



Refugee Admissions and Resettlement Policy

Andorra Bruno

Specialist in Immigration Policy

March 7, 2012

Congressional Research Service

7-5700

www.crs.gov

RL31269

CRS Report for Congress

Prepared for Members and Committees of Congress

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 FY2012, the worldwide refugee ceiling is 76,000, with 73,000 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 FY2012 regional allocations are, as follows: Africa (12,000), East Asia (18,000), Europe and Central Asia (2,000), Latin America/Caribbean (5,500), and Near East/South Asia (35,500).

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, through FY2010. For FY2011, Congress extended the amendment only until June 1, 2011, and it temporarily lapsed on that date. It was re-enacted for FY2012 by P.L. 112-74, however, and is now in effect until October 1, 2012. Another provision, referred to as the “McCain Amendment” or the “McCain-Davis Amendment,” had made certain adult children of Vietnamese re-education camp survivors eligible for U.S. refugee resettlement. This amendment was repealed by P.L. 111-117.

The Department of Health and Human Service’s Office of Refugee Resettlement (HHS/ORR) administers an initial transitional assistance program for temporarily dependent refugees and Cuban/Haitian entrants. This report will be updated as major developments occur.

Contents

Background and Definitions	1
Refugee Admissions	1
FY2012 Refugee Ceiling and Allocations	4
Refugee Processing Priorities.....	4
Refugee Adjudications.....	6
Admissibility of Refugees.....	6
Special Refugee Provisions	7
Lautenberg Amendment and Specter Amendment	7
Vietnamese Refugees	8
Refugee Resettlement Assistance	8

Tables

Table 1. Refugee Admissions Ceilings and Regional Allocations, FY2001-FY2012.....	3
Table 2. Refugee Resettlement Funding, FY2003-FY2012.....	9
Table 3. Refugee Eligibility for Major Federal Public Assistance Programs	10

Appendixes

Appendix. Refugee Admissions by Region, FY1987-FY2011	11
---	----

Contacts

Author Contact Information.....	12
---------------------------------	----

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 1980.¹ 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.² 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.³

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.⁴ After one year in refugee status in the United States, refugees are required to apply to adjust to legal permanent resident (LPR) status.⁵

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.⁶ 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.⁷ Following congressional consultations on the Administration's proposal, the

¹ 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.

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

³ INA §101(a)(42).

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

⁵ 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.

⁶ INA §207(a).

⁷ The consultation document for FY2012 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 2012: Report to the* (continued...)

President issues a Presidential Determination setting the refugee numbers for that year.⁸ **Table 1** shows refugee admissions ceilings and regional allocations for FY2001-FY2012.

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 69,304 to an FY2002 total of 27,131 and an FY2003 total of 28,404, as shown in the last row of **Table 1**.⁹

Admissions have rebounded since FY2002 and FY2003, totaling over 70,000 in each of FY2009 and FY2010. As shown in **Table 1**, however, there was a significant drop in admissions between FY2010 and FY2011, when admissions totaled 56,424. The FY2012 consultation document, written during FY2011, attributed the FY2010-FY2011 decrease largely to new security requirements:

[FY2011's] admissions total will be lower ... due largely to the introduction of additional security checks during the year, including pre-departure checks shortly before refugees travel to the U.S., instituted mid-year, that enhance the vetting of applicants against intelligence and law enforcement information. While these checks caused a slowdown in refugee arrivals, the checks reflect the Administration's commitment to conduct the most thorough checks possible to prevent dangerous individuals from gaining access to the United States through the refugee program. Arrival numbers began to rebound in June and July [of 2011] and we expect arrivals in FY2012 approaching the proposed ceiling.¹⁰

(...continued)

Congress, <http://www.state.gov/documents/organization/181378.pdf>. (Hereinafter cited as *Proposed Refugee Admissions for Fiscal Year 2012*.)

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

⁹ 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.

¹⁰ *Proposed Refugee Admissions for Fiscal Year 2012*, p. iv.

Table I. Refugee Admissions Ceilings and Regional Allocations, FY2001-FY2012

Region	FY2001	FY2002	FY2003	FY2004	FY2005	FY2006	FY2007	FY2008	FY2009	FY2010	FY2011	FY2012
Africa	20,000	22,000	20,000	30,000 ^b	21,000 ^c	20,000	22,000	16,000	12,000	15,500	15,000	12,000
East Asia	6,000	4,000	4,000	8,500 ^b	13,000	15,000	16,000 ^d	20,000	20,500 ^f	18,000 ^g	19,000	18,000
Europe and Central Asia ^a	37,000	26,000	16,500	13,000	15,500 ^c	15,000	6,500	3,000	2,500	2,500	2,000	2,000
Latin America/Caribbean	3,000	3,000	2,500	3,500	7,000 ^c	5,000	5,000	5,000 ^e	5,500 ^f	5,500 ^g	5,500	5,500
Near East/ South Asia	10,000	15,000	7,000	3,000 ^b	3,500 ^c	5,000	9,000 ^d	28,000	39,500 ^f	38,000 ^g	35,500	35,500
Unallocated	4,000	—	20,000	12,000 ^b	10,000 ^c	10,000	11,500 ^d	8,000 ^e	— ^f	500	3,000	3,000
Total ceilings	80,000	70,000	70,000	70,000	70,000	70,000	70,000	80,000	80,000	80,000	80,000	76,000
Actual admissions	69,304	27,131	28,404	52,873	53,813	41,223	48,282	60,191	74,654	73,311	56,424	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. U.S. Department of State, U.S. Department of Justice, and U.S. Department of Health and Human Services, *Proposed Refugee Admissions ...*, Fiscal Years 2001-2012. For actual admissions data: U.S. Department of State, Bureau of Population, Refugees and Migration.

- a. For FY2001-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.

FY2012 Refugee Ceiling and Allocations

On September 30, 2011, President Obama signed the Presidential Determination setting the FY2012 worldwide refugee ceiling and regional levels.¹¹ As indicated in **Table 1**, the FY2012 ceiling is 76,000. The ceiling and allocations in the FY2012 Presidential Determination are identical to those in the FY2012 consultation document.

The FY2012 refugee ceiling of 76,000 includes 73,000 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 FY2012. The FY2011 allocation to the region was 15,000, and FY2011 admissions totaled just over half that number (7,685).¹² According to the FY2012 consultation document, the shortfall in FY2011 African refugee arrivals resulted from several factors, including “challenges related to finalizing individual security clearances; our inability to launch a significantly larger resettlement program for Darfur refugees in Chad due to host government opposition;” and a decrease in referrals to the U.S. refugee admissions program from UNHCR. For Africa, as for all regions, the FY2012 allocation is intended to cover previously approved refugees in the pipeline as well as new cases. FY2012 admissions are expected to come primarily from East and Southern Africa and to include Somalis, Congolese, and Eritreans, among others.

East Asia’s FY2012 allocation is 18,000, compared to an FY2011 allocation of 19,000. FY2011 admissions totaled 17,367. FY2012 admissions are expected to consist primarily of Burmese refugees living in Thailand and Malaysia.

Europe and Central Asia have a combined FY2012 allocation of 2,000 refugee numbers, the same as in FY2011. In FY2011, admissions totaled 1,228. The 2012 allocation includes projected admissions of “Lautenberg Amendment” cases from the former Soviet Union (discussed below).

The FY2012 allocation for Latin America and the Caribbean is 5,500, the same as the FY2011 allocation. FY2011 admissions totaled 2,976. Cubans account for the vast majority of admissions from this region.

The Near East/South Asia FY2012 allocation is 35,500, the same as the FY2011 allocation. FY2011 admissions totaled 27,168. FY2012 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

¹¹ U.S. President [Obama], “Fiscal Year 2012 Refugee Admissions Numbers and Authorizations of In-Country Refugee Status ...,” Presidential Determination No. 2011-17 of September 30, 2011, 76 *Federal Register*, pp. 62597-62598, October 11, 2011.

¹² See **Appendix** for annual refugee admissions numbers by region since FY1987.

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.

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. Some of these 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. 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.

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, which is limited to designated nationalities, has changed over the years.¹³ Since FY2004, it has comprised cases of spouses, unmarried children under age 21, and parents of persons who were admitted to the United States as refugees or granted asylum. 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.

On October 22, 2008, the U.S. refugee program stopped accepting applications under Priority 3.¹⁴ 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.”¹⁵ A revised Priority 3 program is under consideration. According to the FY2012 consultation document:

¹³ The number of nationalities eligible for Priority 3 processing has varied in recent years. 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.

¹⁴ 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.

¹⁵ *Proposed Refugee Admissions for Fiscal Year 2012*, p. 12.

PRM and DHS/USCIS will update the Congress when the revisions [to the P-3 program and AOR] are complete, and we are prepared to resume P-3 processing, likely with a DNA relationship testing requirement for certain claimed biological relationships.¹⁶

Upon resumption, Priority 3 processing will be available to nationals of 20 countries.¹⁷

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.¹⁸ 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.¹⁹ 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.²⁰ 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.²¹

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

¹⁶ Ibid.

¹⁷ 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, Iran, Iraq, Republic of Congo (ROC), Somalia, Sri Lanka, Sudan, Uzbekistan, and Zimbabwe. *Proposed Refugee Admissions for Fiscal Year 2012*, pp. 12-13.

¹⁸ 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.

¹⁹ Certain grounds of inadmissibility, including most security-related grounds, cannot be waived.

²⁰ P.L. 110-293, Title III, §305, July 30, 2008.

²¹ 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.

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.²² 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, 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.²³ Thus, a prospective refugee who provided support to one of these groups would not be subject to the material support inadmissibility provision 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.²⁴ 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."²⁵ The Specter Amendment requires the designation of categories of Iranian nationals, specifically religious minorities, for whom less

²² See CRS Report RL32564, *Immigration: Terrorist Grounds for Exclusion and Removal of Aliens*, by Michael John Garcia and Ruth Ellen Wasem.

²³ 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.

²⁴ 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.

²⁵ P.L. 108-199, Division E, Title II, §213, January 23, 2004.

evidence is needed to prove refugee status. The Consolidated Appropriations Act, 2010, extended the Lautenberg Amendment, including the Specter Amendment, through FY2010.²⁶ For FY2011, Congress extended the amendment only until June 1, 2011,²⁷ and it temporarily lapsed on that date. It was re-enacted for FY2012²⁸ and is now in effect until October 1, 2012.

Vietnamese Refugees

The “McCain Amendment” was first enacted in the FY1997 Omnibus Consolidated Appropriations Act.²⁹ 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, 2000.³⁰ 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 107th Congress in May 2002.³¹ 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,³² is sometimes referred to as the “McCain-Davis Amendment.” The McCain-Davis Amendment was last extended, through FY2010, by the Omnibus Appropriations Act, 2009.³³ This extension was repealed, however, by the Consolidated Appropriations Act, 2010,³⁴ and the McCain amendment is no longer in effect.

Refugee Resettlement Assistance

The Department of Health and Human Service’s Office of Refugee Resettlement (HHS/ORR), within the Administration for Children and Families, administers an initial transitional assistance program for temporarily dependent refugees and Cuban/Haitian entrants. Since its establishment

²⁶ 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.

²⁷ P.L. 112-10, Division B, §2121(m), April 15, 2011.

²⁸ P.L. 112-74, Division I, §7034(r), December 23, 2011.

²⁹ Section 584 of P.L. 104-208, Division A, Section 101(c), September 30, 1996.

³⁰ P.L. 106-113, Appendix G, Division A, §255, November 29, 1999.

³¹ P.L. 107-185, May 30, 2002.

³² It was extended by P.L. 108-447, P.L. 109-102, and P.L. 110-161.

³³ P.L. 111-8, Division H, §7034(d), March 11, 2009.

³⁴ P.L. 111-117, Division F, §7034(d).

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.

For FY2012, appropriations for ORR refugee assistance totaled \$768.3 million. **Table 2** details refugee resettlement funding for FY2003-FY2012. For FY2013, the President has requested \$805.4 million for refugee assistance.

Table 2. Refugee Resettlement Funding, FY2003-FY2012

(budget authority in millions)

Programs	FY03 enacted	FY04 actual	FY05 actual	FY06 actual	FY07 enacted	FY08 enacted ^f	FY09 estimate	FY10 enacted	FY11 enacted	FY12 enacted
Transitional/Cash and Medical Services	\$219.9	\$169.0	\$205.0	\$265.4	\$265.5	\$301.3	\$282.3	\$353.3	\$352.6	\$372.3
Victims of Trafficking ^a	9.9	9.9	9.9	9.8	9.8	10.0	9.8	9.8	9.8	9.8
Social Services	150.1	152.2	152.2	153.9	154.0	156.7	154.0	154.0	153.7	153.4
Victims of Torture ^b	9.9	9.9	9.9	9.8	9.8	10.0	10.8	11.1	11.1	11.0
Preventive Health	4.8	4.8	4.8	4.7	4.7	4.8	4.7	4.7	4.7	4.7
Targeted Assistance	49.2	49.0	49.1	48.6	48.6	49.5	48.6	48.6	48.5	48.4
Unaccompanied Alien Children ^c	37.1 ^e	52.8	53.8	77.2	95.3	135.0	123.1	149.4	149.1	168.7
Total^d	\$480.9	\$447.6	\$484.7	\$569.4	\$587.8	\$667.3	\$633.4	\$730.9	\$729.5	\$768.3

Sources: U.S. Department of Health and Human Services, Administration for Children and Families, *Justifications of Estimates for Appropriations Committees*, Fiscal Years 2005-2013; U.S. Department of Health and Human Services, Administration for Children and Families, "Administration for Children and Families 2005-2007 All-Purpose Table"; 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, 111th Cong., 1st sess., H.Rept. 111-366, Labor-Health and Human Services-Education funding table, p. 1292.

- a. Funding used primarily for administrative cost of certifying that an alien is a trafficking victim for purposes of receiving benefits and services.
- b. Funding used for rehabilitation services, social services, and legal services for torture victims and for provision of research and training to health care providers.
- c. 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.
- d. Sum of listed amounts may not equal total due to rounding.
- e. This funding was transferred to ORR from the former INS, pursuant to P.L. 107-296.
- f. Amounts do not reflect the required 1.747% rescission.

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.³⁵ 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.³⁶

The ORR program was significantly affected by the 1996 welfare reform act and subsequent amendments.³⁷ 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. ^a
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.

³⁵ 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.

³⁶ For additional discussion of ORR assistance, see CRS Report R41570, *U.S. Refugee Resettlement Assistance*, by Andorra Bruno.

³⁷ 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-FY2011

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	64,528
1988	1,593	35,371	7,510	20,411	3,230 ^a	8,368	76,483
1989	1,902	45,722	8,752	39,602	4,116 ^a	6,976 ^a	107,070
1990	3,453	51,604 ^a	6,094	50,628	5,308 ^a	4,979	122,066
1991	4,420	53,522	6,837	39,226	4,042 ^a	5,342	113,389
1992	5,470	51,899	2,915	61,397	3,947 ^a	6,903	132,531
1993	6,967	49,817	2,582	48,773	4,322 ^a	6,987	119,448
1994	5,860	43,564	7,707	43,854	6,156	5,840	112,981
1995	4,827	36,987	10,070	35,951	7,629	4,510	99,974
1996	7,604	19,321	12,145	29,816	3,550	3,967	76,403
1997	6,065	8,594	21,401	27,331	2,996	4,101	70,488
1998	6,887	10,854	30,842	23,557	1,627	3,313	77,080
1999	13,043	10,206	38,658	17,410	2,110	4,098	85,525
2000	17,561	4,561	22,561	15,103	3,232	10,129	73,147
2001	19,021	3,725	15,777	15,748	2,973	12,060	69,304
2002	2,551	3,512	5,459	9,969	1,934	3,706	27,131
2003	10,715	1,724	2,506	8,744	455	4,260	28,404
2004	29,104	8,084	9,254 ^b		3,577	2,854	52,873
2005	20,745	12,076	11,316 ^b		6,699	2,977	53,813
2006	18,126	5,659	10,456 ^b		3,264	3,718	41,223
2007	17,483	15,643	4,560 ^b		2,976	7,620	48,282
2008	8,935	19,489	2,343 ^b		4,277	25,147	60,191
2009	9,670	19,850	1,997 ^b		4,857	38,280	74,654
2010	13,305	17,716	1,526 ^b		4,982	35,782	73,311
2011	7,685	17,367	1,228 ^b		2,976	27,168	56,424

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

Notes: Data for 2002-2011 are as of February 29, 2012. 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.

Author Contact Information

Andorra Bruno
Specialist in Immigration Policy
abruno@crs.loc.gov, 7-7865