Interim Guidance for Decisions on Applications for Refugee Status
(November 9, 2017)

I. Background

This guidance replaces and supersedes “Interim Guidance for Evaluating Credible Claims to Bona Fide Relationships in Refugee Adjudications” (August 7, 2017).

In light of Executive Order (E.O.) 13815, Resuming the United States Refugee Admissions Program with Enhanced Vetting Capabilities, dated October 24, 2017, United States Citizenship and Immigration Services (USCIS) is adopting the following procedures for handling refugee cases now that the 120-day review of the U.S. Refugee Admissions Program (USRAP) pursuant to E.O. 13780 has been completed.

II. Bona Fide Relationships

Cases that were not adjudicated between June 29, 2017 and October 24, 2017 because a case member did not have a credible claim to a Bona Fide Relationship (BFR) may now be adjudicated, provided all expanded requisite security checks are complete and clear and they are not subject to Section III of this guidance (see below). During a refugee interview, it is no longer necessary for officers to elicit any additional information about a BFR beyond testimony the officer may already elicit to analyze an applicant’s access to the USRAP (e.g. P-3 or I-130 P-2s).

If an officer encounters a case placed on “HQ Review” or “Other” hold either for review of a claimed BFR or because no member of a case claimed a BFR, the officer may lift the related hold, annotating in the holds section “BFR not required as of 10/25/17”. No cases should be on any hold solely for BFR review or because no member claimed a BFR, unless the case is on hold for fraud concerns raised by the claimed BFR.

The “BFR Status” will be removed from WRAPS and will no longer be collected by the RSCs. If the BFR status is contained in a printed Class Name Check Results Report, the officer can disregard this code, as it no longer has any impact on the ability to adjudicate a refugee application.

III. Nationals of Security Advisory Opinion (SAO) Countries or Stateless Persons Who Last Habitually Resided in an SAO Country

Section 3 of E.O. 13815 established a 90-day review period during which the Secretary of Homeland Security, in consultation with the Secretary of State and the Director of National Intelligence, will examine actions taken pursuant to the Department’s existing statutory authority to address the risks to the security and welfare of the United States presented by permitting any category of refugees to enter this country. While DHS may continue to interview some refugee applicants from SAO countries during this 90-day review period, DHS and DOS will temporarily prioritize refugee applications from non-SAO countries. Refugee Affairs Division HQ (“RAD HQ”), International Operations Headquarters (IO HQ), and the Department of State Bureau of Population, Refugees, and Migration (PRM) are discussing the circuit ride request at this time. Once this request is agreed to, officers in the field may interview all cases
presented by the Resettlement Support Centers (RSC). Additional requests to add SAO nationality cases to the schedule beyond this initial agreement should be directed to RAD or IO HQ for approval prior to interview.

It is anticipated that during the 90-day period, cases of SAO nationals will generally not be adjudicated as approved because this category of cases will be a subject of the review. This includes add-on babies. In limited circumstances, DHS and DOS may allow adjudication and travel if there is a case-by-case determination that the travel is in the national interest and the individuals do not pose a threat to the security or welfare of the United States. USCIS and PRM are currently developing this process. Officers reviewing these cases for final hold lift will not stamp a case approved without evidence documenting that the case has received a case-by-case determination.

Refugee admissions for nationals of SAO countries will likely occur at a slower pace compared to nationals of non-SAO countries, as the implementation of additional screening and integrity measures will lead to lengthier processing times.

E.O. 13815 does not prohibit denying cases at this time.

IV. Non-SAO Populations

USCIS officers are authorized to interview and adjudicate applications for refugee status for all refugee applicants from non-SAO populations. RSCs may schedule travel for non-SAO populations once all processing of the case is complete.

V. Expanded Criteria for SAOs

Effective October 25, 2017, an SAO is required for any refugee applicant, [Redacted], who is:

- [Redacted] years of age, and
- a national of a country requiring an SAO

There is no grandfather period for cases impacted by the new SAO criteria. Any applicants who have not yet entered the U.S. but who now require an SAO will not be able to enter the U.S. through theUSRAP until they receive a clear SAO result.

PRM has instructed RSCs to cancel travel arrangements for all cases with any applicant who previously did not require an SAO, but does now, until the SAO is processed and is clear (“CLR”).

USCIS need not pre-emptively cancel or cover an approval stamp for any applicant who previously did not require an SAO, but does now. If, after the newly required SAO has been processed, USCIS does not need to take any additional adjudicative action (i.e. the SAO result code is “CLR”), the case will not be presented to USCIS for review. If, after the newly required SAO has been processed, USCIS does need to take additional adjudicative action (i.e. the SAO result code is “SAO” or “NCL”), the case will be brought to the attention of USCIS and USCIS will follow normal procedures as outlined in the Holds SOP.
Additionally, effective October 25, 2017, an applicant cannot age out of the SAO requirement. If an applicant ever required an SAO, he or she will always require one, even if the applicant turns older than 8 years of age throughout the course of processing.

Although RSCs should only present cases subject to the new SAO criteria for hold lift when all checks are clear, the hold-lifting officer should ensure, in fact, that any individuals who fall within the expanded SAO criteria have an SAO status of “CLR” before stamping a case approved. SAOs need not be completed in order for officers to stamp SAO nationals’ cases denied.

VI. Administrative case work on cases of refugee applicants who are Nationals or Last Habitually Resided in SAO countries:

The RSC may present, and DHS can complete, the following administrative casework, regardless of whether or not there is case member from an SAO country and without requiring explicit approval from DHS and State:

- RAD HQ review of No Decision cases
  - RAD HQ can continue to work and resolve holds for all cases (e.g. HQ TRIG Review, CARRP, CLASS, RAVU, release of BFR holds, etc.).
- I-590 stamp removal
  - If a case was previously stamped approved or denied but was stamped in error, is now on hold, or the case is being administratively closed, the officer can cancel the I-590 stamp.
- Administrative case closures
  - An officer can cancel stamps and complete case closure letters when a case is being administratively closed (e.g. when an applicant is unable to locate, has withdrawn his/her application, or is deceased, etc.).
- “Not qualified” determinations and completion of “Not Qualified” letters
  - If an officer determines an applicant is not qualified for access to the refugee program, the officer may make a “not qualified” determination and complete a “not qualified” letter.
- Amendments/corrections to file document(s)
- Requests for Review
  - RFRs for SAO populations may be reviewed but, absent explicit instruction from USCIS, decisions to re-interview or overturn should be held until the end of the review period. Denials may proceed.