



# Refugee Admissions and Resettlement Policy

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## Summary

A refugee is a person fleeing his or her 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. Typically, the annual number of refugees that can be admitted into the United States, known as the refugee ceiling, and the allocation of these numbers by region are set by the President after consultation with Congress at the start of each fiscal year. For FY2013, the worldwide refugee ceiling is 70,000, with 67,000 admissions numbers allocated among the regions of the world and 3,000 numbers comprising an unallocated reserve. An unallocated reserve is to be used if, and where, a need develops for refugee slots in excess of the allocated numbers. The FY2013 regional allocations are, as follows: Africa (12,000), East Asia (17,000), Europe and Central Asia (2,000), Latin America/Caribbean (5,000), and Near East/South Asia (31,000).

Overseas processing of refugees is conducted through a system of three priorities for admission. *Priority 1* comprises cases involving persons facing compelling security concerns. *Priority 2* comprises cases involving persons from specific groups of special humanitarian concern to the United States (e.g., Iranian religious minorities). *Priority 3* comprises family reunification cases involving close relatives of persons admitted as refugees or granted asylum.

Special legislative provisions facilitate relief for certain refugee groups. The “Lautenberg Amendment,” which was first enacted in 1989, allows certain former Soviet and Indochinese nationals to qualify for refugee status based on their membership in a protected category with a credible fear of persecution. In 2004, Congress amended the Lautenberg Amendment to add the “Specter Amendment,” which requires the designation of categories of Iranian religious minorities whose cases are to be adjudicated under the Lautenberg Amendment’s reduced evidentiary standard. Subsequent laws extended the Lautenberg Amendment, as amended by the Specter Amendment. Most recently, the Consolidated and Further Continuing Appropriations Act, 2013 (P.L. 113-6) extends the Lautenberg Amendment through September 30, 2013.

The Department of Health and Human Services’ Office of Refugee Resettlement (HHS/ORR) administers an initial transitional assistance program for temporarily dependent refugees and Cuban/Haitian entrants. The final FY2013 appropriation for refugee and entrant assistance in P.L. 113-6 is \$1.016 billion; after adjustments for the rescission and the sequestration, FY2013 funding totals \$999.4 million.

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## Background and Definitions

The admission of refugees to the United States and their resettlement here are authorized by the Immigration and Nationality Act (INA), as amended by the Refugee Act of 1980.<sup>1</sup> The 1980 Act had two basic purposes: (1) to provide a uniform procedure for refugee admissions; and (2) to authorize federal assistance to resettle refugees and promote their self-sufficiency. The intent of the legislation was to end an ad hoc approach to refugee admissions and resettlement that had characterized U.S. refugee policy since World War II.

Under the INA, a *refugee* is a person who is outside his or her country and who is unable or unwilling to return 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.<sup>2</sup> In special circumstances, a refugee also may be a person who is within his or her country and who is persecuted or has a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion. Excluded from the INA definition of a refugee is any person who participated in the persecution of another.<sup>3</sup>

Refugees are processed and admitted to the United States from abroad. The Department of State (DOS) handles overseas processing of refugees and U.S. Citizenship and Immigration Services (USCIS) of the Department of Homeland Security (DHS) makes final determinations about eligibility for admission. Separate provision is made in the INA for the granting of *asylum* on a case-by-case basis to aliens who are physically present in the United States or at a land border or port of entry and who meet the definition of a refugee.<sup>4</sup> After one year in refugee status in the United States, refugees are required to apply to adjust to lawful permanent resident (LPR) status.<sup>5</sup>

## Refugee Admissions

The United States aims to consider for resettlement at least half of the refugees referred by the United Nations High Commissioner for Refugees (UNHCR) for resettlement worldwide each year, depending on the availability of funding. By law, the annual number of refugee admissions and the allocation of these numbers by region of the world are set by the President after consultation with Congress.<sup>6</sup> Each year, the President submits a report to the House of Representatives and the Senate, known as the *consultation document*, which contains the Administration's proposed worldwide refugee ceiling and regional allocations for the upcoming fiscal year.<sup>7</sup> Following congressional consultations on the Administration's proposal, the

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<sup>1</sup> The INA is Act of June 27, 1952, ch. 477, codified, as amended, at 8 U.S.C. §§1101 *et seq.* The Refugee Act is P.L. 96-212, March 17, 1980.

<sup>2</sup> This definition conforms with the definition used in the United Nations Convention and Protocol relating to the status of refugees.

<sup>3</sup> INA §101(a)(42).

<sup>4</sup> For further information on asylum, see CRS Report R41753, *Asylum and "Credible Fear" Issues in U.S. Immigration Policy*, by Ruth Ellen Wasem.

<sup>5</sup> INA §209(a). Asylees (those granted asylum) may apply for LPR status after one year, but are not required to do so. There are no numerical limitations on refugee or asylee adjustments of status.

<sup>6</sup> INA §207(a).

<sup>7</sup> The consultation document for FY2013 is U.S. Department of State, U.S. Department of Homeland Security, and U.S. Department of Health and Human Services, *Proposed Refugee Admissions for Fiscal Year 2013: Report to the* (continued...)

President issues a Presidential Determination setting the refugee numbers for that year.<sup>8</sup> **Table 1** shows refugee admissions ceilings and regional allocations for FY2002-FY2013.

The U.S. refugee program was greatly impacted by the terrorist attacks of September 11, 2001. In the aftermath of those attacks, a review of refugee-related security procedures was undertaken, refugee admissions were briefly suspended, and enhanced security measures were implemented. As a result of these and other factors, actual refugee admissions plunged, declining from an FY2001 total of 69,886 to an FY2002 total of 27,131 and an FY2003 total of 28,403 (see last row of **Table 1** for actual admissions since FY2002).<sup>9</sup>

Admissions have rebounded since FY2002 and FY2003, totaling over 70,000 in each of FY2009 and FY2010. As shown in **Table 1**, however, there were significantly lower levels of admissions in FY2011 (56,424) and FY2012 (58,238). The FY2013 consultation document attributed the shortfalls in refugee arrivals in FY2011 and FY2012 largely to new security requirements and anticipated a rebound in FY2013:

In the last several years, USRAP [the U.S. Refugee Admissions Program] has incorporated additional security enhancements to safeguard the resettlement program from fraud and national security risks. These changes led to delays in bringing refugees to the United States and the delays, in turn, resulted in a decreased number of refugee arrivals in FY 2011 and 2012. In FY 2010, the United States admitted over 73,000 refugees. That number dipped to just over 56,000 in FY 2011 and this year's [FY2012] admissions total will be only slightly higher. Strides have been made throughout FY 2012 to improve interagency cooperation and streamline other parts of the process so that bona fide refugees gain entry to the United States. Because improvements to the security checks were not implemented until March 2012, refugee arrivals lagged in the early part of the fiscal year and began to increase in May 2012. Since then, arrivals have steadily risen. Increases are expected to continue in August and September [2012] and arrival numbers in FY 2013 should be closer to the proposed ceiling.<sup>10</sup>

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(...continued)

*Congress*, <http://www.state.gov/documents/organization/198157.pdf> (hereinafter cited as *Proposed Refugee Admissions for Fiscal Year 2013*).

<sup>8</sup> Asylees are not included in the refugee ceiling. There are no numerical limitations on the granting of asylum.

<sup>9</sup> Refugee admissions had not been at or below the FY2002 or FY2003 levels since FY1977, when admissions totaled about 20,000. From FY1979 through FY2001, annual refugee admissions totaled more than 60,000. For annual data on refugee admissions by region since FY1987, see the **Appendix** at the end of this report.

<sup>10</sup> *Proposed Refugee Admissions for Fiscal Year 2013*, pp. iv-v.

**Table I. Refugee Admissions Ceilings and Regional Allocations, FY2002-FY2013**

Region	FY2002	FY2003	FY2004	FY2005	FY2006	FY2007	FY2008	FY2009	FY2010	FY2011	FY2012	FY2013
Africa	22,000	20,000	30,000 <sup>b</sup>	21,000 <sup>c</sup>	20,000	22,000	16,000	12,000	15,500	15,000	12,000	12,000
East Asia	4,000	4,000	8,500 <sup>b</sup>	13,000	15,000	16,000 <sup>d</sup>	20,000	20,500 <sup>f</sup>	18,000 <sup>g</sup>	19,000	18,000	17,000
Europe and Central Asia <sup>a</sup>	26,000	16,500	13,000	15,500 <sup>c</sup>	15,000	6,500	3,000	2,500	2,500	2,000	2,000	2,000
Latin America/Caribbean	3,000	2,500	3,500	7,000 <sup>c</sup>	5,000	5,000	5,000 <sup>e</sup>	5,500 <sup>f</sup>	5,500 <sup>g</sup>	5,500	5,500	5,000
Near East/South Asia	15,000	7,000	3,000 <sup>b</sup>	3,500 <sup>c</sup>	5,000	9,000 <sup>d</sup>	28,000	39,500 <sup>f</sup>	38,000 <sup>g</sup>	35,500	35,500	31,000
Unallocated	—	20,000	12,000 <sup>b</sup>	10,000 <sup>c</sup>	10,000	11,500 <sup>d</sup>	8,000 <sup>e</sup>	— <sup>f</sup>	500	3,000	3,000	3,000
<b>Total ceilings</b>	<b>70,000</b>	<b>70,000</b>	<b>70,000</b>	<b>70,000</b>	<b>70,000</b>	<b>70,000</b>	<b>80,000</b>	<b>80,000</b>	<b>80,000</b>	<b>80,000</b>	<b>76,000</b>	<b>70,000</b>
Actual admissions	27,131	28,403	52,873	53,813	41,223	48,282	60,191	74,654	73,311	56,424	58,238	NA

**Sources:** For ceiling and allocation data: PD 2000-32, September 29, 2000; PD 02-04, November 21, 2001; PD 03-02, October 16, 2002; PD 2004-06, October 21, 2003; PD 2004-53, September 30, 2004; PD 2006-3, October 24, 2005; PD 2007-1, October 11, 2006; PD 2008-1, October 2, 2007; PD 2008-29, September 30, 2008; PD 2009-32, September 30, 2009; PD 2011-02, October 8, 2010; PD 2011-17, September 30, 2011; PD 2012-17, September 28, 2012. U.S. Department of State, U.S. Department of Justice, and U.S. Department of Health and Human Services, *Proposed Refugee Admissions ...*, Fiscal Years 2002-2013. For actual admissions data: U.S. Department of State, Bureau of Population, Refugees and Migration.

- a. For FY2002-FY2003, separate sub-allocations were provided for the former Yugoslavia and the Former Soviet Union (FSU); they are combined here.
- b. Of the FY2004 ceiling of 70,000, 50,000 numbers were originally allocated by region and 20,000 were unallocated. The unallocated reserve was tapped during the year to provide 8,000 additional numbers to Africa, East Asia, and Near East/South Asia.
- c. Of the FY2005 ceiling of 70,000, 50,000 numbers were originally allocated by region and 20,000 were unallocated. The unallocated reserve was tapped during the year to provide 10,000 additional numbers to Africa, Europe and Central Asia, Latin America/Caribbean, and Near East/South Asia.
- d. Of the FY2007 ceiling of 70,000, 50,000 numbers were originally allocated by region and 20,000 were unallocated. The unallocated reserve was tapped during the year to provide 8,500 additional numbers to East Asia and Near East/South Asia.
- e. Of the FY2008 ceiling of 80,000, 70,000 numbers were originally allocated by region and 10,000 were unallocated. The unallocated reserve was tapped during the year to provide 2,000 additional numbers to Latin America/Caribbean.
- f. Of the FY2009 ceiling of 80,000, 75,000 numbers were originally allocated by region and 5,000 were unallocated. The unallocated reserve was tapped during the year to provide 5,000 additional numbers to East Asia, Latin America/Caribbean, and Near East/South Asia.
- g. Of the FY2010 ceiling of 80,000, 75,000 numbers were originally allocated by region and 5,000 were unallocated. The unallocated reserve was tapped during the year to provide 4,500 additional numbers to East Asia, Latin America/Caribbean, and Near East/South Asia.

## **FY2013 Refugee Ceiling and Allocations**

On September 28, 2012, President Obama signed the Presidential Determination setting the FY2013 worldwide refugee ceiling and regional levels.<sup>11</sup> As indicated in **Table 1**, the FY2013 ceiling is 70,000. The ceiling and allocations in the FY2013 Presidential Determination are identical to those in the FY2013 consultation document.

The FY2013 refugee ceiling of 70,000 includes 67,000 admissions numbers allocated among the regions of the world and an unallocated reserve of 3,000 numbers. An unallocated reserve is to be used if, and where, a need develops for refugee slots in excess of the allocated numbers. This has occurred in recent years, as detailed in **Table 1**.

Africa has been allocated 12,000 refugee admissions numbers for FY2013. The FY2012 allocation to the region was also 12,000, and FY2012 admissions totaled 10,608.<sup>12</sup> For Africa, as for all regions, the FY2013 allocation is intended to cover previously approved refugees in the pipeline as well as new cases. FY2013 admissions are expected to come primarily from East and Southern Africa and to include Somalis and Eritreans, among others.

East Asia's FY2013 allocation is 17,000, compared to an FY2012 allocation of 18,000. FY2012 admissions totaled 14,366. FY2013 admissions are expected to consist primarily of Burmese refugees living in Thailand and Malaysia.

Europe and Central Asia have a combined FY2013 allocation of 2,000 refugee numbers, the same as in FY2012. In FY2012, admissions totaled 1,129. The 2013 allocation includes projected admissions of "Lautenberg Amendment" cases from the former Soviet Union (discussed below).

The FY2013 allocation for Latin America and the Caribbean is 5,000, compared to an FY2012 allocation of 5,500. FY2012 admissions totaled 2,078. Cubans account for the vast majority of admissions from this region.

The Near East/South Asia FY2013 allocation is 31,000, a decrease from the FY2012 allocation of 35,500. FY2012 admissions totaled 30,057. FY2013 admissions are expected to include Iraqis, Bhutanese, Iranians, Pakistanis, and Afghans.

## **Refugee Processing Priorities**

DOS is responsible for overseas processing of refugees. Generally, it arranges for a non-governmental organization (NGO), an international organization, or U.S. embassy contractors to manage a Resettlement Support Center (RSC) that assists in refugee processing. RSC staff conduct pre-screening interviews of prospective refugees and prepare cases for submission to USCIS, which handles refugee adjudications. Overseas refugee processing is conducted through a system of three priorities for admission. These priorities are separate and distinct from whether such persons qualify for refugee status.

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<sup>11</sup> U.S. President [Obama], "Fiscal Year 2013 Refugee Admissions Numbers and Authorizations of In-Country Refugee Status ...," Presidential Determination No. 2012-17 of September 28, 2012, 77 *Federal Register*, pp. 61507-61508, October 10, 2012.

<sup>12</sup> See **Appendix** for annual refugee admissions numbers by region since FY1987.

*Priority 1* covers refugees for whom resettlement seems to be the appropriate durable solution, who are referred to the U.S. refugee program by UNHCR, a U.S. embassy, or a designated NGO. Such persons often have compelling protection needs, and may be in danger of attack or of being returned to the country they fled. All nationalities are eligible for this priority.

*Priority 2* covers groups of special humanitarian concern to the United States. It includes specific groups that may be defined by their nationalities, clans, ethnicities, or other characteristics. Unlike Priority 1 cases, individuals falling under Priority 2 are able to access the U.S. refugee program without a UNHCR, embassy, or NGO referral. Some P-2 groups, such as Cuban dissidents and certain former Soviet nationals (“Lautenberg Amendment” cases, discussed below), are processed in their country of origin. Other Priority 2 groups are processed outside their country of origin. These include Iranian religious minorities (“Specter Amendment” cases, discussed below) processed in Austria and Turkey, and Burmese in refugee camps in Thailand. Another P-2 group, Iraqis associated with the United States, is eligible for in-country processing in Iraq as well as processing outside that country.<sup>13</sup>

*Priority 3* covers family reunification cases. Refugee applications under Priority 3 are based upon an *affidavit of relationship* (AOR) filed by an eligible relative in the United States. The Priority 3 program is limited to designated nationalities. For FY2013, Priority 3 processing is available to nationals of 22 countries.<sup>14</sup> Individuals falling under Priority 3, like those falling under Priority 2, are able to access the U.S. refugee program without a UNHCR, embassy, or NGO referral.

The Priority 3 program has changed over the years. Since FY2004, qualifying family members have been the spouses, unmarried children under age 21, and parents of persons who were admitted to the United States as refugees or granted asylum.<sup>15</sup> On October 22, 2008, the U.S. refugee program stopped accepting applications under Priority 3.<sup>16</sup> Earlier in 2008, processing of Priority 3 cases was suspended in certain locations in Africa “due to indications of extremely high rates of fraud obtained through pilot DNA testing.”<sup>17</sup> Priority 3 processing resumed at the beginning of FY2013 with a new AOR form and requirement for DNA evidence of certain claimed biological parent-child relationships. According to the FY2013 consultation document,

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<sup>13</sup> The Refugee Crisis in Iraq Act of 2007 (Division A, Title XII, Subtitle C of P.L. 110-181, January 28, 2008) designates certain Iraqis for P-2 processing.

<sup>14</sup> The countries are Afghanistan, Bhutan, Burma, Burundi, Central African Republic, Chad, Colombia, Cuba, Democratic People’s Republic of Korea (DPRK), Democratic Republic of Congo (DRC), Eritrea, Ethiopia, Haiti, Iran, Iraq, Republic of Congo (ROC), Somalia, South Sudan, Sri Lanka, Sudan, Uzbekistan, and Zimbabwe. *Proposed Refugee Admissions for Fiscal Year 2013*, p. 13.

<sup>15</sup> During the late 1990s, the State Department found that a large number of Priority 3 applications were received from persons who did not qualify for refugee status and that there was a significant amount of fraud associated with these applications. To address these problems, the U.S. government reduced the number of nationalities eligible for such refugee slots. For FY2003, four nationalities were eligible for Priority 3 processing. For FY2004, the Priority 3 program was revised on a pilot basis. To simultaneously broaden access to the program and continue to address concerns about fraud, the number of eligible nationalities was increased to nine, while the types of qualifying relationships were restricted. As noted above, eligibility for Priority 3 currently requires a qualifying relationship with an individual who was admitted to the United States as a refugee or granted asylum. Prior to FY2004, this processing priority was available to those with qualifying relationships with a much wider range of legal U.S. residents without regard to how these residents gained admission to the United States. In another change, since FY2004, children have to be under age 21 to be eligible for Priority 3. In the past, this processing priority was also available to older unmarried sons and daughters. These changes to the Priority 3 qualifying relationships have remained in place since FY2004.

<sup>16</sup> U.S. Department of State, Bureau of Population, Refugees, and Migration, “Fraud in the Refugee Family Reunification (Priority Three) Program,” fact sheet, December 4, 2008.

<sup>17</sup> *Proposed Refugee Admissions for Fiscal Year 2013*, p. 12.



the Priority 3 program will be closely monitored “for any indication of new attempts at such fraud.”<sup>18</sup>

## Refugee Adjudications

USCIS is responsible for adjudicating refugee cases. It makes determinations about whether an individual qualifies for refugee status and is otherwise admissible to the United States. In the past, the majority of refugee adjudications were conducted by USCIS officers on temporary duty from domestic asylum offices. Today, these adjudications are handled by USCIS officers in the Refugee Corps.

## Admissibility of Refugees

In order to be admitted to the United States, a prospective refugee must be *admissible* under immigration law. The INA sets forth various grounds of inadmissibility, which include health-related grounds, security-related grounds, public charge (i.e., indigence), and lack of proper documentation.<sup>19</sup> Some inadmissibility grounds (public charge, lack of proper documentation) are not applicable to refugees. Others can be waived for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.<sup>20</sup> Of particular relevance to the admission of refugees are certain health-related and security-related grounds of inadmissibility.

Under the INA health-related grounds of inadmissibility, an alien who is determined, in accordance with Department of Health and Human Services (HHS) regulations, to have a communicable disease of public health significance is inadmissible. Until recently, human immunodeficiency virus (HIV) infection was defined to be one of these diseases, although HIV-infected refugees could apply for a waiver. In 2008, Congress amended the INA to eliminate the reference to HIV infection as a health-related ground of inadmissibility.<sup>21</sup> And effective January 4, 2010, the Centers for Disease Control and Prevention (CDC) of HHS amended its regulations to remove HIV infection from the definition of a communicable disease of public health significance.<sup>22</sup>

Since 1990, the security-related grounds of inadmissibility in the INA have expressly included terrorism-related grounds. Over the years, the terrorism-related grounds have been amended to lower the threshold for how substantial, apparent, and immediate an alien’s support for a terrorist activity or organization may be for the alien to be rendered inadmissible.<sup>23</sup> Among the current terrorism-related grounds, an alien is generally inadmissible for engaging in terrorist activity if he or she gives any material support, such as a safe house, transportation, communications, or funds,

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<sup>18</sup> *Ibid.*, p. 12.

<sup>19</sup> For further information on the grounds of inadmissibility generally, see CRS Report R41104, *Immigration Visa Issuances and Grounds for Exclusion: Policy and Trends*, by Ruth Ellen Wasem.

<sup>20</sup> Certain grounds of inadmissibility, including most security-related grounds, cannot be waived.

<sup>21</sup> P.L. 110-293, Title III, §305, July 30, 2008.

<sup>22</sup> U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, “Medical Examination of Aliens—Removal of Human Immunodeficiency Virus (HIV) Infection From Definition of Communicable Disease of Public Health Significance,” 74 *Federal Register*, pp. 56547-56562, November 2, 2009.

<sup>23</sup> See archived CRS Report RL32564, *Immigration: Terrorist Grounds for Exclusion and Removal of Aliens*, by Michael John Garcia and Ruth Ellen Wasem.

to a terrorist organization or any of its members or to a person engaged in terrorist activity. The Secretary of State or the Secretary of DHS, after consultation with the other and the Attorney General, may exercise discretionary waiver authority over certain terrorism-related grounds of inadmissibility. Both the Secretary of State and the Secretary of DHS have exercised this waiver authority with respect to certain categories of individuals.

The Consolidated Appropriations Act, 2008, enacted in December 2007, specifies groups that, for purposes of the INA terrorism-related grounds of inadmissibility, are not to be considered terrorist organizations on the basis of past acts.<sup>24</sup> Thus, a prospective refugee who was a member of, or provided support to, one of these groups would not be inadmissible on the basis of those actions. More broadly, the Consolidated Appropriations Act expands the discretionary authority of the Secretary of State and the Secretary of DHS to grant waivers of the terrorism-related grounds of inadmissibility generally.

## **Special Refugee Provisions**

### **Lautenberg Amendment and Specter Amendment**

The “Lautenberg Amendment” is a provision of the FY1990 Foreign Operations Appropriations Act. It requires the Attorney General to designate categories of former Soviet and Indochinese nationals for whom less evidence is needed to prove refugee status, and provides for adjustment to permanent resident status of certain Soviet and Indochinese nationals granted parole after being denied refugee status.<sup>25</sup> Applicants for refugee status under the special provision are required to prove that they are members of a protected category with a credible, but not necessarily individual, fear of persecution. By contrast, the INA requires prospective refugees to establish a well-founded fear of persecution on a case-by-case basis.

The Lautenberg Amendment has been regularly extended in appropriations acts, although there have often been gaps between extensions. The Consolidated Appropriations Act, 2004, in addition to extending the amendment through FY2004, amended the Lautenberg Amendment to add a new provision known as the “Specter Amendment.”<sup>26</sup> The Specter Amendment requires the designation of categories of Iranian nationals, specifically religious minorities, for whom less evidence is needed to prove refugee status. The Consolidated Appropriations Act, 2010, extended the Lautenberg Amendment, including the Specter Amendment, through FY2010.<sup>27</sup> For FY2011,

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<sup>24</sup> P.L. 110-161, Division J, Title VI, §691, December 26, 2007. DHS and DOS followed this enactment with a series of *Federal Register* notices similarly stating that the terrorism-related grounds of inadmissibility would generally be waived with respect to any assistance provided by an alien to any of the entities expressly exempted by the Consolidated Appropriations Act, 2008, from being deemed terrorist organizations. U.S. Department of Homeland Security, Office of the Secretary, and Department of State, Office of the Secretary, “Exercise of Authority Under Section 212(d)(3)(B)(i) of the Immigration and Nationality Act” [10 separate notices with same title], *73 Federal Register* 34770-34777, June 18, 2008.

<sup>25</sup> P.L. 101-167, Title V, §599D and §599E, November 21, 1989. Parole is a temporary authorization to enter the United States and is typically granted when the alien’s entry is determined to be in the public interest.

<sup>26</sup> P.L. 108-199, Division E, Title II, §213, January 23, 2004.

<sup>27</sup> P.L. 111-117, Division F, Title VII, §7034(f), December 16, 2009. Earlier extensions were included in P.L. 108-447, December 8, 2004; P.L. 109-102, November 14, 2005; P.L. 110-5, February 15, 2007; and P.L. 110-161, December 26, 2007.

Congress extended the amendment only until June 1, 2011,<sup>28</sup> and it temporarily lapsed on that date. It was re-enacted for FY2012 and for FY2013, and is now in effect through September 30, 2013.<sup>29</sup>

## **Vietnamese Refugees**

The “McCain Amendment,” which is no longer in effect, was first enacted in the FY1997 Omnibus Consolidated Appropriations Act.<sup>30</sup> It covered certain adult children, whose parents were Vietnamese re-education camp survivors and had been accepted for U.S. refugee resettlement. The amendment made the adult children eligible for U.S. refugee resettlement. It was subsequently amended and extended through FY1999.

In November 1999, the McCain Amendment was re-enacted in revised form for FY2000 and FY2001 in the Consolidated Appropriations Act, 2000.<sup>31</sup> As revised, it applied to the adult children of a re-education camp survivor who was residing in the United States or awaiting departure from Vietnam and who, after April 1995, was accepted for U.S. refugee resettlement or for admission as an immediate relative immigrant. The April 1995 date restriction did not apply to children who were previously denied refugee resettlement because their documents did not show continuous co-residency with their parent.

Legislation to amend and extend the provision through FY2003 was approved by the 107<sup>th</sup> Congress in May 2002.<sup>32</sup> This law eliminated the existing April 1995 date restriction. Thus, children who were previously denied refugee resettlement for reasons other than co-residency could also have their cases reconsidered. This revised provision, which was regularly extended,<sup>33</sup> is sometimes referred to as the “McCain-Davis Amendment.” The McCain-Davis Amendment was last extended, through FY2010, by the Omnibus Appropriations Act, 2009.<sup>34</sup> This extension was repealed, however, by the Consolidated Appropriations Act, 2010,<sup>35</sup> and the McCain amendment is no longer in effect.

## **Refugee Resettlement Assistance**

The Department of Health and Human Services’ Office of Refugee Resettlement (HHS/ORR), within the Administration for Children and Families (ACF), administers an initial transitional assistance program for temporarily dependent refugees and Cuban/Haitian entrants. Since its establishment in 1980, the refugee resettlement program has been justified on the grounds that the admission of refugees is a federal decision, entailing some federal responsibility. Unlike immigrants who enter through family or employment ties, refugees are admitted on humanitarian grounds, and there is no requirement that they demonstrate economic self-sufficiency.

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<sup>28</sup> P.L. 112-10, Division B, §2121(m), April 15, 2011.

<sup>29</sup> P.L. 112-74, Division I, §7034(r), December 23, 2011; P.L. 113-6, Division F, §1706(h), March 26, 2013.

<sup>30</sup> Section 584 of P.L. 104-208, Division A, Section 101(c), September 30, 1996.

<sup>31</sup> P.L. 106-113, Appendix G, Division A, §255, November 29, 1999.

<sup>32</sup> P.L. 107-185, May 30, 2002.

<sup>33</sup> It was extended by P.L. 108-447, P.L. 109-102, and P.L. 110-161.

<sup>34</sup> P.L. 111-8, Division H, §7034(d), March 11, 2009.

<sup>35</sup> P.L. 111-117, Division F, §7034(d).

For FY2012, appropriations for ORR refugee assistance totaled \$768.3 million. For FY2013, the Consolidated and Further Continuing Appropriations Act, 2013, appropriates \$1.016 billion for refugee assistance;<sup>36</sup> after adjustments for the rescission and the sequestration, FY2013 funding totals \$999.4 million, according to ACF.<sup>37</sup> **Table 2** details refugee resettlement funding for FY2003-FY2013.

**Table 2. Refugee Resettlement Funding, FY2003-FY2013**

(budget authority in millions)

Programs	FY04 Actual	FY05 Actual	FY06 Actual	FY07 Enacted	FY08 Enacted <sup>a</sup>	FY09 Estimate	FY10 Enacted	FY11 Enacted	FY12 Actual	FY13 <sup>b</sup>
Transitional/Cash and Medical Services	\$169.0	\$205.0	\$265.4	\$265.5	\$301.3	\$282.3	\$353.3	\$352.6	\$323.2	\$401.1
Victims of Trafficking <sup>c</sup>	9.9	9.9	9.8	9.8	10.0	9.8	9.8	9.8	9.8	9.3
Social Services	152.2	152.2	153.9	154.0	156.7	154.0	154.0	153.7	124.3	149.9
Victims of Torture <sup>d</sup>	9.9	9.9	9.8	9.8	10.0	10.8	11.1	11.1	11.0	10.7
Preventive Health	4.8	4.8	4.7	4.7	4.8	4.7	4.7	4.7	4.7	4.6
Targeted Assistance	49.0	49.1	48.6	48.6	49.5	48.6	48.6	48.5	28.1	47.6
Unaccompanied Alien Children <sup>e</sup>	52.8	53.8	77.2	95.3	135.0	123.1	149.4	149.1	267.2	376.1
<b>Total<sup>f</sup></b>	<b>\$447.6</b>	<b>\$484.7</b>	<b>\$569.4</b>	<b>\$587.8</b>	<b>\$667.3</b>	<b>\$633.4</b>	<b>\$730.9</b>	<b>\$729.5</b>	<b>\$768.3</b>	<b>\$999.4</b>

**Sources:** U.S. Department of Health and Human Services, Administration for Children and Families, *Justifications of Estimates for Appropriations Committees*, Fiscal Years 2005-2014; U.S. Department of Health and Human Services, Administration for Children and Families, ACF All-Purpose Table, 2005-2007, 2012-2013; U.S. Congress, Conference Committees, *Departments of Transportation and Housing and Urban Development, and Related Agencies Appropriations Act, 2010*, conference report to accompany H.R. 3288, 111<sup>th</sup> Cong., 1<sup>st</sup> sess., H.Rept. 111-366, Labor-Health and Human Services-Education funding table, p. 1292.

- a. Amounts do not reflect rescission.
- b. Amounts reflect rescission and sequestration.
- c. Funding used primarily for administrative cost of certifying that an alien is a trafficking victim for purposes of receiving benefits and services.
- d. Funding used for rehabilitation services, social services, and legal services for torture victims and for provision of research and training to health care providers.
- e. The Homeland Security Act of 2002 (P.L. 107-296) transferred functions under U.S. immigration law related to the care of unaccompanied alien children from the then-INS to HHS/ORR
- f. Sum of listed amounts may not equal total due to rounding.

<sup>36</sup> P.L. 113-6, Division F, §1509.

<sup>37</sup> U.S. Department of Health and Human Services, Administration for Children and Families, ACF All-Purpose Table, 2012-2013, <http://www.acf.hhs.gov/programs/olab/resource/administration-for-children-and-families-all-purpose-table-fy-2012-2013>.

ORR-funded refugee assistance activities include refugee cash and medical assistance, social services to help refugees become socially and economically self-sufficient, and targeted assistance for impacted areas. Special refugee cash assistance (RCA) and refugee medical assistance (RMA) are the heart of the refugee program, accounting for a greater portion of the ORR annual budget than any other activity (see **Table 2**). RCA and RMA, which in most cases are administered by the states, are intended to help needy refugees who are ineligible to receive benefits from mainstream federal assistance programs. RCA and RMA are currently available to refugees for eight months after entry.<sup>38</sup> RMA benefits are based on the state’s Medicaid program, and RCA payments are now based on the state’s Temporary Assistance for Needy Families (TANF) payment to a family unit of the same size.<sup>39</sup>

The ORR program was significantly affected by the 1996 welfare reform act and subsequent amendments.<sup>40</sup> Prior to this legislation, refugees who otherwise met the requirements of federal public assistance programs were immediately and indefinitely eligible to participate in them just like U.S. citizens. Now, refugees and other specified humanitarian entrants are subject to time limits. **Table 3** summarizes the time limits on refugee eligibility for four major public assistance programs.

**Table 3. Refugee Eligibility for Major Federal Public Assistance Programs**

Program	Eligibility
Supplemental Security Income (SSI) for the Aged, Blind and Disabled	Eligible for seven years after entry. <sup>a</sup>
Medicaid (non-emergency care)	Eligible for seven years after entry, then state option.
TANF	Eligible for five years after entry, then state option.
Supplemental Nutrition Assistance Program (SNAP) (formerly, Food Stamps)	Eligible without time limits.

- a. A temporary provision (in P.L. 110-328, September 30, 2008) extended to nine years (during FY2009 through FY2011) the period of eligibility of certain refugees and others for SSI benefits, provided that specified criteria were met.

<sup>38</sup> INA §412(e)(1) authorizes ORR to reimburse states for RCA and RMA for 36 months. Initially, beginning in April 1980, RCA and RMA were available for the full 36 months. As appropriations levels decreased in subsequent years, however, the period of coverage was reduced. Since October 1991, RCA and RMA have been available to refugees for eight months after entry.

<sup>39</sup> For additional discussion of ORR assistance, see archived CRS Report R41570, *U.S. Refugee Resettlement Assistance*, by Andorra Bruno.

<sup>40</sup> The 1996 welfare reform law is the Personal Responsibility and Work Opportunity Reconciliation Act, P.L. 104-193, August 22, 1996.

## Appendix. Refugee Admissions by Region, FY1987-FY2012

FY	Africa	East Asia	Eastern Europe	Former Soviet Union	Latin America/ Caribbean	Near East/ South Asia	Total
1987	1,990	40,099	8,396	3,699	323	10,021	<b>64,528</b>
1988	1,593	35,371	7,510	20,411	3,230 <sup>a</sup>	8,368	<b>76,483</b>
1989	1,902	45,722	8,752	39,602	4,116 <sup>a</sup>	6,976 <sup>a</sup>	<b>107,070</b>
1990	3,453	51,604 <sup>a</sup>	6,094	50,628	5,308 <sup>a</sup>	4,979	<b>122,066</b>
1991	4,420	53,522	6,837	39,226	4,042 <sup>a</sup>	5,342	<b>113,389</b>
1992	5,470	51,899	2,915	61,397	3,947 <sup>a</sup>	6,903	<b>132,531</b>
1993	6,967	49,817	2,582	48,773	4,322 <sup>a</sup>	6,987	<b>119,448</b>
1994	5,860	43,564	7,707	43,854	6,156	5,840	<b>112,981</b>
1995	4,827	36,987	10,070	35,951	7,629	4,510	<b>99,974</b>
1996	7,604	19,321	12,145	29,816	3,550	3,967	<b>76,403</b>
1997	6,065	8,594	21,401	27,331	2,996	4,101	<b>70,488</b>
1998	6,887	10,854	30,842	23,557	1,627	3,313	<b>77,080</b>
1999	13,043	10,206	38,658	17,410	2,110	4,098	<b>85,525</b>
2000	17,561	4,561	22,561	15,103	3,232	10,129	<b>73,147</b>
2001	19,020	34,163	15,794	15,978	2,975	11,956	<b>69,886</b>
2002	2,551	3,512	5,459	9,969	1,934	3,706	<b>27,131</b>
2003	10,714	1,724	2,506	8,744	455	4,260	<b>28,403</b>
2004	29,104	8,084	9,254 <sup>b</sup>		3,577	2,854	<b>52,873</b>
2005	20,745	12,076	11,316 <sup>b</sup>		6,699	2,977	<b>53,813</b>
2006	18,126	5,659	10,456 <sup>b</sup>		3,264	3,718	<b>41,223</b>
2007	17,483	15,643	4,560 <sup>b</sup>		2,976	7,620	<b>48,282</b>
2008	8,935	19,489	2,343 <sup>b</sup>		4,277	25,147	<b>60,191</b>
2009	9,670	19,850	1,997 <sup>b</sup>		4,857	38,280	<b>74,654</b>
2010	13,305	17,716	1,526 <sup>b</sup>		4,982	35,782	<b>73,311</b>
2011	7,685	17,367	1,228 <sup>b</sup>		2,976	27,168	<b>56,424</b>
2012	10,608	14,366	1,129 <sup>b</sup>		2,078	30,057	<b>58,238</b>

**Source:** U.S. Department of State, Bureau of Population, Refugees and Migration.

**Notes:** Data for 2001-2012 are as of July 31, 2013. Data for earlier years may not reflect all subsequent adjustments.

a. Includes refugees admitted under the Private Sector Initiative (PSI), most of whom were Cuban.

b. Beginning in FY2004, the categories of Eastern Europe and the Former Soviet Union were combined into a single category, Europe and Central Asia. These are the total admissions under that category.

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