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December 30, 2019

Secretary Michael R. Pompeo  
U.S. Department of State  
2201 C Street NW  
Washington DC, 20520

Dear Secretary Pompeo:

As the Twin Falls County Board of County Commissioners we are writing regarding President Trump's Executive Order No. 13888: "Enhancing State and Local Involvement in Refugee Resettlement."

The Executive Order announces that it is the policy of the United States to "consult with State and local governments" and requires that a "State and locality both consent" before refugees are "resettled within that State and locality under the Program." The definition of "locality" is nowhere to be found. It is not in the Executive Order itself nor is it in Title 8 of the United States Code.

We are aware that a "FY 2020 Notice of Funding Opportunity for Reception and Placement Program" on the State Department's Bureau of Population, Refugees, and Migration website states, in section 8, that resettlement agencies may "provide in PDF a letter of consent from the chief executive officer of the local government (county or county equivalent)."

Equating "local government" with "county or county equivalent" seems arbitrary and problematic here because Title 8 of the U.S. Code does not define local government at all. Also, we do not recognize the State Department's Bureau of Population, Refugees, and Migration as a law-making agency—so their gratuitous definition of this critical term in their "Notice of Funding Opportunity" is unpersuasive to us. Furthermore, counties in Idaho do not have "chief executive officers." Rather, they are governed by boards of county commissioners consisting of three members each. (Idaho Const. Art. XVIII, § 10 and Idaho Code § 31-701.) By contrast, the City of Twin Falls has a city manager, and he has the authority of a "chief administrative officer" under Idaho Code § 50-808. While the term "chief administrative officer" is not exactly the same as "chief executive officer," it seems to be a closer match than a three-member board.

We, therefore, believe that in this instance, “locality” should refer to the City of Twin Falls, which has historically been involved with refugee issues to a far greater extent than the County. Our local refugee center, the College of Southern Idaho Refugee Program, is located in a state facility entirely within the Twin Falls City limits. Twin Falls County has no jurisdiction, power, influence, or authority within the City of Twin Falls, nor—obviously—over the state facility which houses the CSI Refugee Center. To our knowledge, the City of Twin Falls has been the only local government that has had any history of communicating about refugee issues with the local voluntary agency as directed by 8 USC § 1522(a)(1)(B)(iii) which states that “local voluntary agency activities should be conducted in close cooperation and advance consultation with State and local governments.” If the Director of the Office of Refugee Resettlement has ever consulted “regularly (not less than quarterly) with State and local governments” under 8 USC § 1522(a)(2)(A), Twin Falls County has never been involved.

We have sought, in vain, to find any competent legal authority whatever instructing that “locality” within the terms of Executive Order 13888 refers to counties.

Nevertheless, the City of Twin Falls—the appropriate jurisdiction to make determinations on this issue—has requested that we consent to initial refugee resettlement in Twin Falls, Idaho. They are unable to do so themselves because of the incompleteness of the Executive Order and the poor drafting of the Notice of Funding Opportunity. Because the CSI Refugee Center is in Twin Falls City, in a state-owned facility, we view our limited role today to be that of facilitating the voicing of the Twin Falls City’s support in a way that will be heard by the federal bureaucracy.

Therefore, in reference to Executive Order 13888, “On Enhancing State and Local Involvement in Resettlement,” we, the Twin Falls County Commissioners, consent to initial refugee resettlement in Twin Falls County, Idaho, as per the terms of the Executive Order.

The Immigration and Nationality Act, 8 USC § 1522(a)(2)(A), states that the Director of the Office of Refugee Resettlement shall consult regularly with local governments. While the Director has never consulted with us in the past, we welcome this. But, consultation is of little value if we are not allowed any input on our community’s behalf on any of the particulars of the program, including which and how many refugees it admits, and how refugees are vetted.

Executive Order 13888 and the “Notice of Funding Opportunity for Reception and Placement Program” seem to indicate that this flawed procedure will be followed annually. Because this new process was forced on us with little warning, we have proceeded today to timely accommodate and preserve the legitimate interests of the City of Twin Falls. Should this process survive the numerous appeals and injunctions that have been filed throughout the country and apply next year, Twin Falls County will employ a different procedure in analyzing this issue. Should the duty of “consent[ing] to initial refugee resettlement” in Twin Falls devolve to us again in the future we will formally engage each of the municipalities within our jurisdiction and surrounding counties to ascertain their support for this program. We will also hold robust public hearings to gauge community support for this process. Regrettably, the rushed timetable has not allowed us to obtain this input this year.

Sincerely,

Don Hall  
Chairman, Twin Falls County Board of County Commissioners

Jack Johnson  
Twin Falls County Commissioner

Brent D. Reinke  
Twin Falls County Commissioner

CC: Principal Deputy Assistant Secretary Carol T. O'Connell Bureau of Population, Refugees,  
and Migration U.S. Department of State