

# **Refugee Data Submission System for Formula Funds Allocations and Service Analysis (ORR-5)**

**OMB Information Collection Request  
#0970-0043**

## **Attachment A - Summary of Public Comments and ORR Responses**

**April 2024**

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

The Office of Refugee Resettlement (ORR) acknowledges the thoughtful and detailed comments from the public in response to this information collection request. As specified in 5 C.F.R. 1320.8(d), an agency must review its collection of information based on the following: Is the form and the information it collects necessary for what the agency is trying to accomplish through the form? Will the information collected have practical utility? After evaluation of the burden hours for completing the form, is the agency's estimate of the burden and usefulness of the form accurate and does it require as minimal an effort as is possible?

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), ORR published a notice in the Federal Register announcing the agency's intention to request public comment on the ORR-5: Refugee Data Submission System for Formula Funds Allocations and Service Analysis (OMB#: 0970- 0043, expiration 4/30/2024), hereinafter referred to as the "ORR-5". The ORR-5 is designed to satisfy Section 412(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1522(a)(3)) that requires that the ORR Director to make a periodic assessment of the needs of refugees for assistance and services and the resources available to meet those needs.

The Federal Register published the notice on December 4, 2023, Volume 88, Number 231, page 84145, and provided a 60-day period for public comment, during which ORR received six comments. Four of the commenters represented State governments; one commenter was an affinity group of State Refugee Coordinators (SRCs) comprised of State governments and non-profit organizations; and one commenter was a non-profit organization administering refugee resettlement benefits and services within a state.

ORR proposed the addition of the following two data elements to the ORR-5: the email address and phone number of individuals receiving ORR-funded benefits and services (hereinafter referred to as "beneficiaries"). ORR proposed this change to expand its pool of survey respondents for the Annual Survey of Refugees, which informs its Congressionally-mandated reporting requirements and to better understand beneficiary demographics, services accessed, outcomes, and more.

ORR administration of the Annual Survey of Refugees is currently dependent upon contact information collected on refugee arrivals by the U.S. Department of State's Bureau of Population, Refugees, and Migration (PRM). In proposing changes to the ORR-5, ORR considered the need to be able to contact its beneficiaries without relying on data, which may be out of date, from another federal agency. Because PRM has data on refugees only, ORR also considered the need to be able to contact all of its beneficiaries, who include not only refugees but those with different immigration statuses or categories, such as Cuban and Haitian entrants, humanitarian parolees, asylees, and others.

The information below details the comments raised by the public on the proposed changes to the ORR-5, as well as ORR's responses to each topic raised in the comments. Overall, commenters raised concerns in three areas: data privacy and disclosure; whether the

information is needed for the functioning of ORR; and the burden of collecting the data. Public comments overwhelmingly were against the proposed additional data elements. Commenters noted that the addition of the data fields had no practical value and would burden agencies and could have a chilling effect on agencies' ability to serve ORR eligible populations.

ORR notes that it has decided to halt changes to the ORR-5 pending further review. This is based on recent and rapid changes to the national interagency refugee landscape and the current operational capacity of ORR-funded service providers. While ORR must identify a method for collecting beneficiary contact information to administer the Annual Survey of Refugees, which helps fulfill a portion of its Congressionally mandated reporting requirements, ORR will continue to explore additional mechanisms for collecting that information. And for any future methods of collecting beneficiary contact information, ORR will take into consideration the public comments from this Federal Register Notice, including consent, privacy protections, the safeguarding of Personally Identifiable Information (PII), utility, and burden.

### **Topic 1: PII: Privacy, Disclosures, and Consent**

Commenters, representing State refugee programs, noted that a key tenant of the Health Insurance Portability and Accountability Act (HIPAA) is to disclose the use of data collected and to collect the minimum amount of information necessary. They stated that HIPAA permits important uses of information while protecting the privacy of people who seek ORR-funded support and services and expressed concern that the proposed data collection does not strike this balance.

A commenter expressed concern that ORR may fail to protect the privacy of ORR beneficiaries as well as their ability to consent to the disclosure of personal information. Another commenter emphasized that there are risks that this information may be breached or shared with another Federal agencies.

A commenter states that building trust with refugee communities is critical to provide culturally responsive quality services. They stated that a key component of trust is protecting the privacy, autonomy, and self-determination of the communities served. The commenter recommended that ORR apply the "Privacy Rule" used under the Health Insurance Portability and Accountability Act of 1996 as a standard that could be used here to ensure proper protections are made.

Commenters, representing state refugee programs, stated that refugees may be hesitant or may even be deterred from seeking benefits and services if they knew that their contact information would be shared with ORR and without a clear benefit to them. One commentator, representing a state agency, communicated that it is unnecessary for ORR to contact refugees and that the collection itself may pose unintended consequences, including potentially diminishing refugee participation in ORR programs. The commentator noted that refugees and other ORR-eligible populations may come from countries where government is an entity not to

be trusted or may even be feared. Finally, the commenter said that refugees and other vulnerable populations are taught that unsolicited phone calls may be scams or other attempts to steal or compromise their information.

Commenters, representing state refugee programs, noted that the collection and report of client contact information is not required by other Federal agencies providing similar services, such as the Temporary Assistance for Needy Families and Supplemental Nutrition Assistance Program, asserting that the collection of email addresses and telephone numbers is a breach of public trust for refugees.

**ORR Response:** ORR appreciates the commenters' concerns related to data collection, protection and disclosure of PII, the issue of consent, and information-sharing with other Federal agencies.

The ORR-5 specifically is not governed by the Health Insurance Portability and Accountability Act of 1996, which outlines rules on privacy, security, and breach notification requirements that apply to individually identifiable health information created, received, maintained, or transmitted by health care providers who engage in certain electronic transactions, health transactions, health plans, health care clearinghouses, and their business associates.

ORR's authority to collect and maintain data on its beneficiaries is governed by its own regulations (*see* 45 CFR §§ 400.27 – 400.28) and its System of Records Notices (SORN) (*see* 87 FR 7178).

ORR's regulations describe how States must safeguard beneficiary information and the limited condition under which they can disclose PII without consent, which is for the administration of the refugee resettlement program. The regulations outline how States must maintain beneficiary records, which include PII, for Federal monitoring of the refugee resettlement program. They also describe how States must submit statistical or programmatic information that the ORR Director determines is required to fulfill his or her responsibility under the Refugee Act.

ORR's SORN allows the agency to keep records on its beneficiaries for the following purposes:

- To ensure that appropriate assistance, care, and services are provided to all populations served by ORR;
- To generate data needed to allocate funds for Formula Social Services and other grants according to statutory formulas established under 8 U.S.C. 1522(c)(1)(B) and (c)(2)(B);
- To extract samples for the Annual Survey of Refugees, which collects information on the economic adjustment of refugees; and support other budget and grant requirements and data requests from within and outside ORR; and
- To verify that legal responsibility for Unaccompanied Refugee Minors is established, under state law, and to ensure that the minors receive the full range of assistance, care,

and services that are available to all foster children in the state, and any additional services for which they are eligible.

The SORN outlines the categories of individuals covered under the system; categories of records in the system; routine uses of records maintained in the system (including allowable disclosures); policies and practices for the storage, retrieval, retention, and disposal of records; administrative, technical, and physical safeguards; record access procedures; contesting record procedures; and notification procedures.

ORR's SORN is governed by the Privacy Act of 1974 as amended to present (*see* 5 U.S.C. 552a), which limits and restricts an agency's records containing PII; allows individuals the right seek access to records on themselves and request correction, if applicable; and requires agencies to comply with statutory norms for collection, maintenance, and dissemination of records.

As for the comment that other Federal agencies do not collect beneficiary contact information, ORR notes that it cannot speak to the policies and procedures of other Federal agencies with regard to their data collection activities.

While ORR must identify a method for collecting client contact information to administer the Annual Survey of Refugees, which helps fulfill a portion of its Congressionally-mandated reporting requirements, ORR will continue to explore additional mechanisms for collecting that information.

**Topic 2: Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.**

Commenters noted that client contact information is unnecessary for the proper performance and functions of the agency. One commentator noted that Federal grantees already report the number of individuals served on the ORR-5 and specified that ORR-funded program enrollment and exit dates are available to determine service provision.

One commenter, representing a state refugee program, noted that the proposed information to be collected would not lead to the outcomes proposed by ORR and that ORR would not be able to better understand client demographics, services utilized, and the outcomes achieved via the collection of contact information.

Commenters noted that the data collection additions would not provide actionable information for contacting participants. One commenter stated that there is a significant digital divide between new arrivals and other households in the United States when it comes to the use and familiarity of email and phones.

Commenters also noted the unreliability of email addresses and phone numbers. One stated that phone numbers obtained during initial resettlement may be provided through subsidized

programs that disconnect phone lines once the subsidy runs out, necessitating refugees to seek new phone numbers that may not be updated in internal systems. Another commenter stated that many refugee recipients of their services only use an email address for purposes of immigration application processes and do not check their email regularly.

**ORR response:** With the proposed information collection activity, ORR believed that the ORR-5 was the best mechanism to collect beneficiary contact information, to help fulfill its Congressionally-mandated reporting requirements. ORR notes that the Annual Survey of Refugees is just one vehicle which helps to support ORR's efforts to ensure client input is considered in program design and policymaking decisions. ORR notes again that at this time, we are halting changes to the ORR-5 pending further review. While ORR must identify a method for collecting client contact information to administer the Annual Survey of Refugees, we will continue to explore additional mechanisms for collecting that information. And any future methods of collecting client contact information will account for the public comments made to these proposed ORR-5 changes.

### **Topic 3: The accuracy of the agency's estimate of the burden of the proposed collection of information.**

One commenter, representing a state refugee program, included estimates that the inclusion of email address and telephone number on the ORR-5 would require an estimated 50 additional hours from their staff to solely perform the data cross checks. The commenter explained that the estimate is based upon the number of hours their staff dedicated just to performing data cross checks for the ORR-5 submitted in Federal Fiscal Year 2023, which amounted to approximately 170 hours. The commenter also noted that this estimate could be even higher if differing telephone numbers or email addresses appear across the different systems and reports, as it would then require staff to contact service providers to confirm which the correct telephone number is or email address. The commentor noted that this estimate does not include the added time burden to their data management team and overall, would result in an added initial time burden of more than 200 hours to implement the changes and in excess of 140 hours for each subsequent federal fiscal year. In addition, the commenter noted that a state agency partner which oversees refugee medical screenings, would also have to update its state database to collect client email address from clinics which would result in a protracted and costly process.

One commenter, representing a state refugee program, noted that ORR's estimate of 50 respondents (representing 49 states and the District of Columbia) was inaccurate because there are far more partnering entities involved in collecting ORR-5 data that are potentially impacted by the proposed changes.

**ORR response:** ORR appreciates the commenter's concerns that additional staff hours would be required to collect the additional proposed data elements. At this time, ORR is halting changes to the ORR-5 pending further review. While ORR must identify a method for collecting client contact information to administer the Annual Survey of Refugees, we will continue to explore

additional mechanisms for collecting that information. As part of that process, we will take into account these concerns.

#### **Topic 4: Data collection burden and approach.**

Commenters, representing state refugee programs, noted that the benefits systems in their states are not currently equipped to record and maintain phone number and e-mail address. They said that changes to those existing systems would require additional information technology staffing, funding, training, and other resources. Commenters noted that while the collection of the contact information would constitute a minimal time burden, ensuring that the contact information is up to date at the time of reporting and is consistent across reporting systems is an unrealistic and unreasonable time commitment.

**ORR response:** ORR appreciates commenters' concerns about the impact of changes to current data collection requirements on existing state- or local-level data systems. ORR's intention with the change to the ORR-5 was to allow a reasonable grace period so that States and Replacement Designees would have sufficient time and resources to update and/or establish necessary processes, inclusive of training. ORR would not have required that States and Replacement Designees verify the consistency of contact information across databases and information management systems.

#### **Topic 5: Recommendation for Workgroup**

Commentors, representing state refugee programs, recommended that ORR convene workgroups to find the most effective ways to collect beneficiary feedback and to elevate community voice.

**ORR response:** ORR thanks the commenter for their feedback and will consider the recommendation in its future work.