

Legal Services for Unaccompanied Children

**OMB Information Collection Request
0970 – 0565**

Supporting Statement Part A - Justification

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Submitted By:
Office of Refugee Resettlement
Administration for Children and Families
U.S. Department of Health and Human Services

SUPPORTING STATEMENT A – JUSTIFICATION

This information collection request (ICR) consists of several forms that allow the Unaccompanied Children (UC) Program to provide legal services to UC. Details about requested revisions are described in section A15.

1. Circumstances Making the Collection of Information Necessary

The Homeland Security Act (HSA), 6 U.S.C. 279, transferred responsibilities for the care and placement of unaccompanied children UC from the Commissioner of the former Immigration and Naturalization Service (INS) to the Director of the Office of Refugee Resettlement (ORR).

The *Flores v. Reno* Settlement Agreement, No. CV85-4544-RJK (C.D. Cal. 1996), establishes an order of priority for sponsors with whom UC should be placed and sets minimum standards for the housing, services, transportation, and discharge of UC. *Flores* also entitles Plaintiffs' counsel to visit ORR facilities.

The William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA), 8 U.S.C. 1232, creates additional requirements for the placement, services, and discharge of UC in federal custody. The TVPRA also directs ORR to create policies to ensure UC are protected from traffickers and others seeking to victimize them or otherwise engage them in criminal, harmful, or exploitative activity.

ORR's Interim Final Rule on the Standards to Prevent, Detect, and Respond to Sexual Abuse and Sexual Harassment Involving Unaccompanied Children, 45 CFR Part 411, sets forth such standards for ORR care provider facilities that house UC in accordance with section 1101(c) of the Violence Against Women Reauthorization Act of 2013, Pub. L. 113-4 (VAWA 2013).

ORR's UC Program provides care and custody for UC until they can be safely released to a sponsor, repatriated to their home country, or obtain legal status. ORR funds residential care provider facilities that provide temporary housing and other services to UC in ORR custody. Care provider facilities are State-licensed, with the exception of temporary influx care facilities, and must meet ORR requirements to ensure a high-level quality of care. Services provided at care provider facilities include, but are not limited to, education, recreation, vocational training, acculturation, nutrition, medical, mental health, legal, and case management.

This request is to continue use of several instruments directly related to the care of UC. These instruments allow ORR to provide legal services to UC. Minor revisions are proposed; details about requested revisions are described in section A15. The instruments are:

- Legal Service Provider List for UC in ORR Care (Form LRG-5/5s)
- Request for a Flores Bond Hearing (Form LRG-7/7s)
- Motion to Request a Bond Hearing – Secure or Staff Secure Custody (Form LRG-8A)
- Motion to Request a Bond Hearing – Non-Secure Custody (Form LRG-8B)
- Request for Specific Consent to Juvenile Court Jurisdiction (Form L-1)
- Specific Consent Request Case Summary (Form L-2)
- Notice of Attorney Representation (Form L-3)

- UC Legal Information (Form L-4)
- Legal Service Provider Record (Form L-6)
- Change of Venue (Form L-7)
- Post Legal Status Plan (Form L-8)

2. Purpose and Use of the Information Collection

- **Legal Service Provider List for UC in ORR Care (Form LRG-5/5s):** This instrument is provided to UC by their case manager. The instrument contains a list of legal services providers available to UC. UC initial and sign the instrument upon admission and release of ORR custody to acknowledge receipt of documents contained in ORR’s Legal Resource Guide.
- **Request for a Flores Bond Hearing (Form LRG-7/7s):** This instrument is provided to UC placed by their case manager. The instrument is always provided to UC placed in a restrictive setting (secure, staff secure, and residential treatment center facilities) and to UC placed in other types of facilities upon request. UC may use this instrument to request or withdraw a request for a *Flores* bond hearing. See [ORR Policy Guide Section 2.9 Bond Hearings for Unaccompanied Children](#) for related policies.
- **Motion to Request a Bond Hearing – Secure or Staff Secure Custody (Form LRG-8A):** This instrument is completed by case managers upon receipt of a *Request for a Flores Bond Hearing* for a UC in secure or staff secure custody and provided to ORR. ORR files the motion with the local immigration court. See [ORR Policy Guide Section 2.9 Bond Hearings for Unaccompanied Children](#) for related policies.
- **Motion to Request a Bond Hearing – Non-Secure Custody (Form LRG-8B):** This instrument is completed by case managers upon receipt of a *Request for a Flores Bond Hearing* for a UC placed in a non-secure program (e.g., shelter, foster care) and provided to ORR. ORR files the motion with the local immigration court. See [ORR Policy Guide Section 2.9 Bond Hearings for Unaccompanied Children](#) for related policies.
- **Request for Specific Consent to Juvenile Court Jurisdiction (Form L-1):** This instrument is used by legal service providers and attorneys of record to request specific consent from ORR in cases where they are seeking Special Immigrant Juvenile legal relief for their UC client and are also seeking to invoke the jurisdiction of a state court to determine or alter the UC’s custody status or placement.
- **Specific Consent Request Case Summary (Form L-2):** This instrument is completed by ORR Federal Field Specialists (FFS) when ORR receives a request for specific consent. FFS provide case information that will allow the ORR Director to make an informed decision on whether to grant specific consent.
- **Notice of Attorney Representation (Form L-3):** This instrument is completed by attorneys of record for UC to notify ORR of the purpose of legal representation and the representation timeframe. ORR uses this instrument to ensure that case updates are provided to attorneys of record. This instrument may also be used by attorneys of record when requesting a copy of their client’s case file.
- **UC Legal Information (Form L-4):** This instrument is used by case managers to document, as applicable, referrals to the Office on Trafficking in Persons; meetings between the UC and their

legal service provider or attorney of record; the provision of ORR's Legal Resource Guide to the UC; information about the UC's legal service provider or attorney of record; immigration and administrative hearings; and provision of the *Notice of Placement in a Restrictive Setting* to the UC. The instrument also includes an area to upload legal documents.

- **Legal Service Provider Record (Form L-6):** This instrument is used by case managers to create a record containing certain information and documents that ORR makes accessible to ORR-funded legal service providers without requiring a formal records request.
- **Motion for Change of Venue (Form L-7):** This instrument is used by case managers to file a motion for change of venue when a UC is transferred or discharged to a new immigration court jurisdiction.
- **Post Legal Status Plan (Form L-8):** This instrument is used by case managers to create and obtain Federal Field Specialist Supervisor approval for a plan for UC expected to obtain legal status, at which time the UC must be released from ORR custody. See [ORR Policy Guide Section 2.8.6 Release for Children with Legal Immigration Status](#) for related policies.

Supplemental Material

ORR is also including the following instrument as supplemental material. This instrument is completed solely by ORR Federal staff and there is no record keeping burden for care provider grantees.

Law Firm Entity (Form L-5): This instrument is used by ORR Federal staff to add information about ORR-funded legal service provider (LSP) law firms into the UC Path system. Case managers are then able to link LSP law firms to their UC clients in the *UC Legal Information* instrument. Individual attorneys of record entered into the *UC Legal Information* instrument and linked to an LSP law firm will auto-populate in the Attorneys of Record list on the *Law Firm Entity* page.

3. Use of Improved Information Technology and Burden Reduction

ORR is in the process of developing a new case management system, UC Path. UC Path will streamline information management by consolidating UC information from disparate storage locations, reduce manual paperwork processing conducted outside of the system (e.g., spreadsheets, PDFs, Word documents), maximize the use of auto-population so that information is not entered more than once, enforce business rules through automated workflow management, and improve business intelligence capabilities by automating reporting and data analytics. ORR will incorporate several of the instruments in this collection into UC Path when launched. The remaining instruments will be available in a fillable PDF format.

Instruments in UC Path

- UC Legal Information (Form L-4)
- Legal Service Provider Record (Form L-6)
- Change of Venue (Form L-7)
- Post Legal Status Plan (Form L-8)

Instruments in PDF Format

- Legal Service Provider List for UC in ORR Care (Form LRG-5/5s)

- Request for a Flores Bond Hearing (Form LRG-7/7s)
- Motion to Request a Bond Hearing – Secure or Staff Secure Custody (Form LRG-8A)
- Motion to Request a Bond Hearing – Non-Secure Custody (Form LRG-8B)
- Request for Specific Consent to Juvenile Court Jurisdiction (Form L-1)
- Specific Consent Request Case Summary (Form L-2)
- Notice of Attorney Representation (Form L-3)

4. Efforts to Identify Duplication and Use of Similar Information

The information being collected by these instruments are not obtainable from other sources.

5. Impact on Small Businesses or Other Small Entities

The proposed information collections will not burden or impact small businesses.

6. Consequences of Collecting the Information Less Frequently

Not collecting the information requests on these forms would impede ORR from performing its charged duty of providing legal services to UC. Furthermore, all grantees funded to provide services to these children are required in writing to comply with all of ORR's program policies, procedures, and other guidance, which includes collecting the information in these instruments.

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

None of the characteristics outlined in 5 CFR 1320.5(d)(2) apply to the instruments in this collection.

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

In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104-13) and Office of Management and Budget (OMB) regulations at 5 CFR Part 1320 (60 FR 44978, August 29, 1995), ACF published a notice in the Federal Register announcing the agency's intention to request an OMB review of this information collection activity. This notice was published on February 18, 2021, Volume 86, Number 31, pages 10082-10084, and provided a sixty-day period for public comment. During the notice and comment period, responses were received from five commenters, each containing multiple comments. Attachment A provides a summary of those comments and ORR's responses.

9. Explanation of Any Payment or Gift to Respondents

No payment or gift to the respondents will be provided.

10. Assurance of Confidentiality Provided to Respondents

ORR established a system of records to ensure the level of confidentiality pursuant to the Privacy Act. 5 U.S.C. 552a. ORR's system of records notice was published on July 18, 2016 at 81 FR 46682.

11. Justification for Sensitive Questions

Sensitive information may be collected in the *Specific Consent Request Case Summary* in order for ORR to make an informed decision on granting specific consent. ORR does not ask for any information of a sensitive nature beyond what is needed to make the decision.

12. Estimates of Annualized Burden Hours and Costs

Estimates used to calculate burden are based on the following factors:

- FY2020 data on *Flores* bond hearings.
- FY2021 projections for referrals to ORR custody and transfers within the ORR care provider network.
- ORR funds approximately 216 care provider grantees.
- The cost to respondents was calculated using wage data, accessed in March 2020, for the following Bureau of Labor Statistics (BLS) job codes. The rates were multiplied by two to account for fringe benefits and overhead.
 - 21-1021 Child, Family, and School Social Workers in the industry of Other Residential Care Facilities – $\$19.21 \times 2 = \38.42
 - 23-2011 Paralegals and Legal Assistants in the industry of Legal Services – $\$25.20 \times 2 = \50.40

Information Collection Title	Annual Number of Respondents	Annual Number of Responses per Respondent	Average Burden <u>Minutes</u> per Response	Annual Total Burden <u>Hours</u>	Average Hourly Wage	Annual Total Cost
Legal Service Provider List for UC in ORR Care (Form LRG-5/5s)	216	556.0	15	30,024	\$38.42	\$1,153,522.08
Request for a Flores Bond Hearing (Form LRG-7/7s)	216	0.2	10	7	\$38.42	\$268.94
Motion to Request a Bond Hearing – Secure or Staff Secure Custody (Form LRG-8A)	8	3.0	10	4	\$38.42	\$153.68
Motion to Request a Bond Hearing – Non-Secure	208	0.1	10	3	\$38.42	\$115.26

Custody (Form LRG-8B)						
Request for Specific Consent to Juvenile Court Jurisdiction (Form L-1)	40	1.0	15	10	\$50.40	\$504.00
Specific Consent Request Case Summary (Form L-2)	216	0.2	20	14	\$38.42	\$537.88
Notice of Attorney Representation (Form L-3)	13,000	1.0	15	3,250	\$50.40	\$163,800.00
UC Legal Information (Form L-4)	216	241.0	60	52,056	\$38.42	\$1,999,991.52
Legal Service Provider Record (Form L-6)	216	241.0	5	4,338	\$38.42	\$166,665.96
Change of Venue (Form L-7)	216	208.0	10	7,488	\$38.42	\$287,688.96
Post Legal Status Plan (Form L-8)	216	24.0	15	1,296	\$38.42	\$49,792.32
Estimated Annual Burden Hours Total:				98,490	Estimated Annual Cost Total:	\$3,823,040.60

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

Respondents will not incur any direct monetary costs, other than their time, in the completion of these instruments.

14. Annualized Cost to the Federal Government

The annualized cost estimate for each of these instruments considers the time of a step 1 GS-12 in the Washington, DC locality to review information following submittal. No additional costs will be incurred by the Federal government for developing computer systems or storing the instruments as those systems are already in place. The hourly rate was multiplied by two to account for fringe benefits and overhead.

Information Collection Title	Annual Number of Respondents	Annual Number of Responses per Respondent	Average Federal Staff Burden <u>Minutes</u> per Response	Annual Total Federal Staff Burden <u>Hours</u>	Average Federal Staff Hourly Wage	Annual Total Federal Staff Cost
Request for a Flores Bond Hearing (Form LRG-7/7s)	1	216	5	1,080	\$82.74	\$89,359.20
Motion to Request a	1	27	5	135	\$82.74	\$11,169.90

Bond Hearing – Secure or Staff Secure Custody (Form LRG-8A)						
Motion to Request a Bond Hearing – Non-Secure Custody (Form LRG-8B)	1	9	5	45	\$82.74	\$3,723.30
Request for Specific Consent to Juvenile Court Jurisdiction (Form L-1)	1	40	60	2,400	\$82.74	\$198,576.00
Specific Consent Request Case Summary (Form L-2)	45	1	30	1,350	\$82.74	\$111,699.00
Law Firm Entity (Form L-5)	1	60	5	300	\$82.74	\$24,822.00
Post Legal Status Plan (Form L-9)	45	116	10	52,200	\$82.74	\$4,319,028.00
Estimated Annual Burden Hours Total:				57,510	Estimated Annual Cost Total:	\$4,758,377.40

15. Explanation for Program Changes or Adjustments

ORR revised the *Request for Specific Consent to Juvenile Court Jurisdiction* by reorganizing the instrument to make it more user-friendly; expanding the introductory sentence into a short paragraph; and removing a couple extraneous fields.

ORR also replaced the term “unaccompanied alien child (UAC)” with “unaccompanied child (UC)” throughout the instruments in this collection. Note that the screenshots of UC Path instruments attached to this package do not reflect this change because it has not yet been developed in the system. However, the revision in terminology will be made before the system is launched.

Finally, ORR plans to remove the term “alien” from the title of this information collection and revise it to read “Legal Services for Unaccompanied Children.”

16. Plans for Tabulation and Publication and Project Time Schedule

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

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

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

18. Exceptions to Certification for Paperwork Reduction Act Submissions

No exceptions are necessary for this information collection.