

# MOBILITY

Magazine of Worldwide EPC®

February 2016

## AN EYE ON LONDON

EMEA SUMMIT CITY

## CHOOSING AN RMC IT'S ALL ABOUT THE FIT

MOBILITY SERVICES

TALENT MANAGEMENT  
SERVICES

COMPENSATION SERVICES

IMMIGRATION SERVICES

EXPANSION SERVICES

**Challenge:** A client in the financial services sector wanted to reduce costs while maintaining strong supplier partnerships and high service levels. However, program inconsistencies made this difficult. Not only was each location managing its own suppliers, with separate contracts and pricing terms, but there were no standard KPIs.

The client outsourced its program to MSI and offered our services to all global locations. We implemented the program with regional human resources teams and the client's suppliers; we also helped consolidate and centralize data for more accurate reporting, including tracking of spend. Lastly, we established and enforced supplier SLAs.

**Result:** The client saved approximately \$340,000 per annum through new contract terms and audit reductions. Assignee/transferee satisfaction has exceeded 97 percent.

JASON EXLEY, REGIONAL VICE PRESIDENT  
PROVIDING VALUE BY FOCUSING ON OUTCOMES

POWERED BY MSI



Jason is a Global Human Resource professional specializing in global talent solutions. He has 18 years' experience managing both in-house and outsourced functions for companies such as Bechtel, CH2M HILL, TeleTech, and Western Union.

Jason holds a Professional Human Resources (PHR) Certification and is certified in Six Sigma methodologies, holding both a Yellow and Green Belt. Jason is a globetrotter, having traveled and/or worked in more than 30 countries on five continents.

"I thrive on engaging with my clients & sharing my diverse experience to assist them in strategically solving problems to a variety of Global HR and Talent Mobility scenarios. I serve on various Boards in the Global HR space."

**MSI**

[www.msigsbs.com](http://www.msigsbs.com)



REFUGEES ARE NOT A  
**THREAT...**

---

**THEY ARE A  
STAFFING  
OPPORTUNITY**

BY ROBERT F. LOUGHRAN





**T**he White House announced in September that the U.S. will prepare to accept 10,000 Syrian refugees into the U.S. for the 2016 fiscal year. These 10,000 displaced individuals would be eligible for work authorization for any employer, without sponsorship. After having waited abroad for multiple years, they will likely become U.S. permanent residents one to two years after their entry to the U.S. Therefore, employers should not worry about any refugee's continuing availability or otherwise treat refugees any differently from a hiring or onboarding point of view.

Employers who are finding it difficult to fill positions may find that refugees can fill shortages at a time when other categories of foreign workers are less available than in previous years. A common nonimmigrant employment-based visa category, the H-1B specialty occupation, includes a statutory cap of 65,000 visas under the general-category cap and an additional 20,000 cap under the advanced degree exemption per fiscal year, but the United States Citizenship and Immigration Services (USCIS) received 172,500 H-1B petitions for fiscal year 2015, leaving an unfilled demand for more than 107,000 skilled positions. In 2016, potential employers may again invest a significant amount of time and effort in the petition process, only to again have the results decided by a lottery due to the significant number of petitions in excess of the cap. Many of the 10,000 Syrian refugees are college-educated professionals who may immediately work in specialty occupations for which employers would regularly petition for foreign workers under the H-1B category.

The Syrian refugees, in addition to the tens of thousands of refugees from other conflict zones, would also be immediately work-authorized to perform jobs that do not readily fit within U.S. employment-based visa categories, such as within the construction, hospitality, caregiving, and food service industries.

## GOVERNORS SEEK TO BLOCK REFUGEES

On November 16, Texas Gov. Greg Abbott wrote a letter to President Barack Obama informing him of his desire that the "state of Texas will not accept any refugees from Syria in the wake of the deadly terrorist attack in Paris." Abbott included in his letter a directive to the Texas Health & Human Services Commission's (THHSC) Refugee Resettlement

Program not to participate in the resettlement of any Syrian refugees in Texas.

While having no impact on the federal government, the Texas governor's directive may also be nonbinding on the THHSC. The Constitution of the State of Texas severely limits the powers of the Texas governor relative to many other state governors, making the position one of persuasion and leadership without much authority. The governor can utilize his power of appointment and nomination only to affect the policies of state agencies. Other than the secretary of state, all other agency heads have "for cause" protection from dismissal and are not subject to the direct control of the governor, other than the agency head's personal interest in future appointments from this particular governor. THHSC has the legal freedom to choose to follow the governor's directive—or ignore it.

In South Carolina, Syrian refugees have begun to be resettled by Lutheran Services Carolinas, a private resettlement agency in the state, despite a request from South Carolina Gov. Nikki Haley that Syrians not be resettled in the state.

Although likely not much more than political stunts, this gubernatorial positioning highlights a growing tension between state and federal authorities when dealing with immigration issues that impact the available labor force within the U.S.

## FEDERAL SUPREMACY IN IMMIGRATION LAW

The U.S. Supreme Court has ruled explicitly regarding federal supremacy to enact laws relating to immigration and nationality. "The supremacy of the national power in the general field of foreign affairs, including power over immigration, naturalization, and deportation, is made clear by the Constitution ... and has since been given continuous recognition by this Court." *Hines v. Davidowitz*, 312 U.S. 52 (1941). As recently as 2012, the Supreme Court reminded states' rights advocates that immigration is solely under the purview of the federal government. In *Arizona v. United States*, the Court stated that "the federal power to determine immigration policy is well settled." 567 U.S. \_\_ (2012).

The U.S. has a proud history of accepting refugees due to humanitarian concerns. The Displaced Persons Act of 1948 was enacted by Congress subsequent to the admission of more than 250,000 displaced Europeans during World War II. The law permitted admission of an additional

400,000 refugees from war-torn countries in Europe. Displaced nationals of Hungary, Poland, Yugoslavia, Korea, China, and Cuba comprised the majority of refugees or asylees accepted into the U.S. leading up to the Refugee Act of 1980.

As a consequence we have seen these refugee populations assimilate and benefit the country to perhaps a greater extent than any other. Refugees have been forcibly displaced from their home countries and seek the (relative) safety of the U.S. The established record of refugees, whether Jewish, Rwandan, East Bloc, Vietnamese, Hmong, or Syrian, is that of hardworking new Americans focused on assimilation and providing a new start for their families in the U.S. Although each of these populations has historically been the subject of concern and discrimination upon arrival in the U.S., it's important to note that to date there have not been any terrorist attacks on American soil linked to anyone admitted to the U.S. as a refugee. Syrians have become only the most recent in a long line of nationalities and ethnicities to which anxiety and discrimination have been directed.

#### **WHEN A SYRIAN REFUGEE APPLIES FOR A JOB**

Syrian refugees are authorized to work in the U.S. pursuant to their immigration status. As with all new hires, a Form I-9 must be completed once a Syrian refugee has been offered and has accepted a job with the employer. The refugee should mark "Alien authorized to work" in Section 1 and record "N/A" for the date work authorization expires.

Upon admission into the U.S., a Syrian refugee will be issued a Form I-94/Form I-94A with an unexpired refugee admission stamp while an employment authorization card is being processed. In completing the Form I-9, the employer must accept this document as a receipt establishing employment authorization and identity for 90 days. At the end of this 90-day period, the refugee must then present the employer either an original Employment Authorization Document (Form I-766) or a document from List B, such as a state-issued driver's license, with a document from List C, such as an unrestricted Social Security card. As with all new hires, a Syrian refugee may choose to present any acceptable document from List A or combination of acceptable documents from List B and List C.

Employers are prohibited from discriminating on the basis of race, color, national origin, religion, sex, age, disability, and genetic information. Examples of discrimination include improperly requesting employees produce more documents than are required, improperly requesting that employees present a particular document, improperly rejecting documents that reasonably appear to be genuine and to relate to the employee presenting them, and requiring employees who look or sound "foreign" to present a particular document the employer does not require other employees to present. Allegations of discrimination are prosecuted by the Office of Special Counsel for Immigration-Related Unfair Employment Practices of the U.S. Department of Justice, which has ample budget and staffing to bring suit against employers on behalf of employees complaining of discrimination.

#### **THE SCREENING PROCESS**

While still in camps outside the U.S., in a de facto quarantine period, due to enhanced security vetting, the refugee process for potential Syrian refugees may take more than two years.

There is a very strict vetting and winnowing process for displaced people to be sorted as possible refugees to the U.S. Generally, while in camps abroad, applicants must first apply for refugee status with the United Nations High Commissioner for Refugees (UNHCR), which determines whether an applicant meets the definition of "refugee" under the 1951 Refugee Convention, which would include an individual who, "owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion, is outside the country of his nationality and is unable to or, owing to such fear, is unwilling to avail himself of the protection of that country."

Refugee applicants who pass this threshold screening are then sorted by strength of evidence and whether they have relatives in a particular country, and are referred to a receiving country, such as the U.S. UNHCR referrals are then screened by the U.S. Resettlement Support Center (RSC). Prior to admitting the refugee applicant into the U.S., the RSC collects information about the candidate and conducts an extensive screening process that includes multiple interviews, medical

## MANY OF THE 10,000 SYRIAN REFUGEES ARE COLLEGE-EDUCATED PROFESSIONALS WHO MAY IMMEDIATELY WORK IN SPECIALTY OCCUPATIONS.

evaluations, and a full interagency security screening process, repeated and updated at each stage, to determine whether the applicant may pose any threat to the U.S.

As part of the vetting process, the USCIS conducts face-to-face interviews in the overseas camps with each refugee applicant, in which the USCIS officer evaluates the evidence and testimony collected from the applicant. The USCIS must then make an additional determination that the refugee does in fact meet the higher U.S. refugee standard, and will independently assess the applicant's credibility and ensure that the multiple rounds of security checks have been completed and analyzed.

If the USCIS officer is satisfied that the applicant has been thoroughly screened and does not pose a threat to the U.S., a travel document to the U.S. will be issued. Upon arrival at a U.S. airport, a U.S. Customs and Border Protection (CBP) immigration inspector will then segregate the refugee into the secondary inspection holding area, rerun security checks and interview the refugee to determine whether the applicant is admissible for entry into the U.S.

### SYRIAN REFUGEES TO UNDERGO ADDITIONAL CHECKS

As a consequence of the standard procedures undergone by refugee populations prior to entry to the U.S., successful refugees have been investigated at least four times by U.S. and international agencies, and enter the U.S. as perhaps the most vetted candidate population. No other immigrants are quarantined for two years while submitting to a comprehensive interagency screening process.

Shortly after the terrorist attacks in Paris, the U.S. Department of State on November 17 announced additional screening that must be undergone by Syrian refugee applicants seeking to enter the U.S., referred to as the "Syrian Enhanced Review."

This process requires Syrian applicants to have their files reviewed at USCIS headquarters and then

undergo in-person interviews abroad by USCIS officers who have received specialized training. Subsequent to an eight-week training period, officers dealing with Syrian applicants receive further specialized training specific to these types of cases. Any applicants with national security concerns will then be reviewed by the Fraud Detection and National Security Unit of USCIS.

If a Syrian refugee satisfactorily passes these enhanced procedures, she must then complete a cultural orientation prior to entry to the U.S.

### RESTRAINING ORDER DENIED

Despite this comprehensive screening process and our country's history of refugee resettlement, the Texas Attorney General's (AG) Office filed a request with a U.S. District Court in Dallas for a temporary restraining order (TRO) to prevent the resettlement of 21 Syrian refugees into Texas.

To support the grant of a TRO, a plaintiff must show an immediate danger and irreparable harm. U.S. District Judge David Godbey denied the TRO request, ruling that Texas "failed to show by competent evidence that any terrorists actually have infiltrated the refugee program, much less that these particular refugees are terrorists intent on causing harm." Having filed suit before requesting the details of the refugees in question, the state found that there were no single males of military age in the 21 Syrians coming to Texas. The group consisted of 12 children between the ages of 2 and 15, six parents, two grandparents, and a Syrian woman coming to join her mother, already living in Houston.

### LEGAL AND PRACTICAL ISSUES

Syrians are only the latest group to become the focus of anxiety and discrimination. Employers should be mindful—and should remind co-workers who may avoid, insult, harass, or slight their new co-workers based on their nationality—that such discrimination can subject the company to lawsuits. Setting aside the legal issues and reflecting practically on the world we live in today, it seems we may have little to worry about with these extensively vetted refugees. *M*

---

*Robert F. Loughran is a partner of Foster, LLP, and founder of the firm's global immigration section and workforce compliance practice group. He can be reached at +1 512 852 4142 [rloughran@fosterglobal.com](mailto:rloughran@fosterglobal.com).*