NACo ANALYSIS: EXECUTIVE ORDER ON ENHANCING STATE AND LOCAL INVOLVEMENT IN REFUGEE RESETTLEMENT

Understanding the executive order and how it could impact counties

Background on the refugee executive order

On September 26, the White House issued an executive order (EO) that gives states and localities the authority to reject or accept refugees from settling in areas based on the availability of local resources. Specifically, the EO only allows refugees to be resettled, through the U.S. Department of State’s Reception and Placement (R&P) Program, in jurisdictions where both the state and local governments have consented, in writing, to receive refugees. Within 90 days of the date of issuance (December 25, 2019), the U.S. Departments of State and Health and Human Services were instructed to develop and implement a process that complies with the EO.

What is the current process for refugee resettlement?

• **Who qualifies as a refugee?** Current law defines a refugee as person outside his/her country of origin, who is unable or unwilling to return to that country because of persecution or a well-founded fear of persecution based on his or her race, religion, nationality, membership in a particular social group, or political opinion.

• **How did the U.S. refugee resettlement process originate?** Congress established the legal basis for humanitarian admissions of refugees and asylum seekers to the United States and the federal refugee resettlement program with Refugee Act of 1980. Along with defining “refugee,” the law established the Reception and Placement (R&P) program for initial resettlement under the U.S. Department of State and created the Office of Refugee Resettlement (ORR) under the U.S. Department of Health and Human Services (HHS).

• **Who decides how many refugees can resettle in the U.S.?** Each year, the President sets the number of refugees the United States will accept. In Fiscal Year (FY) 2020, the President agreed to accept 18,000 refugees.

• **How are refugees chosen for resettlement in the U.S.?** The United Nations High Commissioner for Refugees (UNHCR) screens applicants to determine whether they qualify as refugees and if they need resettlement, and, if so, refers them to the U.S. and other countries. The United States then performs a vetting process across multiple agencies including the U.S. Department of State, U.S. Department of Homeland Security (DHS), and Department of Justice (DOJ) before approving resettlement to the United States.
How are refugee placements determined? Once the United States accepts a refugee, the federal government works with nine nonprofit refugee resettlement agencies and local authorities to resettle them. Representatives from these nine nonprofit domestic resettlement agencies consult with state and local officials before refugees arrive to determine their placement based on criteria such as housing and employment availability, local resources and whether refugees from similar backgrounds already live there. While states and local communities provide important input in this process, the final decision regarding how many refugees will resettle in a given community is ultimately left up to the federal government.

What kind of assistance do refugees receive? Refugee resettlement agencies receive federal funding to help refugees adapt to their new homes, find employment, access medical services, and more. The resettlement agencies and various other stakeholders must participate in ongoing quarterly consultation with officials at ORR as well as the Department of State/Bureau of Population, Refugees and Migration (PRM).

How is the refugee resettlement program funded? The Department of State and HHS fund refugee resettlement through a two-step process:

- First, the State Department’s Reception and Placement (R&P) program provides refugees with a loan to travel to the U.S., which they are required to start repaying after they arrive. The R&P program then supplies resettlement agencies a one-time sum per refugee to finance their first 30-90 days in the U.S.

- After three months, HHS’ Office of Refugee Resettlement (ORR) then works through the states and other nongovernmental organizations to provide refugees with limited cash and medical assistance, as well as short-term language, employment, and social services, and longer-term integration services.

How would the EO change the process of how refugees are currently resettled?

- The EO creates a new requirement for both states and local governments to consent prior to a refugee’s resettlement. The Department of State’s Bureau of Population, Refugees and Migration (PRM) has operationalized the new requirement for resettlement agencies to obtain state and local government consent through its annual Notice of Funding Opportunity (NOFO) for the Reception and Placement Program. On an annual basis, resettlement agencies apply to the NOFO.

Noteworthy consent requirements and guidelines for refugee resettlement process under new EO

- Local officials who can give consent include mayors if their cities are considered a “county equivalent”

- In the case there is not one county executive or county equivalent, a board or other body may provide collective consent on behalf of the county. This may come in the form of a resolution

- County consent covers the cities within the county
When responding to this application, the nine resettlement agencies across the country and their affiliates must now obtain written consent for resettlement of refugees from the state governor’s office and the chief executive officer of the county or county equivalent. The nonprofit agencies are required to obtain written consent from all localities and states in which they plan to place refugees. The federal government will not be reaching out to states or localities to obtain this consent.

Once processed, documentation of consent will appear on the State Department’s website. The NOFO is due January 21, 2020, with the consent requirement to go into effect June 1, 2020. While agencies may submit consent after January 21, the applications to the State Department will have a significant impact on refugee placement numbers, making the earlier consent most influential.

How counties may be impacted by the executive order?

- **Shifts federal responsibility onto state and local governments.** The EO alters the structure of the U.S. resettlement program by transferring decisions about who can resettle and where from the federal government to state and locally elected officials. Under the EO, governors and local officials must both provide written consent to opt into resettling refugees in their states and localities. Under the Department of State’s Reception and Placement Program

- **Reduces federal resources.** If written consent cannot be obtained, it may prevent national resettlement agencies from maintaining local affiliate offices that provide essential refugee services that support their health, integration into the community, and access to sustainable employment. Additionally, refugees have freedom of movement once in the US—but without consent, federal resources for initial resettlement will not follow.

- **Strain on intergovernmental partnership and consultation.** Governors and local officials must both provide written consent to opt into resettling refugees in their states and localities. Consent is needed from the governor of a state in order to continue refugee resettlement anywhere in that state. If a governor gives consent but a locality does not, refugees may be resettled in a different locality where consent is provided. However, there are circumstances where a refugee may live in one county but work, go to school, etc. in other counties.