

# **Placement and Transfer of Unaccompanied Children into ORR Care Provider Facilities**

**OMB Information Collection Request  
0970 - 0554**

## **Supporting Statement Part A - Justification**

**October 2022**

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

## Summary

The Administration for Children and Families (ACF) requests emergency review and approval of this information collection by OMB, as authorized under 44 U.S.C. 3507(subsection j). The proposed revisions to this information collection are necessary to allow the Office of Refugee Resettlement (ORR) Unaccompanied Children (UC) Program to comply with a court order that takes effect on October 29, 2022. The information collected is essential to the mission of the agency and an unanticipated event has occurred that could reasonably cause a court-ordered deadline to be missed if normal Paperwork Reduction Act (PRA) clearance procedures are followed. On June 29, 2018, Plaintiffs filed their federal class action lawsuit in the Central District of California, western division, captioned *Lucas R. et al v. Azar et al* (Case No. CV 18-5741-DMG (PLAx)), asserting claims under the *Flores* consent decree, the Trafficking Victims Protection Reauthorization Act, the Due Process clause, and the First Amendment. Plaintiffs allege violation of UC rights in decisions regarding family reunification, placement in restrictive facilities, administration of psychotropic medication, and access to legal assistance. On August 30, 2022, the Court issued a Preliminary Injunction in response to the Cross-Motions for Summary Judgment on the family reunification, restrictive placement, and legal services claims. As part of that injunction, the court obligates ORR to expand specific policy and procedural protections to category 2 sponsors, children who wish to challenge placement in restrictive settings, and children seeking access to legal counsel by the time the Final Order takes effect. Those policy and procedural protections include specific changes regarding notification of rights and documentation of restrictive placement, both of which require a new instrument and revision to an existing instrument in this information collection. The Final Order takes effect on October 29, 2022. See A1, A2, and A15, below, for additional details.

### **1. Circumstances Making the Collection of Information Necessary**

The UC Program provides care and custody for unaccompanied children 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. Generally, care provider facilities are State licensed (with the exception of those located in states unwilling to license them and temporary emergency 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.

ORR uses several instruments directly related to the care of UC. The instruments in this information collection allow ORR to place UC referred to ORR by federal agencies into care provider facilities and to transfer UC within the ORR care provider network.

The current request is to add one new instrument and make revisions to an existing instrument under this information collection.

- Notice of Administrative Review (Form P-18/18s/18d/18p) – new
- Notice of Placement in a Restrictive Setting (Form P-4/4s/4d/4p) – revised

### **Legal Authorities**

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

## 2. Purpose and Use of the Information Collection

- **Placement Authorization (Form P-1):** This instrument is used by ORR to authorize a care provider to provide care and services to UC placed in their facility. Care providers sign the instrument to acknowledge certain responsibilities related to the care of the UC.
- **Authorization for Medical, Dental, and Mental Health Care (Form P-2):** This instrument is used by ORR to authorize a care provider to provide medical, dental, and mental health care services to UC placed in their facility. Care providers sign the instrument to acknowledge certain responsibilities related to the care of the UC.
- **Notice of Placement in a Restrictive Setting (Form P-4/4s/4d/4p):** This instrument is used by care providers to document and inform UC of the reason they have been placed in a restrictive setting. This instrument is available in English, Spanish, Dari, and Pashto. See [ORR Policy Guide Section 1.2.4 Secure and Staff Secure Care Provider Facilities](#) for related policies.
- **Long Term Foster Care Placement Memo (Form P-5):** This instrument is used by care providers to ensure placement in a foster home that meets the UC's needs and continuity of services. See [ORR Policy Guide Section 1.2.6 ORR Long Term Foster Care](#) for related policies.
- **UC Referral (formerly titled Intakes Placement Checklist and Add New UC) (Form P-7):** This instrument is used by Federal agencies to refer UC to ORR custody and by ORR Intakes staff to place UC in an ORR care provider facility. It also contains a checklist that is used by ORR Intakes staff to determine whether initial placement in a restrictive setting is appropriate for a UC. See [ORR Policy Guide Section 1.3 Referrals to ORR and Initial Placement](#) for related policies.
- **Care Provider Checklist for Transfers to Influx Care Facilities (Form P-8):** This instrument is used by care providers to ensure that all criteria for transfer of a UC to an influx care facility have been met. See [ORR Policy Guide Section 7.2 Placement into Influx Care Facilities](#) for related policies.
- **Medical Checklist for Non-Influx Transfers (Form P-9A):** This instrument is used by care providers to ensure that UC are medically cleared for transfer within the ORR care

provider network, excluding transfer to an influx care facility. See [ORR Policy Guide Section 1.4 Transfers within the ORR Care Provider Network](#) for related policies.

- **Medical Checklist for Transfers to Influx Care Facilities (Form P-9B):** This instrument is used by care providers to ensure that UC are medically cleared for transfer to an influx care facility. See [ORR Policy Guide Section 7.2 Placement into Influx Care Facilities](#) for related policies.
- **Transfer Request (Form P-10A):** This instrument is used by care provider facilities, ORR contractor staff, and ORR Federal staff to process recommendations and decisions for transfer of a UC within the ORR care provider network for non-influx transfers. See [ORR Policy Guide Section 1.4 Transfers within the ORR Care Provider Network](#) for related policies.
- **Influx Transfer Request (Form P-10B):** This instrument is used by care provider facilities and ORR Federal staff to process recommendations and decisions for transfers to an influx care facility. See [ORR Policy Guide Section 7.2 Placement into Influx Care Facilities](#) for related policies.
- **Transfer Summary and Tracking (formerly titled Transfer Request and Tracking Form) (Form P-11):** This instrument is used by care providers to track the physical transfer of the UC and their belongings. See [ORR Policy Guide Section 1.4 Transfers within the ORR Care Provider Network](#) for related policies.
- **Program Entity (formerly titled UC Portal Capacity Report) (Form P-12):** This instrument is used by care providers and ORR to track certain information related to care provider programs, such as location, contact information, bed capacity, state licensure, grant information, monitoring, and program census.
- **UC Profile (formerly titled Add New UC) (Form P-13):** This instrument is used by referring Federal agencies and care providers to create a profile for a UC from which all information related to their case can be accessed.
- **ORR Transfer Notice – Notice of Transfer to ICE Chief Counsel – Change of Address/Change of Venue (Form P-14):** This instrument is used by care providers to notify DHS of the transfer of a UC within the ORR care provider network so that DHS may file a Motion for Change of Venue and/or Change of Address with the Executive Office for Immigration Review to ensure the UC’s immigration case is transferred to the local immigration court, if applicable.
- **Family Group Entity (Form P-15):** This instrument is used by the ORR Intakes Team to associate UCs who are members of the same family with each other.
- **Influx Transfer Manifest (Form P-16):** This instrument is used by designated care provider staff and ORR staff to plan, track, and notify stakeholders of group transfers to an influx care facility. See [ORR Policy Guide Section 7.2 Placement into Influx Care Facilities](#) for related policies.
- **Influx Transfer Manual and Prescreen Review (Form P-17):** This instrument is used by designated care provider staff to evaluate each UC’s eligibility to be transferred to an influx care facility. Care provider staff review and update information on daily during times of influx. See [ORR Policy Guide Section 7.2 Placement into Influx Care Facilities](#) for related policies.
- **Notice of Administrative Review (Form P-18/18s/18d/18p):** This instrument is serves as written notice of receipt of a Placement Review Panel request, provides the UC with

information on next steps to take when requesting a review and reconsideration of the UC's placement in a restrictive setting, and requests information needed by ORR to conduct the placement review from the UC or their representative. This instrument is available in English, Spanish, Dari, and Pashto.

### **3. Use of Improved Information Technology and Burden Reduction**

ORR is in the process of developing a new case management system which 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. All of the instruments in this collection, except the Notice of Administrative Review, will be incorporated into the new system when launched.

### **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 requested in these forms would impede ORR from performing its charged duty of accepting referrals from Federal agencies within 72 hours and placing UC in the least restrictive setting. 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 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 alerted the public to a request for emergency approval for six months of data collection and provided a sixty-day comment period related to the full request that will be

submitted to continue data collection beyond six months. A full request will document any comments received and how ACF has considered the comments.

### 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 these instruments in order for ORR to make informed placement decisions that ensure all UC are placed in the least restrictive setting that meets their individual needs. ORR does not ask for any information of a sensitive nature beyond what is needed to make appropriate placement decisions.

### 12. Estimates of Annualized Burden Hours and Costs

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

- Number of referrals to ORR custody and transfers within the ORR care provider network in FY2021.
- ORR funds approximately 262 care provider grantees, including approximately 35 long term foster care programs and 15 restrictive placement programs.
- The cost to respondents was calculated using median hourly wage data from May 2021 (accessed in September 2022) for the following Bureau of Labor Statistics (BLS) job codes. The rates were multiplied by two to account for fringe benefits and overhead.
  - o 21-1021 Child, Family, and School Social Workers –  $\$23.63 \times 2 = \$47.26$
  - o 23-2011 Paralegals and Legal Assistants –  $\$27.03 \times 2 = \$54.06$

| Information Collection Title                              | Annual Number of Respondents | Annual Number of Responses per Respondent | Average Burden Hours per Response | Annual Total Burden Hours | Average Hourly Wage | Annual Total Cost |
|---|------------------------------|---|-----------------------------------|---------------------------|---------------------|-------------------|
| Placement Authorization (Form P-1)                        | 262                          | 536                                       | 0.08                              | 11,235                    | \$47.26             | \$530,966.10      |
| Authorization for Medical, Dental, and Mental Health Care | 262                          | 536                                       | 0.08                              | 11,235                    | \$47.26             | \$530,966.10      |

|  |     |       |      |         |         |                |  |
|--|-----|-------|------|---------|---------|----------------|--|
| (Form P-2)   |     |       |      |         |         |                |  |
| Notice of Placement in a Restrictive Setting (Form P-4/4s)                 | 15  | 114   | 0.33 | 564     | \$47.26 | \$26,654.64    |  |
| Long Term Foster Care Placement Memo (Form P-5)                            | 35  | 6     | 0.25 | 53      | \$47.26 | \$2,504.78     |  |
| UC Referral (Form P-7)   | 25  | 4,909 | 1.00 | 122,725 | \$47.26 | \$5,799,983.50 |  |
| Care Provider Checklist for Transfers to Influx Care Facilities (Form P-8) | 262 | 19    | 0.25 | 1,245   | \$47.26 | \$58,838.70    |  |
| Medical Checklist for Transfers (Form P-9A)                                | 262 | 49    | 0.08 | 1,027   | \$47.26 | \$48,536.02    |  |
| Medical Checklist for Influx Transfers (Form P-9B)                         | 262 | 96    | 0.17 | 4,276   | \$47.26 | \$202,083.76   |  |
| Transfer Request (Form P-10A) – Grantee Case Manager                       | 262 | 67    | 0.42 | 7,373   | \$47.26 | \$348,447.98   |  |
| Transfer Request (Form P-10A) – Contractor Case Coordinator                | 275 | 67    | 0.33 | 6,080   | \$47.26 | \$287,340.80   |  |
| Influx Transfer Request (Form P-10B)                                       | 262 | 96    | 0.42 | 10,564  | \$47.26 | \$499,254.64   |  |
| Transfer Summary and Tracking (Form P-11)                                  | 262 | 67    | 0.17 | 2,984   | \$47.26 | \$141,023.84   |  |
| Program Entity (Form P-12)   | 262 | 12    | 0.50 | 1,572   | \$47.26 | \$74,292.72    |  |

|   |     |        |   |                  |                                     |                         |
|---|-----|--------|---|------------------|-------------------------------------|-------------------------|
| UC Profile (Form P-13)  | 262 | 468    | 0.75  | 91,962           | \$47.26                             | \$4,346,124.12          |
| ORR Transfer Notification - ORR Notification to ICE Chief Counsel of Transfer of UC and Request to Change Address/Venue (Form P-14) | 262 | 67     | 0.17  | 2,984            | \$47.26                             | \$141,023.84            |
| Family Group Entity (Form P-15)   | 25  | 120    | 0.08  | 240              | \$47.26                             | \$11,342.40             |
| Influx Transfer Manifest (Form P-16)  | 3   | 12     | 0.33  | 12               | \$47.26                             | \$567.12                |
| Influx Transfer Manual and Prescreen Criteria Review (Form P-17)  | 262 | 56,213 | 0.50  | 7,363,903        | \$47.26                             | \$348,018,055.78        |
| Notice of Administrative Review (Form P-18)   | 200 | 1      | 0.83  | 166              | \$54.06                             | \$8,973.96              |
|   |     |        | <b>Estimated Annual Burden Hours Total:</b> | <b>7,640,200</b> | <b>Estimated Annual Cost Total:</b> | <b>\$361,076,980.80</b> |

### 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.



| <b>Information Collection Title</b>  | <b>Annual Number of Respondents</b> | <b>Annual Number of Responses per Respondent</b> | <b>Average Federal Staff Burden Hours per Response</b> | <b>Annual Total Federal Staff Burden Hours</b> | <b>Average Federal Staff Hourly Wage</b> | <b>Annual Total Federal Staff Cost</b> |
|--|-------------------------------------|--|--|--|--|--|
| Long Term Foster Care Placement Memo (Form P-5)                            | 85                                  | 13   | 0.17   | 188  | \$86.08                                  | \$16,183.04                            |
| UC Referral (Form P-7) – ORR Federal Staff                                 | 85                                  | 2  | 0.17   | 29   | \$86.08                                  | \$2,496.32                             |
| UC Referral (Form P-7) – Referring Federal Agency                          | 50                                  | 2,455  | 0.25   | 30,688   | \$86.08                                  | \$2,641,623.04                         |
| Care Provider Checklist for Transfers to Influx Care Facilities (Form P-8) | 85                                  | 57   | 0.17   | 824  | \$86.08                                  | \$70,929.92                            |
| Medical Checklist for Transfers (Form P-9A)                                | 85                                  | 150  | 0.08   | 1,020  | \$86.08                                  | \$87,801.60                            |
| Medical Checklist for Influx Transfers (Form P-9B)                         | 85                                  | 296  | 0.08   | 2,013  | \$86.08                                  | \$173,279.04                           |
| Transfer Request (Form P-10A)  | 85                                  | 207  | 0.33   | 5,806  | \$86.08                                  | \$499,780.48                           |
| Influx Transfer Request (Form P-10B)                                       | 85                                  | 296  | 0.33   | 8,303  | \$86.08                                  | \$714,722.24                           |
| Transfer Summary and Tracking (Form P-11)                                  | 85                                  | 207  | 0.08   | 1,408  | \$86.08                                  | \$121,200.64                           |
| Program Entity (Form P-12)   | 35                                  | 12   | 0.50   | 210  | \$86.08                                  | \$18,076.80                            |
| UC Profile (Form P-13)   | 85                                  | 1,444  | 0.50   | 61,370   | \$86.08                                  | \$5,282,729.60                         |

|   |    |       |   |                |                                     |                        |
|---|----|-------|---|----------------|-------------------------------------|------------------------|
| UC Profile (Form P-13)  | 50 | 2,455 | 0.17  | 20,868         | \$86.08                             | \$1,796,317.44         |
| ORR Transfer Notification - ORR Notification to ICE Chief Counsel of Transfer of UC and Request to Change Address/Venue (Form P-14) | 85 | 207   | 0.08  | 1,408          | \$86.08                             | \$121,200.64           |
| Influx Transfer Manifest (Form P-16)  | 85 | 1     | 0.25  | 21             | \$86.08                             | \$1,807.68             |
| Influx Transfer Manual and Prescreen Criteria Review (Form P-17)  | 85 | 296   | 0.25  | 6,290          | \$86.08                             | \$541,443.20           |
| Notice of Administrative Review (Form P-18/18s/18d/18p)   | 5  | 40    | 0.50  | 100            | \$86.08                             | \$8,608.00             |
|   |    |       | <b>Estimated Annual Burden Hours Total:</b> | <b>140,546</b> | <b>Estimated Annual Cost Total:</b> | <b>\$12,098,199.68</b> |

## 15. Explanation for Program Changes or Adjustments

ORR added a new instrument titled **Notice of Administrative Review (Form P-18/18s/18d/18p)** that serves as written notice of receipt of a Placement Review Panel request and provides the UC with information on next steps to take when requesting a review and reconsideration of the UC's placement in a restrictive setting. The notice also requests that the UC and/or their representative provide a written statement and decision on whether they are requesting a hearing. If a hearing is requested, the UC and/or their representative are also asked to provide:

- The name, email address, and telephone number for the UC's attorney or child advocate
- The UC's preferred language
- Whether the UC will need an interpreter (of if the UC's representative will provide an interpreter)
- The names and email addresses for the witnesses the UC or their representative plan to call at the

- hearing
- Whether the UC has any special needs

This additional form has been added to the burden estimates in section A12. Specifically, ORR estimates the average time to complete this form to be five minutes.

ORR made the below-listed revisions to the **Notice of Placement in a Restrictive Setting (Form P-4/4s/4d/4p)**. Many of the new fields in this form are also contained in the 30-Day Restrictive Placement Case Review (Form S-16), which is approved under OMB# 0970-0553. The below revisions effectively merge Forms P-4 and S-16 into one form. ORR plans to submit a nonsubstantive change request to discontinue Form S-16 soon.

- Reorganized the form into six main sections – UC Information, ORR’s Determinations Related to Safety, Reasons for Restrictive Placement, Summary of Supporting Evidence for Restrictive Placement, Your Rights to Challenge Your Placement, and UC’s Acknowledgement of Receipt.
- Added the following fields under the UC Information section:
  - o Preferred Language
  - o Out-of-Network Facility Name
  - o If applicable, explain the reasons that the UC is placed in an out-of-network facility.
  - o Date of Placement at Current Restrictive Facility
  - o Date of Initial Notice of Placement
  - o Date Next Notice of Placement is Due (within 30 days)
- Created the ORR’s Determinations Related to Safety section and added the following checkboxes:
  - o UC presents a danger to self or community
  - o UC poses a risk of escape
- Revised the Reasons for Restrictive Placement section as follows:
  - o Under Secure Facility:
    - Removed checkbox “Have committed, threatened to commit, or engaged in serious, self-harming behavior that poses a danger to self while in ORR custody.”
    - Revised the checkbox “Have a history of or display sexual predatory behavior, or have inappropriate sexual behavior.” to instead read “Have committed sexual abuse, where there is coercion by overt or implied threats of violence against another person and/or there is an immediate danger to others.”
    - Added checkbox “Are pending transfer of discharge/release to:”
  - o Under Residential Treatment Center:
    - Added checkbox “Are pending transfer of discharge/release to:”
  - o Under Staff Secure Facility:

- Replaced checkbox “Could be stepped down from a secure facility” with “Are pending transfer of discharge/release to:”
- Under Summary of Supporting Evidence for Restrictive Placement:
  - Split text box into three separate text boxes, one each for the case manager, case coordinator, and federal field specialist
  - Added fields for case manager, case coordinator, and federal field specialist names and their overall recommendations
- Added additional information on how a UC may request to change their placement in a restrictive setting under the Your Rights to Challenge Your Placement section
- Added a field for the name and title of the care provider/issuing official.
- Added fields for the language used to explain the form to the UC, the name of the person who explained the form, and their interpreter ID#, if applicable.

The changes to all versions of form P-4 are not expected to change the estimated average time per response. ORR still anticipates respondents to have an **average** complete time of 20 minutes. If initial fielding of the form indicates the average time to complete has increased, ORR will make this update in the upcoming extension request.

#### **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.