

THE SUPPORTING STATEMENT

Specific Instructions

A. Justification

1. Circumstances Making the Collection of Information Necessary

The Administration for Children and Families (ACF), Office of Refugee Resettlement (ORR) proposes to create an instrument, the ORR-0132, Request for Specific Consent to Juvenile Court Jurisdiction under control number 0970-NEW, for authorizing an attorney or representative for an unaccompanied alien child (UAC) in ACF/ORR custody who seeks to invoke the jurisdiction of a state court for a dependency order and who also seeks to invoke the jurisdiction of a state court to determine or alter the UAC's custody status or placement. Specific consent of ACF/ORR is necessary since a custodial determination of a state court that extends jurisdiction over a UAC may remove that UAC from ACF/ORR custody.

The ACF/ORR functions related to the care and placement of UACs were transferred from the former Immigration and Naturalization Service (INS) pursuant to § 462 of the Homeland Security Act, 6 U.S.C. 279. The standards of care relating to unaccompanied alien children in Federal custody were established by the Flores v. Reno Settlement Agreement, No. CV85-4544-RJK (C.D. Cal. 1996). Additionally, the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA of 2008) modified section 101(a)(27)(J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(J)) concerning special immigrant juvenile (SIJ) status and the Homeland Security Act of 2002, 6 U.S.C. §279(b)(1). In order for a UAC to obtain SIJ status under the TVPRA 2008 modifications, specific consent is only required if the child also seeks to invoke the jurisdiction of a state court to determine or alter the UAC's custody status or placement. The TVPRA transferred authority for granting specific consent from the Department of Homeland Security to the Secretary of the Department of Health and Human Services. The authority for granting specific consent was subsequently delegated to the Director of the Office of Refugee Resettlement.

In cases in which the UAC seeks to invoke the jurisdiction of a state court to determine or alter the UAC's custody status or placement, ACF/ORR requires that attorney's or representatives acting on behalf of the UAC seeking SIJ legal relief to obtain the agency's specific consent. The instrument used to request this consent is the subject of this Supporting Statement. Starting on March 23, 2009 when ACF/ORR began receiving these requests (formerly handled by the Department of Homeland Security) and up to March 11, 2010 (the last date for which ACF/ORR has records at the time of this writing) a total of 79 such requests were made by attorneys or representatives of UACs pursuing SIJ status and seeking to invoke the jurisdiction of state courts. Of these 31 appeared from the first week (March 23-March 30, 2009) ACF/ORR began receiving these requests likely because of transfer of requests from DHS. After that first week requests fell to between 5 or 6 requests a month.

2. Purpose and Use of the Information Collection

The Request for Specific Consent to Juvenile Court Jurisdiction requires an attorney or representative to complete two separate sections of the instrument. First, the individual making the request must write basic contact information: date of request; the name, title, organization, phone number, fax number, and email address of the individual making the request; priority of the request (if urgent a short explanation is required). This information is necessary for ACF/ORR to contact the requestor and to document the request itself.

The first section of the form then asks the requestor to fill out the basic biographical information of the UAC: UAC's full name, alias, Alien Number, date of birth, place of birth, current address; the date, city, and state of any scheduled state or immigration court hearing relevant to the request. This information is necessary for ACF/ORR to identify the particular UAC in ACF/ORR's records as well as to make a final evaluation of the request.

The second section of the request requires that the attorney or representative attach a G-28, EIOR-28, or EOIR-29, or other form of authorization to act on behalf of a UAC, in order for ACF/ORR to determine that this is the UAC's attorney of record or official representative. This section requires the requestor to check off that they are seeking to change the custody or placement on behalf of a UAC. There is then space to write a short narrative as to the reason for the request to change custody status or placement. ORR/ACF is not requiring that a requestor argue their SIJ status case for the agency's review. ACF/ORR does not make a *prima facie* determination on the merits of a UAC's SIJ status claim and will not evaluate any documentation for this purpose. ORR review of documentation is to determine if the UAC's safety, the safety of the community, or risk of flight preclude granting specific consent.

3. Use of Improved Information Technology and Burden Reduction

The form is currently accessible electronically and can be submitted electronically as well. ACF/ORR prefers the submission of the Request for Specific Consent to Juvenile Court Jurisdiction to be received electronically.

4. Efforts to Identify Duplication and Use of Similar Information

The proposed information collection field for Request for Specific Consent to Juvenile Court Jurisdiction is not obtainable from other available sources.

5. Impact on Small Businesses or Other Small Entities

The proposed information collection fields will not burden or impact small businesses.

6. Consequences of Collecting the Information Less Frequently

The proposed information collection field is necessary for ORR to collect contact information of the requestor, identify the UAC a requestor intends to represent in a state juvenile court, and to evaluate ORR's responsibility's under the TVPRA 2008 and the Homeland Security Act of 2002, with those of the attorney or representative making the request. ORR is charged with the responsibility of evaluating the risks associated with the release of a UAC from ORR custody including: harm to the UAC from smugglers, traffickers, or others who might seek to victimize or otherwise engage them in criminal, harmful, or exploitative activities; harm to others, and flight risk.

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

These proposed information collections will not entail any special handling procedures as indicated in the OMB guidance for Paperwork Reduction Act processing.

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

ACF/ORR has solicited comments for the proposed rulemaking in the Federal Register. "Division of Unaccompanied Children's Services (DUCS) Request for Specific Consent" Proposed Information Collection Activity; New Collection, 75 Federal Register 88 (May 7, 2010), p. 25260.

No individual, organization, or other government entity made any comments.

9. Explanation of Any Payment or Gift to Respondents

No provision of payment or gift to the respondents will be provided.

10. Assurance of Confidentiality Provided to Respondents

ACF/ORR is not asking for any information of a confidential nature in the Request for Specific Consent to Juvenile Court Jurisdiction. While the Request for Specific Consent to Juvenile Court Jurisdiction does require a requestor to submit a UAC's Alien Number and current address this information is already assessable to ACF/ORR and is only intended as a method of identification. Furthermore, section 2 of the form is not asking for an attorney to breach attorney-client privilege but only requiring enough information for ACF/ORR to make its evaluation under the law.

ACF/ORR will be asking for information of a sensitive nature, but that information is about UACs, who are not U.S. citizens or aliens lawfully admitted for permanent residence in the United States. As such, the Privacy Act does not apply to this information. See 5 U.S.C. 552a(a)(2) (defining "individual" for purposes of the Privacy Act to include only U.S. citizens or aliens lawfully admitted for permanent residence). Therefore, while the Request for Specific Consent to Juvenile Court Jurisdiction does require a requestor to submit a UAC's Alien Number and current address, this information is not protected by the Privacy Act.

11. Justification for Sensitive Questions

Section 2 of the form is not asking for an attorney to breach attorney-client privilege but only requiring enough information for ACF/ORR to make its evaluation under the law. Generally, attorney-client privilege does not extend to the disclosure of a client's representation by an attorney and the identification of that attorney.

12. Estimates of Annualized Burden Hours and Costs

ANNUAL BURDEN ESTIMATE

Instrument	Number of Respondents	Number of Responses per Respondent	Average Burden Hours per Response	Total Burden Hours
Request for Specific Consent to Juvenile Court Jurisdiction (ORR-0132)	72	1	.3333	24

Estimate Total Annual Burden Hours:

24

This table includes burden estimates for respondent attorney's or representatives filing the form on behalf of UACs. Based on numbers from April 2009-March 2010 indicating that ORR received only about 6 requests a month, and that the agency has no reason to believe that these requests will spike suddenly, it is projected that the agency will receive no more than 72 responses in a fiscal year. The estimated time for completion of the Request for Specific Consent to Juvenile Court Jurisdiction is approximately 20 minutes, including time allowances for gathering biographical information on UACs. Most of the collection fields (10 of 11) require only the most nominal information, such as names and addresses. The one field (section 2) requires a more brief explanation of the requestor's reason for making the specific consent request. However, given that this information could be readily obtained from an attorney or representative's reasons for making a SIJ claim in the first place, this information is derivative.

The likely respondents using the instrument are pro bono attorneys working on behalf of UACs. The hourly average salary of a pro bono attorney is \$22.12, the cost is divided into the twenty minutes that is needed to complete the form which is \$7.37. ORR estimates that given the anticipated 72 responses per calendar year, 1 per respondent, working for 20 minutes, at \$22.12 an hour, the expected annualized cost will be \$530.64.

Since respondents working on behalf of UAC are pro bono attorneys, there will be \$0 actual cost per respondent.

Request for Specific Consent to Juvenile Court Jurisdiction
ESTIMATED COST FOR RESPONDENTS

Est. Quantity of Request for Specific Consent to Juvenile Court Jurisdiction	Hours Spent per Request for Specific Consent to Juvenile Court Jurisdiction	Cost of Case Worker (Pro Bono Attorney)	TOTAL ESTIMATED COST
72	.3333	\$0	\$0

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

- (a) There is no dollar cost because the attorneys are working on UAC cases on a pro bono basis.
- (b) This estimate considers an approximate 20 minutes spent on the Request for Specific Consent to Juvenile Court Jurisdiction and the subsequent transmission of information to ORR headquarters by electronic-mail. The technology employed for the electronic transmission of the instruments to ORR headquarters, such as personal computers with internet access, fax machines, scanners, and copiers are largely in use by attorney's and representatives of UAC regardless of the burden's imposed by the Request for Specific Consent to Juvenile Court Jurisdiction.

14. Annualized Cost to the Federal Government

Preparation of Instruments:

The creation of these documents was handled by ORR Headquarters staff. ORR/DUCS estimates that about 6-8 hours of federal staff time was used to draft, edit, and approve the Interim draft of ORR-0132.

Duplication of Paper-based instruments

TOTAL ESTIMATED PRINTING COST

Instrument	Est. Quantity of Instrument	Total Pages of Instrument	Cost per Page	Total Estimated Printing Cost per Instrument
Request for Specific Consent to Juvenile Court Jurisdiction	72	2	\$.05	\$7.20

Federal Staff Time and Costs:

The annualized cost estimate for this instrument is based upon a step 5 GS-11 in the Washington, DC locality, at \$33.92

Request for Specific Consent to Juvenile Court Jurisdiction ORR

ESTIMATED COST FOR FEDERAL STAFF

Est. Quantity of Request for Specific Consent to Juvenile Court Jurisdiction	Hours Spent per Request for Specific Consent to Juvenile Court Jurisdiction	Cost of Federal Staff	TOTAL ESTIMATED COST
72	.0833	\$33.92	\$203.44

15. Explanation for Program Changes or Adjustments

This is a request for a new information collection.

16. Plans for Tabulation and Publication and Project Time Schedule

ACF/ORR does not plan to publish the information provided by the respondents.

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

ACF/ORR plans to display the expiration date of clearance as set by OMB.

18. Exceptions to Certification for Paperwork Reduction Act Submissions

ACF/ORR does not take any exceptions to any of the items in the certification statement.

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

Question 16 was answered in the negative and therefore the following issues are moot.

1. Respondent Universe and Sampling Methods

N/A

2. Procedures for the Collection of Information

N/A

3. Methods to Maximize Response Rates and Deal with Nonresponse

N/A

4. Test of Procedures or Methods to be Undertaken

N/A

5. Individuals Consulted on Statistical Aspects and Individuals Collecting and/or Analyzing Data

N/A