

Request for Assistance For Child Victims of Human Trafficking

A. Justification

1. Circumstances Making the Collection of Information Necessary

The William Wilberforce Trafficking Victims Protection Reauthorization Act (TVPRA) of 2008, Pub. L. No. 110-457, directs the U.S. Secretary of Health and Human Service (HHS), upon receipt of credible information that a non-U.S. citizen (alien) child may have been subjected to a severe form of trafficking in persons and is seeking Federal assistance available to victims of trafficking, to promptly determine if the child is eligible for interim assistance. (22 U.S.C. 7105(b)(1)(F)(i)) The law further directs the Secretary of HHS to determine if the child is eligible for assistance as a victim of a severe form of trafficking in persons after consultation with the Attorney General, the Secretary of Homeland Security, and nongovernmental organizations with expertise on victims of severe form of trafficking. (22 U.S.C. 7105(b)(1)(F)(iv)) – See Attachment A.

In developing procedures for collecting the necessary information from potential child victims of trafficking, their case managers, attorneys, or other representatives to allow HHS to grant interim eligibility, HHS devised a form. (See Attachment B.) HHS has determined that the use of a standard form to collect information is the best way to ensure requestors are notified of their opportunity to request assistance for child victims of trafficking and for HHS to make prompt and consistent determinations about each child's eligibility for interim assistance.

The form asks the requestor for his/her identifying information, for information on the child, and for information describing the type of trafficking and circumstances surrounding the situation. The form also asks the requestor to verify the information contained in the form because the information could be the basis for a determination of an alien child's eligibility for federally funded benefits.

Finally, the form takes into consideration the need to compile information regarding a child's circumstances and experiences in a non-directive, child-friendly way, and assists the potential requestor in assessing whether the child may have been subjected to trafficking in persons.

If the form were not used, HHS would not be able to uniformly provide consistent guidance to those representing potential victims about how to request assistance for a child. Without a form, ORR would be limited to simply notifying potential requestors of the change in law and providing a phone number at ORR for further information. The Child Protection Specialist in ORR would then have to review orally with each caller the information requested in the form, which would likely require multiple follow up calls, and possibly multiple interviews with the child, which could retraumatize the child. Having the form in hand would assist those working with a potential child victim to obtain the relevant information during the course of one interview.

The information provided through the completion of a Request for Assistance for Child Victims of Human Trafficking form will enable HHS to make prompt determinations regarding the eligibility of an alien child for interim assistance, inform HHS determination regarding the child's eligibility for assistance as a victim of a severe form of trafficking in persons, facilitate the required consultation process, and enable HHS to assess and address potential child protection issues.

Among the benefits available to child victims of trafficking is placement in the Unaccompanied Refugee Minors (URM) program if no parent or legal guardian is available to care for the child. The URM program establishes legal responsibility, under State law, to ensure that unaccompanied minor victims of trafficking receive the full range of assistance, care, and services that are available to all foster children in the State.

2. Purpose and Use of the Information Collection

The purpose of this form is to collect information necessary to determine if an alien child has been subjected to a severe form of trafficking in persons, as defined by the Trafficking Victims Protection Act of 2000 (TVPA), and is thereby eligible for federally funded benefits and services to the same extent as a refugee. Use of this form will facilitate ORR's review of information indicating that a child needing assistance may have been subjected to trafficking in persons, and will enable ORR to act expeditiously and consistently in receiving and reviewing requests for assistance for foreign child victims of trafficking in the United States. In the case of an unaccompanied child trafficking survivor, information provided on the form may be useful to the URM program in making decisions regarding an appropriate foster care placement.

We expect the form to be used primarily by case managers and attorneys for potential child victims, as well as Federal, State and local law enforcement. Use of this form by an individual seeking assistance for a child is recommended but not required to receive benefits.

3. Use of Improved Information Technology and Burden Reduction

Development of information technology is not practical at this time. The form will be available on the ORR website and could be downloaded and filled out and submitted by e-mail, or it could be printed out and faxed to ORR. The form will be filled out by individuals under different circumstances and with different technological capacities. Although automation would decrease ORR's burden, it could increase the respondent's time burden, or unintentionally limit those who would be able to submit a request.

4. Efforts to Identify Duplication and Use of Similar Information

ORR is the only agency to collect this information, so there is no similar information and no duplication.

5. Impact on Small Businesses or Other Small Entities

Not applicable.

6. Consequences of Collecting the Information Less Frequently

The information provided to ORR will not be submitted on a fixed schedule. Rather, to meet its legislative requirements, ORR must receive the information on the completed form and make a prompt determination of a child's eligibility for benefits whenever it is provided.

7. Special Circumstances Relating to the Guidelines of 5 CFR 1320.5

The Anti-Trafficking in Persons Division within the Office of Refugee Resettlement has prepared a System of Records Notice, but it has not yet been published in the *Federal Register*. The Notice is currently in clearance in the HHS Office of the Assistant Secretary for Planning and Evaluation. Until that Notice is in place, the Request for Assistance form contains a consent and verification section by which the Requestor consents to ORR sharing information provide in the form with ORR-approved users, and verifies that all information provided is complete and accurate to the best of the requestor's knowledge.

8. Comments in Response to the Federal Register Notice and Efforts to Consult Outside the Agency

The 60 day *Federal Register* notice was published April 10, 2009 with page number 16402, Volume 74.

During the 60-day comment period, ORR Child Protection Specialists notified eight nongovernmental organizations, one law enforcement officer, and one child welfare agency of the information collection notice and requested their comments. One organization notified their 80 subcontractor social service agencies.

ACF received comments from nine organizations through the process outlined in the Federal Register and one comment submitted directly to ORR. Eight of the organizations submitted identical comments, which urged ACF to 1) distinguish more clearly between assistance to 'potential' child victims of trafficking and 'actual' child victims of trafficking; 2) request minimal information and utilize the form solely to assess eligibility for interim assistance in order to protect confidential victim information; 3) rely on a one-page signed statement that the requestor has identified a potential child victim of trafficking to determine eligibility for interim assistance; 4) clarify further whether use of the form is optional; 5) identify another method of requesting assistance besides e-mail and facsimile (i.e., phone communication with ORR); 6) alert requestors that the information provided is discoverable in criminal and

civil litigation and may be used against the child; 7) list psychological/cultural coercion as method used to compel child labor; 8) take into consideration that the requestor may not have extensive knowledge of Federal laws on human trafficking and make the form more accessible to non-lawyers; and 9) explicitly state the threshold of evidence required to receive assistance. Four of these eight sets of comments also included a proposed form as an attachment that incorporated their comments.

The other organization that submitted comments formally in response to the Federal Register notice asked ACF 1) to provide further clarification on the purpose of the form and the process of determining “sufficient evidence;” and 2) to remove the request for identifying information about the child from the form. The organization also expressed concern about the privacy protections attached to the information provided through the form and the potential for its use by the trafficker’s defense attorney to discredit the child victim/witness, should it conflict with a statement made by the child at another stage in the rescue process when the child was fearful to disclose the trafficking. The organization also expressed concern about the time it would take to fill out a detailed form.

The organization that submitted comments directly to ORR was generally supportive of the content of the form and the information requested but suggested that it be more user friendly for those who wanted to submit information electronically. We considered this comment and have improved the formatting.

We responded to these comments by simplifying and reconfiguring the form to include a Part 1 (information necessary for assessing eligibility for interim assistance) and a Part 2 (supporting information for assessing eligibility long term assistance and child protection needs). The form more clearly distinguishes between information that would assist ORR in making a determination of eligibility for interim assistance and information that would assist ORR in making a determination of eligibility for long-term assistance. The introduction to the questionnaire in the form explicitly states that submission of the form, or the completion of any section, is optional; provides information on how to submit a request by phone to ORR; and provides guidance to individuals who need assistance in assessing the needs of a potential child victim or in completing the form. It also more clearly states the purpose of the information requested, how it will be used, and potential risks, such as discoverability in criminal or civil litigation, as well as the criteria established by the TVPRA of 2008 for interim eligibility. The form eliminates much of the questionnaire format and provides an opportunity for requestors to submit the information in narrative form.

The comments submitted in common made numerous references to the TVPRA’s 24-hour notification to HHS, interpreting the mandated notification to HHS as applying broadly to any individual who encounters a potential child trafficking victim, and misunderstanding that such an individual must complete and submit the form within 24 hours of encountering a victim. The TVPRA of 2008 only requires **Federal, State and local officials** to notify HHS within 24 hours of discovering a potential trafficking child victim. ORR has a mechanism to receive notifications from DOJ and DHS officials and to respond accordingly. While other

officials may use this form, they are not required to do so. There is no obligation for anyone to complete the form requesting assistance at all, let alone within 24 hours of discovering a potential victim.

The comments submitted in common opposed the collection of information on the “specific location” of the victim and asserted that it threatens the safety of the child. This comment suggests that the organizations, thought we were requesting information on the current location of the child. However, we requested information on the ‘specific location of origin i.e. town, state.’ The information on the child’s specific location of origin serves as a potentially critical indicator that the child is part of a trafficking scheme because specific towns in certain countries are known to ORR and other U.S. authorities to operate trafficking schemes. ORR may have already provided assistance to multiple children in the same scheme. The comments indicated that requesting where the parents reside might create safety concerns for family members. We deleted this question. However, we did retain the question enquiring whether the parent(s) are in the U.S. as it directly relates to the child’s capacity to access the full range of benefits for an unaccompanied child. .

ACF also considered but ultimately rejected the suggestion to delete the request for the child’s name from the request form. While we acknowledge that the child’s full is name is often unknown and/or identifying documents unavailable during the initial identification phases, ORR’s method of awarding eligibility for benefits is to provide a letter addressed to the victim which can be used by the Unaccompanied Refugee Minors program or benefit-issuing agencies to enroll the child. Should better information become available regarding the child’s correct name, ORR can send a new letter with that name.

ACF believes it is important for requestors who have credible and persuasive information about the child’s status as a victim of trafficking to notify HHS with this information as soon as possible to ensure that the child victim has effective access to the benefits, and to remove as soon as possible any uncertainty about the duration of those benefits. ORR will be limited in its capacity to place a potential child victim of trafficking in long-term foster care when the child is only eligible for interim assistance, which is limited to 90 or 120 days.

During the 60-day comment period, ORR piloted the form in actual cases and used it successfully to facilitate assistance.

To respond quickly to the requirements of the law, HHS has adapted a form that it had drafted in anticipation of creating a Federal program for domestic victims of trafficking, first authorized in 2005 but never funded. In developing that form, HHS consulted with the U.S. Department of Justice and with approximately 10 social service organizations throughout the country that are HHS grantees, many of whom work with child victims of trafficking. HHS received comments that helped to minimize the burden of the collection of information and shaped the content and structure of this information collection.

9. Explanation of Any Payment or Gift to Respondents

Not applicable.

10. Assurance of Confidentiality Provided to Respondents

The Privacy Act applies to this program and its information collection. No separate assurances of confidentiality are provided to respondents.

11. Justification for Sensitive Questions

The form which is optional requests information in areas related to commercial sex and other possible illegal activities, only because these activities can be the essential elements of a trafficking crime, and information concerning them is directly relevant to a determination of whether a child is eligible for benefits as a potential or actual victim of a severe form of trafficking in persons. For example, if a 16-year-old, undocumented female from Mexico is induced to engage in commercial sex in a brothel in Texas, regardless of whether force, fraud or coercion was involved, she is, by definition, a victim of trafficking and eligible for assistance. If a 15-year-old male from Honduras is forced to engage in illegal activities, such as smuggling or selling narcotics, out of fear of harm to himself or to his family, the circumstances of his case are directly relevant to a determination of whether he is a victim of a severe form of trafficking in persons and eligible for assistance. In addition, the child protection specialists tasked with reviewing the form are also tasked with providing technical assistance in cases and facilitating appropriate linkages to local anti-trafficking service providers, child welfare services and/or with the Unaccompanied Refugee Minors program. The information voluntarily provided in the form informs and enables the specialist to provide appropriate technical assistance, facilitate linkages, and assess and advise on potential child protection issues, particularly in the case of an unaccompanied child.

12. Estimates of Annualized Burden Hours and Costs

ANNUAL BURDEN ESTIMATES

INSTRUMENT	NUMBER OF RESPONDENTS	NUMBER OF RESPONSES PER RESPONDENT	AVERAGE BURDEN HOURS PER RESPONSE	TOTAL BURDEN HOURS
Request for Assistance for Child Victims of	50	1	1.5	75

Human Trafficking				
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Estimated Total Annual Burden Hours: 75

The monetary value of time is 75 hours times \$40 per hour or \$3000.

13. Estimates of Other Total Annual Cost Burden to Respondents and Record Keepers

There are no direct monetary costs to respondents other than their time to complete the form.

14. Annualized Cost to the Federal Government

We estimate \$21,000 per year, which reflects 750 hours (50 requests multiplied by an average of 15 hours per request) at \$28.00 per hour.

15. Explanation for Program Changes or Adjustments

Since OMB emergency approval, ORR has piloted the form and received several comments. The experience with use of the form, coupled with the comments, prompted ORR to revise the form. The revisions are addressed in detail in 8. Comments in Response to the Federal Register Notice and Efforts to Consult Outside the Agency. In summary, the revisions were the deletion of several questions, further clarification that the form is voluntary, and changes to format.

16. Plans for Tabulation and Publication and Project Time Schedule

Not applicable.

17. Reason(s) Display of OMB Expiration Date is Inappropriate

Not applicable.

18. Exceptions to Certification for Paperwork Reduction Act Submissions

No Exceptions

B. Statistical Methods (used for collection of information employing statistical methods)

Not applicable. No statistical methods employed.