Administration and Oversight of the Unaccompanied Children Program

OMB Information Collection Request
0970 - 0547

Supporting Statement Part A - Justification

June 2023

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

SUPPORTING STATEMENT A – JUSTIFICATION

Summary

This request is for revisions to six forms currently approved under OMB #0970-0547, to add four new instruments, and to remove one currently approved instrument. Details about the changes 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 release, housing, care, and transportation 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, care, and release 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, Standards to Prevent, Detect, and Respond to Sexual Abuse and Sexual Harassment Involving Unaccompanied Children, 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 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 is submitting several instruments directly related to the care of UC for processing pursuant to the Paperwork Reduction Act. These instruments allow ORR to facilitate stakeholder visits to care provider facilities; obtain consent from UC to share their case file information; improve service delivery to UC; and ensure that serious issues are elevated to ORR and that all incidents and the response to such incidents are documented and resolved in a way that protects the interests of UC. The proposed instruments are:

- Care Provider Facility Tour Request (Form A-1A)
- Notice to UC for Flores Visits (Form A-4 & A-4s)
- Authorization for Release of Records (Form A-5)
- Notification of Concern (Form A-7)
- Child-Level Event (Form A-9A)
- Emergency Significant Incident Report (Form A-9B)
- Non-Emergency Significant Incident Report (Form A-9C)
- Historical Disclosure (Form A-9D)
- Behavioral Note (Form A-9E)

- Program-Level Event Report (Form A-10)
- Key Personnel Minimum Qualifications Checklist and Attestation (Form A-14)
- ORR Waiver Request (Form A-15)

2. Purpose and Use of the Information Collection

- **Care Provider Facility Tour Request (Form A-1A):** This instrument is used by advocacy groups, faith-based organizations, researchers, government officials and other stakeholders to request tours of ORR care provider facilities. After the request is received, ORR documents its decision and details regarding date and location of the tour, if applicable, and provides the completed form to the requester. See ORR Policy Guide Section 5.2 ORR Policies on Requests to Visit ORR Care Provider Facilities for related policies.
- **Notice to UC for Flores Visits (Forms A-4 & A-4s):** This instrument is used by care provider facilities to notify UC of upcoming visits by *Flores* counsel (lawyers and volunteers from the organization that originally participated in the creation of the Flores Settlement Agreement) and allow UC to add their name to a sign-up sheet if they are willing to speak with *Flores* counsel.
- **Authorization for Release of Records (Form A-5):** This instrument is used by attorneys, legal service providers, government agencies, and other stakeholders to request UC case file records. In most cases, requesters are required to obtain the signature of the subject of the record request (UC or their parent/legal guardian or sponsor) and a witness.
- **Notification of Concern (Form A-7):** This instrument is used by home study and post-release service caseworkers, care provider case managers, and the ORR National Call Center to notify ORR of certain concerns that arise after a UC is released from ORR custody. See ORR Policy Guide Section 6.1 Summary of Resources and Services Available After Release from ORR Care for related policies.
- **Child-Level Event (Form A-9A):** This instrument is used by ORR care provider programs to document events occurring in and outside of ORR care that must be reported to ORR. Creating a *Child-Level Event* is the first step in creating any type of incident report (see forms A-9B to A-9E below), *PLE Report* (see form A-10 below). After a *Child-Level Event* is created, an incident report is created for each UC involved in the incident and linked to the *Child-Level Event*. For program-level events, one *PLE Report* is created and linked to the *Child-Level Event*. *Child-Level Event* information is visible in each individual report. See ORR Policy Guide Section 5.8 Significant Incident Reports and Notification Requirements for related policies.
- **Emergency Significant Incident Report (SIR) (Form A-9B):** This instrument is used by ORR care provider programs to inform ORR of urgent situations occurring while the child is in ORR custody in which there is an immediate threat to the child's safety and well-being that requires instantaneous action. In some cases, an addendum may be required to provide additional information obtained after the initial report. See ORR Policy Guide Section 5.8 Significant Incident Reports and Notification Requirements for related policies.
- **Non-Emergency Significant Incident Report (SIR) (Form A-9C):** This instrument is used by ORR care provider programs to inform ORR of situations that affect, but do not immediately threaten, the safety and well-being of a child. In some cases, an addendum may be required to provide additional information obtained after the initial report. See ORR Policy Guide Section 5.8 Significant Incident Reports and Notification Requirements for related policies.
- **Historical Disclosure (Form A-9D):** This instrument is used by ORR care provider programs to inform ORR of situations that affect the safety and well-being of a child that occurred before the children entered ORR custody. In some cases, an addendum may be required to provide additional information obtained after the initial report. See ORR Policy Guide Section 5.8 Significant Incident Reports and Notification Requirements for related policies.

- **Behavioral Note (Form A-9E):** This instrument is used by ORR care provider programs to document behavioral observations about children that highlight positive events or developments in the children's daily life while in care and to document patterns of behavior that potentially merit intervention or support over time. See ORR Policy Guide Section 5.8 Significant Incident Reports and Notification Requirements for related policies.
- **Program-Level Event (PLE) Report (Form A-10):** This instrument is used by ORR care provider programs to inform ORR of events that may affect the entire care provider facility, such as an active shooter or natural disaster. An updated PLE Report is required for events that occur over multiple days or if the situation changes regarding the event.
- **Key Personnel Minimum Qualifications Checklist and Attestation (Form A-14):** This instrument is used by ORR care provider programs to request hiring approval for key positions, as required in the ORR cooperative agreement, and, if applicable, request a waiver of minimum qualifications when appropriately justified. This form is currently approved under OMB #0970-0558.
- **ORR Waiver Request (Form A-15):** This instrument is used by ORR care provider programs to request a waiver of a permissible regulatory, policy, procedure, or cooperative agreement requirement. ORR considers waiver requests when appropriately justified and when the safety and well-being of children in ORR custody would not be adversely affected. ORR does not have the authority to waive federal or state statute or state regulations and may only waive certain provisions of federal regulations where specified by the regulation. This form is currently approved under OMB #0970-0558.

3. Use of Improved Information Technology and Burden Reduction

ORR is in the process of streamlining information management by consolidating UC information from disparate storage locations, reducing manual paperwork processing conducted outside of the system (e.g., spreadsheets, PDFs, Word documents), maximizing the use of auto-population so that information is not entered more than once, enforcing business rules through automated workflow management, and improving business intelligence capabilities by automating reporting and data analytics.

The *Care Provider Facility Tour Request* and *Authorization for Release of Records* are completed by stakeholders who do not have access to ORR's case management system. Therefore, the instruments are completed in PDF format and emailed to ORR for processing. The *Notice to UC for Flores Visits* is completed in PDF format, printed, and posted in care provider facilities to allow UC to sign up if they are willing to speak with *Flores* counsel.

Instruments in ORR's Case Management System

- Child-Level Event (Form A-9A)
- Emergency Significant Incident Report (Form A-9B) Non-Emergency Significant Incident Report (Form A-9C)
- Historical Disclosure (Form A-9D)
- Behavioral Note (Form A-9E)
- Program Level Event Report (Form A-10)

Instruments in PDF Format

- Care Provider Facility Tour Request (Form A-1A)
- Notice to UC for Flores Visits (Form A-4 & A-4s)
- Authorization for Release of Records (Form A-5)
- Notification of Concern (Form A-7)

- Key Personnel Minimum Qualifications Checklist and Attestation (Form A-14)
- ORR Waiver Request (Form A-15)

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

The lack of these instruments would impede ORR from performing its charged duty of ensuring the safety and well-being of UC in its custody. Furthermore, all grantees funded to provide services to these children are required in writing to comply with all of ORR's program policies and guidelines, 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 January 6, 2021, Volume 86, Number 3, pages 545-547, and provided a sixty-day period for public comment. During the notice and comment period, responses were received from six 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 provision 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 *Event*; *Emergency Significant Incident Report* and *Addendum*; *Significant Incident Report* and *Addendum*; *Sexual Abuse Significant Incident Report* and *Addendum*; *and Notification of Concern* in order to ensure that ORR has the information it needs to quickly respond to and resolve serious incidents in a way that protects the interests of UC in its custody. ORR does not ask for any information of a sensitive nature beyond the need for appropriately responding to serious incidents.

12. Estimates of Annualized Burden Hours and Costs

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

- The number of respondents was calculated using FY2019 data on the actual number of responses for existing instruments.
- ORR funds approximately 216 care provider grantees and approximately 60 post-release service grantees and sub-grantees.
- ORR grantee case managers complete all instruments except for the *Care Provider Facility Tour Request* and *Authorization for Release of Records*, which are assumed to be completed by the administrative or legal assistant staff, respectively, of the individuals submitting the instruments.
- 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
    - 43-6014 Secretaries and Administrative Assistants, Except Legal, Medical, and Executive across all industries – $17.75 × 2 = $35.50
    - 23-2011 Paralegals and Legal Assistants in the industry of Legal Services – $25.20 × 2 = $50.40

Estimated Burden Hours and Opportunity Costs for Respondents

Information Collection Title	Annual Number of Respondents	Annual Number of Responses per Respondent	Average Burden Minutes per Response	Annual Total Burden Hours	Average Hourly Wage	Total Annual Cost
Care Provider Facility Tour Request (Form A-1A)	200	1	10	33	$35.50	$1,171.50
Notice to UC for Flores Visits (Forms A-4 & A-4s)	20	1	15	5	$38.42	$192.10
Authorization for Release of Records (Form A-5)	4,000	1	15	1,000	$50.40	$50,400.00
Notification of Concern (Form A-7)	60	75	15	1,125	$38.42	$43,222.50
Child-Level Event (Form A-9A)	276	160	10	7,360	$38.42	$282,771.20
Emergency Significant Incident Report (Form A-9B)	216	26	90	8,424	$38.42	$323,650.08
Non-Emergency Significant Incident	216	261	90	84,564	$38.42	$3,248,948.88

Report (Form A-9C)						
Historical Disclosure (Form A-9D)	216	163	90	52,812	$38.42	$2,029,037.04
Behavioral Note (Form A-9E)	216	137	30	14,796	$38.42	$568,462.32
Program Level Event (Form A-10)	216	7	60	1,512	$38.42	$58,091.04
Key Personnel Minimum Qualifications Checklist and Attestation (Form A-14)	235	9	10	353	$38.42	$13,562.26
ORR Waiver Request (Form A-15)	235	2	20	157	$38.42	$6,031.94
			Estimated Annual Burden Hours Total:	**172,141**	**Estimated Annual Cost Total:**	**$6,625,540.86**

Estimated Burden Hours and Opportunity Costs for Record Keepers

ORR grantee care providers staff assist in facilitating tours requested using the *Care Provider Facility Tour Request* and in fulfilling records requests made using the *Authorization for Release of Records*.

Information Collection Title	**Annual Number of Record Keepers**	**Annual Number of Responses per Record Keeper**	**Average Burden Minutes per Response**	**Annual Total Burden Hours**	**Average Hourly Wage**	**Total Annual Cost**
Care Provider Facility Tour Request (Form A-1A)	216	1	120	432	$38.42	$16,597.44
Authorization for Release of Records (Form A-5)	216	19	20	1,368	$38.42	$52,558.56
			Estimated Annual Burden Hours Total:	**1,800**	**Estimated Annual Cost Total:**	**$69,156.00**

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 and to facilitate tours requested using the *Care Provider Facility Tour Request*. 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	**Number of**	**Number**	**Average**	**Total**	**Average**	**Total Annual**

Collection Title	Federal Staff	of Responses per Federal Staff	Burden Minutes per Response	Burden Hours	Hourly Wage	Cost
Care Provider Facility Tour Request (Form A-1A)	45	4	140	420	$82.74	$34,750.80
Authorization for Release of Records (Form A-5)	5	800	20	1,333	$82.74	$110,292.42
Notification of Concern (Form A-7)	45	101	30	2,273	$82.74	$188,068.02
Emergency Significant Incident Report (Form A-9B)	45	123	30	2,768	$82.74	$ 229,024.32
Non-Emergency Significant Incident Report(Form A-9C)	45	1,255	30	28,238	$82.74	$ 2,336,412.12
Historical Disclosure (Form A-9D)	45	783	30	17,618	$82.74	$1,457,713.32
Behavioral Note (Form A-9E)	45	656	15	7,380	$82.74	$610,621.20
Program Level Event (Form A-10)	45	33	30	743	$82.74	$61,475.82
Key Personnel Minimum Qualifications Checklist and Attestation (Form A-14)	235	9	10	353	$38.42	$13,562.26
ORR Waiver Request (Form A-15)	235	2	20	157	$38.42	$6,031.94
			Estimated Annual Burden Hours Total:	**62,074**	**Estimated Annual Cost Total:**	**$ 5,136,002.76**

15. Explanation for Program Changes or Adjustments

A. ORR plans to revise 6 of the 8 instruments currently approved under OMB #0970-0547. Four of the revised instruments will be incorporated into ORR's case management system. The other 2 revised instruments are and will remain PDF instruments. In addition, ORR plans to add 4 new instruments to this collection – 2 will be incorporated into ORR's case management system and 2 will be in PDF forms. ORR also plans to remove one currently approved instrument from this collection. Finally, ORR plans to replace the term "unaccompanied alien child (UAC)" with "unaccompanied child (UC)" throughout the instruments in this collection. Note that the screenshots 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.

Care Provider Facility Tour Request (Form A-1A): No changes were made to this PDF instrument.

Notice to UC for Flores Visits (Forms A-4 & A-4s): ORR added language to clarify children's rights in relation to *Flores* visits and updated the Spanish translation of this PDF instrument.

Authorization for Release of Records (Form A-5): ORR made the following updates to this PDF instrument:

- Reworded several fields and made formatting updates throughout for clarity.
- Added a separate area where sponsors may authorize the release of their records.
- Updated the required supporting documentation for a representative of a Federal/State government agency or the National Center for Missing and Exploited Children to further require that the requester specify the scope of their investigation and provide a case reference number.
- Updated the required supporting documentation to require a *Notice of Attorney Representation* (Form L-3, approved under OMB #0970-0565) for attorneys of record and legal service providers.
- Updated the required supporting documentation to require photo identification for UC, sponsors, or parents/legal guardians.
- Clarified in the instructions that ORR will not release any records that are clearly outside of the scope of a government agency's investigation absent a court-issued subpoena or order and that ORR will not release records when the request is or appears to be for immigration enforcement purposes
- Updated language in the authorization section to clarify that UC and sponsors have a legal right to refuse to sign the form.

Notification of Concern (Form A-7): No changes were made to this instrument.

Event (Form A-9): This instrument was previously approved as part of ORR's various incident reports (Forms A-10A to A-10D). ORR is listing it separately, as a new instrument, to better align instruments in this collection with how data will be entered into ORR's case management system. Some fields that were previously entered in each incident report have been moved into this instrument so that they only need to be entered once. The form also contains several new fields that capture additional information about the location and timeframe of the event. Please note that internal form number A-9 was previously assigned to the Program-Level Event Report.

Emergency Significant Incident Report (SIR) (Forms A-10A), SIR (Form A-10B), Sexual Abuse SIR (Form A-10C), and Program-Level Event Report (Form A-10D): ORR made the following updates to these four instruments:

- Revised the available options for the category and subcategory fields.
- Added fields to capture additional detail on individuals involved in the incident, actions taken, and video footage.
- Added fields to capture additional information related to reporting of incidents to child protective services, state licensing agencies, and local law enforcement.
- Added a disposition field to indicate whether the incident is closed or if the incident is open and further action is required.
- Updated functionality for the list of individuals who need to be notified of the incident so that it is auto-populated and notification emails can be sent from within the system.
- Updated internal form numbering so that reports and addendums are fall under the same form number; and updated the assigned form number for the Program-Level Event Report from A-9 to A-10D.

Hotline Alert (Form A-12): ORR is discontinuing this instrument. The ORR National Call Center will use the *Notification of Concern* instead of the *Hotline Alert*.

Key Personnel Minimum Qualifications Checklist and Attestation (Form A-14): This is a new instrument that ORR plans to add to this collection. This form is currently approved under OMB #0970-0558.

ORR Waiver Request (Form A-15): This is a new instrument that ORR plans to add to this collection. This form is currently approved under OMB #0970-0558.

B. ORR plans to remove the term "alien" from the title of this information collection and revise it to read "Administration and Oversight of the Unaccompanied Children Program."

C. ORR intends to conduct a phased rollout of improvements to its case management system. To ensure continuity of operations, care provider programs will need the ability to continue using current versions instruments during rollout. Therefore, ORR requests OMB's approval to continue use of current versions of the following instruments, concurrently with the new versions, of the same instruments until all care provider programs are using the new versions. These versions were last approved by OMB on May 25, 2021.

- Emergency Significant Incident Report and Addendum (Form A-10A)
- Significant Incident Report and Addendum (Form A-10B)
- Sexual Abuse Significant Incident Report and Addendum (Form A-10C)
- Program-Level Event Report and Addendum (Form A-10D)

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.