

Placement and Transfer of Unaccompanied Children into ORR Care Provider Facilities

**OMB Information Collection Request
0970 - 0554**

Supporting Statement Part A - Justification

August 2023

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

Summary

This information collection was originally approved under emergency approval for six months, as authorized under 44 U.S.C. 3507(subsection j), due to an unanticipated event that could have reasonably caused a court-ordered deadline to be missed if normal Paperwork Reduction Act (PRA) clearance procedures were followed. This request is to continue data collection for all forms approved under this information collection, including those for which emergency approval was granted, as well as additional revisions. See A2 and A15 below for additional details.

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 alleged violation of unaccompanied child 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 Judgement on the family reunification, restrictive placement, and legal services claims. As part of that injunction, the court obligated 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 took effect. Those policy and procedural protections include specific changes regarding notification of rights and documentation of restrictive placement, both of which required a new instrument and revision to an existing instrument in this information collection. The Final Order took effect on October 29, 2022.

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 children 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 unaccompanied children. The instruments in this information collection allow ORR to place unaccompanied children referred to ORR by federal agencies into care provider facilities and to transfer children within the ORR care provider network.

The current request is to continue data collection for all forms approved under this information collection, including those for which emergency approval was granted, as well as additional revisions to the following instruments.

- Notice of Placement in a Restrictive Setting (Form P-4)
- Foster Care Placement Memo (formerly titled Long Term Foster Care Placement Memo) (Form P-5)

Legal Authorities

The Homeland Security Act (HSA), 6 U.S.C. 279, transferred responsibilities for the care and placement

of unaccompanied children 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 unaccompanied children should be placed and sets minimum standards for the release, housing, services, transportation, and discharge of unaccompanied children. *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 unaccompanied children in federal custody. The TVPRA also directs ORR to create policies to ensure children 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 unaccompanied children 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 unaccompanied children placed in their facility. Care providers sign the instrument to acknowledge certain responsibilities related to the care of the children.
- **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 unaccompanied children placed in their facility. Care providers sign the instrument to acknowledge certain responsibilities related to the care of the children.
- **Notice of Placement in a Restrictive Setting (Form P-4):** This instrument is used by care providers to document and inform unaccompanied children of the reason they have been placed in a restrictive setting. This instrument is available in English, Spanish, Dari, and Pashto. See [UC Policy Guide Section 1.2.4 Secure and Staff Secure Care Provider Facilities](#) for related policies.
- **Foster Care Placement Memo (formerly titled 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 child's needs and continuity of services. See [UC Policy Guide Section 1.2.6 ORR Long Term Foster Care](#) for related policies.
- **Unaccompanied Child Referral (formerly titled Intakes Placement Checklist and Add New Unaccompanied Child) (Form P-7):** This instrument is used by Federal agencies to refer unaccompanied children to ORR custody and by ORR Intakes staff to place children 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 the child. See [UC 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 child to an

influx care facility have been met. See [UC 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 children are medically-cleared for transfer within the ORR care provider network, excluding transfer to an influx care facility. See [UC 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 children are medically cleared for transfer to an influx care facility. See [UC 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 child within the ORR care provider network. See [UC Policy Guide Section 1.4 Transfers within the ORR Care Provider Network](#) for related policies.
- **Placement Confirmation (Form P-10B):** This instrument is used by care provider facilities, ORR contractor staff, and ORR Federal staff to recommend and approve placement into a specific care provider program once a transfer request is approved. See [UC 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 child and their belongings. See [UC 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.
- **Unaccompanied Child Profile (formerly titled Add New Unaccompanied Child) (Form P-13):** This instrument is used by referring Federal agencies and care providers to create a profile for an unaccompanied child 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 child 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 child’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 children 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 [UC 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 child’s eligibility to be transferred to an influx

care facility. Care provider staff review and update information on daily during times of influx. See [UC Policy Guide Section 7.2 Placement into Influx Care Facilities](#) for related policies.

- **Notice of Administrative Review (Form P-18):** This instrument is serves as written notice of receipt of a Placement Review Panel request, provides the child with information on next steps to take when requesting a review and reconsideration of the child's placement in a restrictive setting, and requests information needed by ORR to conduct the placement review from the child 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 unaccompanied children 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 children 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 was published on October 25, 2022, Volume 87, Number 205, pages 64487-64489, and provided a sixty-day period for public comment. During the notice and comment period, responses were received from one commenter, containing multiple comments. Attachment A provides a summary of those comments and ORR’s responses.

ACF published a second notice on December 23, 2022, Volume 87, Number 246, pages 78973-78974, and provided a sixty-day period for public comment for additional proposed revisions. No comments were received.

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 children 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	Average Burden Hours per Response	Annual Total Burden Hours	Average Hourly Wage	Annual Total Cost
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		Respondent				
Placement Authorization (Form P-1)	262	536	0.08	11,235	\$47.26	\$530,966.10
Authorization for Medical, Dental, and Mental Health Care (Form P-2)	262	536	0.08	11,235	\$47.26	\$530,966.10
Notice of Placement in a Restrictive Setting (Form P-4)	15	114	0.33	564	\$47.26	\$26,654.64
Foster Care Placement Memo (Form P-5)	110	337	0.25	9,268	\$47.26	\$438,005.68
Unaccompanied Child 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	0.25	4,389	\$47.26	\$207,424.14
Transfer Request (Form P-10A) – Contractor Case Coordinator	275	67	0.17	3,132	\$47.26	\$148,018.32
Placement Confirmation (Form P-10B) – Grantee Case Manager	262	67	0.17	2,984	\$47.26	\$141,023.84
Placement Confirmation	275	67	0.17	3,132	\$47.26	\$148,018.32

(Form P-10B) – Contractor Case Coordinator						
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
Unaccompanied Child 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 Unaccompanied Child 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
			Estimated Annual Burden Hours Total:	7,639,035	Estimated Annual Cost Total:	\$361,021,922.90

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 Hours per Response	Annual Total Federal Staff Burden Hours	Average Federal Staff Hourly Wage	Annual Total Federal Staff Cost
Foster Care Placement Memo (Form P-5)	85	13	0.17	188	\$86.08	\$16,183.04
Unaccompanied Child Referral (Form P-7) – ORR Federal Staff	85	2	0.17	29	\$86.08	\$2,496.32
Unaccompanied Child 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	0.17	2,991	\$86.08	\$257,465.28
Placement Confirmation (Form P-10B)	85	207	0.17	2,991	\$86.08	\$257,465.28
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
Unaccompanied Child Profile (Form P-13)	85	1,444	0.50	61,370	\$86.08	\$5,282,729.60
Unaccompanied Child 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 Unaccompanied Child 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)	5	40	0.50	100	\$86.08	\$8,608.00
			Estimated Annual Burden Hours Total:	138,690	Estimated Annual Cost Total:	\$11,938,435.20

15. Explanation for Program Changes or Adjustments

This request is to extend approval of a request that was approved for six months under an emergency request. This current request includes revisions, as outlined below under “Currently Proposed Revisions.” Revisions that were approved most recently are also outlined.

CURRENTLY PROPOSED REVISIONS

Notice of Placement in a Restrictive Setting (Form P-4)

- Replace the abbreviation UC with “unaccompanied child” or “child” throughout the form.

- Under Section C, rephrase instructions to read “Check all reasons that apply for the current placement recommendation only” (instead of “For each type of placement, check all reasons that apply for that placement only”).
- Under Section D, remove phrase “specific incidents related to” from “Provide a detailed summary of specific incidents related to the reason(s) for restrictive placement you selected above” to avoid any accidental conflation with Significant Incident Report (SIR) forms.
- Under Section E, clarify that the right to consult an attorney is at no cost to the federal government, as stated in the *Lucas R.* Preliminary Injunction.
- Under Section F, clarify that there is no positive or negative inference from a child’s decision not to sign the form.

Foster Care Placement Memo (Form P-5)

- Change the title to “Foster Care Placement Memo” and update the term “long-term foster care” to “foster care” throughout the memo. This term will be inclusive of ORR long-term foster care, transitional foster care, and community-based care programs.
- Increase the number of respondents and number of responses per respondent to include transitional foster care programs (in addition to long-term foster care programs).
- Update instructions on which fields are completed for initial placements and which are completed for transfers within the foster care program.
- Add citation to related policies in the instructions.
- Reword some fields and instructions for clarity.
- Add field to capture the facility name for children placed in an out-of-network foster care program.
- Separate fields that capture contact information for the foster family or group home into separate subsections and expand the fields to capture additional contact information (e.g., phone or email) in addition to name and address.

REVISIONS APPROVED UNDER EMERGENCY APPROVAL

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

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

ORR made the below-listed revisions to the **Notice of Placement in a Restrictive Setting (Form P-4)** (available in English, Spanish, Dari, and Pashto). 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 – Unaccompanied Child 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 Child’s Acknowledgement of Receipt.
- Added the following fields under the Unaccompanied Child Information section:
 - Preferred Language
 - Out-of-Network Facility Name
 - If applicable, explain the reasons that the child is placed in an out-of-network facility.
 - Date of Placement at Current Restrictive Facility
 - Date of Initial Notice of Placement
 - Date Next Notice of Placement is Due (within 30 days)
- Created the ORR’s Determinations Related to Safety section and added the following checkboxes:
 - Child presents a danger to self or community
 - Child poses a risk of escape
- Revised the Reasons for Restrictive Placement section as follows:
 - 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:”
 - Under Residential Treatment Center:
 - Added checkbox “Are pending transfer of discharge/release to:”
 - 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

- o Added fields for case manager, case coordinator, and federal field specialist names and their overall recommendations
- Added additional information on how a child 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 child, the name of the person who explained the form, and their interpreter ID#, if applicable.

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.