (EAD) and the I-94 form, which they receive from DHS upon arrival.

## 15. Reference Materials

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.
-  Committee on the Judiciary of the House of Representatives. *Immigration and Nationality Act*, May 1995.
-  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 2004*, October 2003.

## Annex A: Current Resettlement Allocations

The following are the FY 2004 projected arrivals by region:

<b>Region</b>	<b>Projected FY 2004 Arrivals</b>	<b>FY 2004 Ceiling</b>
<b>Africa</b>	29,000	25,000
<b>East Asia</b>	7,500	6,500
<b>Europe / Central Asia</b>	10,800	13,000
<b>Latin America/ Caribbean</b>	2,700	3,500
<b>Near East/ South Asia</b>	2,500	2,000
<b>Allocated from Reserve</b>		2,500
<b>TOTAL</b>	52,500	52,500

\* Numbers will be drawn from the unallocated reserve of 20,000 total to augment regional ceilings where necessary.

**Annex B****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.

