

THE BIDEN-HARRIS ADMINISTRATION'S FAILURE TO PROTECT UNACCOMPANIED CHILDREN FROM ABUSE AND EXPLOITATION

MINORITY STAFF REPORT



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Senator Bill Cassidy, M.D., Ranking Member

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EXECUTIVE SUMMARY

In early 2023, reports began to document a disturbing rise in illegal child labor among migrant children under the Biden-Harris administration, leading to levels of illegal child labor not seen since the early 20th century. This was coupled with the fact that a record number of unaccompanied children (UC)¹ began crossing the southern border beginning in March 2021, a trend that has continued to this day. These reports place the blame squarely with the Biden-Harris administration, finding that top administration officials knew about the dramatic increase in illegal child labor, but took no meaningful steps to prevent its occurrence. At the same time, officials prioritized speed over safety when releasing UCs to adult sponsors for political gain due to their failed immigration policies and the crisis at the southern border.

In response to the Biden-Harris administration's failures, Ranking Member Bill Cassidy of the U.S. Senate Committee on Health, Education, Labor, and Pensions (HELP) launched a formal investigation into the administration's policies regarding the treatment of UCs and the record high levels of illegal child labor. This investigation focused on programs under the U.S. Department of Health and Human Services (HHS) and its Office of Refugee Resettlement (ORR), third-party entities that contract with HHS to conduct sponsor vetting services, the U.S. Department of Labor (DOL) and its Wage and Hour Division (WHD), and private companies in industries susceptible to the use of illegal child labor.

Under President Biden and Vice President Harris, the number of UCs crossing the southern border illegally reached and remains at historic highs. This influx came on the heels of rhetoric by both then-candidates Biden and Harris on the campaign trail leading into the 2020 presidential election, promising to rescind President Trump's immigration policies and arguing for more lenient restrictions at the southern border. Upon taking office, this administration's immigration policies, such as exempting UCs from Title 42, directly incentivized UCs to flood to the southern border. Despite being appointed by President Biden as his point person on immigration issues at the southern border, Vice President Harris has failed to stem the influx of UCs from the Northern Triangle countries. More than 500,000 UCs have crossed the southern border illegally under the Biden-Harris administration alone.

¹ Unaccompanied children are generally referred to as "unaccompanied alien children" under U.S. law. However, ORR currently uses the term "unaccompanied children." For consistency and simplicity, this report will refer to these children as "unaccompanied children" or "UC."

This UC influx overwhelmed ORR—the agency that houses and cares for UCs before they are released to a sponsor to await their immigration proceedings. In response, ORR rapidly opened 14 emergency intake sites (EIS) to supplement its existing conventional shelters. Tens of thousands of UCs were sent to emergency facilities that were not state licensed, had poor living conditions, and provided little to no educational or mental health services or outdoor recreation activity. The EIS facilities also had very poor case management, failed to adequately vet sponsors before releasing UCs, and even hired employees without conducting required criminal background and sex offender registry checks.

In order to release UCs from government custody as rapidly as possible, ORR weakened the sponsor vetting process, putting UCs in harm’s way by releasing them to sponsors—some of whom sought to exploit or traffic them. The directive to prioritize speed at all costs came from HHS Secretary Xavier Becerra, who implored ORR staff to convert the UC release process into a system modeled after Henry Ford’s assembly line. ORR complied, issuing two field guidance memos, over the objections of career staff, that dismantled the existing sponsor vetting policies and removed basic safety measures from the sponsor vetting process in an effort to expedite the release of UCs. This action was taken despite the fact that a similar weakening of vetting requirements under the Obama administration led to ORR placing some UCs with human traffickers who exploited these children and forced them to work illegally. These field guidance memos took three years to be rescinded despite admonishment from the HHS Office of Inspector General, internal memoranda of concern from ORR career staff, and documented abuse and exploitation of UCs at the hands of poorly vetted sponsors.

In the wake of failed sponsor vetting policies enacted during the first half of the Biden-Harris administration, ORR decided to overhaul the sponsor vetting process in 2023, creating a new Sponsor Services Initiative that relies on a single third-party contractor to conduct all sponsor vetting for the agency. However, the contractor selected by ORR, The Providencia Group (TPG), had an abysmal record providing case management services at EISs prior to being awarded the contract. At EISs where TPG was contracted, many UCs reported going weeks without meeting with a case manager and some were released to sponsors before all vetting requirements were completed. There is also evidence that other third-party contractors ORR hired to assist with various aspects of the sponsor vetting process failed to ensure all required procedures were followed, resulting in incomplete case files and serious gaps in sponsor vetting, raising safety concerns for UCs. ORR has programs that educate potential sponsors about child labor laws, ways to prevent exploitation, and legal obligations to comply with immigration proceedings, but they are completely optional and lack any enforcement mechanisms. ORR therefore does not have the ability to ensure the sponsor vetting conducted by its contractors is sufficient once a UC is released to a sponsor.

DOL, on the other hand, has focused on enforcement after-the-fact and is doing little to prevent illegal child labor from occurring in the first place. There is minimal evidence that DOL took any meaningful steps to prevent child labor violations prior to 2023, despite the agency internally knowing about the severity of the situation for well over a year. When it was forced to act due to public outcry, its actions were insufficient. For example, DOL created an interagency task force to combat illegal child labor in February 2023 to share information among government agencies, but is not engaging meaningfully with companies that are seeking ways to prevent illegal child labor. DOL is also not engaging with ORR and federal immigration authorities to share information and construct a mechanism to prevent UCs from being forced into exploitative child labor in the first instance. This is evidenced by the 105 percent increase in minors employed in violation of federal law since fiscal year 2021.

The Biden-Harris administration is also failing to cooperate with state and local investigations into the exploitation and trafficking of UCs. For example, HHS ignored subpoenas and refused to produce documents or witnesses to a Florida Grand Jury empaneled to investigate criminal or wrongful activity related to the smuggling and endangerment of UCs. The agency also continues to prevent ORR facility staff from reporting concerns to state law enforcement and child welfare agencies, and ORR regularly refuses to provide information

about UCs and sponsors to state and local law enforcement investigating reports of trafficking and exploitation, despite urging from the Florida and Virginia Attorneys General to assist them in protecting these vulnerable children.

The Biden-Harris administration also obstructed congressional oversight. When Ranking Member Cassidy sent a number of letters to HHS demanding answers on its failures to protect UCs from harm, the agency routinely took months to respond and refused to answer the specific questions asked. Further, HHS purposefully chose to not comply with nearly every document request and sought to block its contractors from sharing information with the Committee, including refusing to produce contracts HHS is required to produce under federal law. HHS's strategy of obfuscation and obstruction to shield itself from political embarrassment for its failures is unacceptable and frustrates Congress's constitutional duty to conduct oversight.

This report is based on a review of numerous media reports, court filings, ORR policy guides and internal documents, congressional committee hearings and reports, reports from immigrants' rights groups, federal immigration and child labor data, federal agency inspector general audits, internal federal agency memoranda, and government contracting information. It is also based on interviews with whistleblowers and stakeholders, briefings from HHS, ORR, and DOL, and information contained in letters from federal agencies and private entities in response to the Committee's inquiries.



KEY FINDINGS

1. The Biden-Harris administration took a number of actions that weakened the sponsor vetting process, putting UCs in harm's way.
2. ORR relies heavily on third-party contractors to conduct case management and sponsor vetting, but engages in very little oversight to ensure accountability.
3. DOL has a single-minded focus on post-harm enforcement and does not work collaboratively with companies to combat illegal child labor.
4. The Biden-Harris administration is obstructing congressional and state investigations into the exploitation and trafficking of UCs.



REPORT

I. Introduction

Beginning in February 2023, reports documented a disturbing rise in illegal child labor among migrant children under the Biden-Harris administration. These reports came amid the backdrop of record numbers of UCs crossing the southern border illegally since March 2021. On February 25, 2023, *The New York Times* (NYT) published the first in a series of investigative reports revealing that UCs who came to the United States were being forced to work illegally in some of the most dangerous and grueling jobs in the country.² The article exposed the Biden-Harris administration’s failure to protect these children, highlighting a “chain of willful ignorance” that has led to tens of thousands of UCs being exploited for illegal work in recent years.³ Among the article’s most damning findings were revelations that top HHS officials instructed ORR to prioritize speed over safety when releasing UCs to sponsors. Additionally, under the Biden-Harris administration, ORR “began paring back protections that had been in place for years, including some background checks and reviews of children’s files.”⁴

In the same month, DOL WHD announced a \$1.5 million penalty against Packers Sanitation Services Inc. (PSSI) for employing more than 100 children illegally in hazardous occupations, including overnight shifts at 13 meat processing facilities across eight states.⁵ This penalty followed a December 2022 consent order from the U.S. District Court for the District of Nebraska where PSSI agreed to comply with child labor laws nationwide and take significant steps to ensure future compliance.⁶ Unfortunately, PSSI is not the only offender, as the number of exploitative child labor violations in this country has reached a level not seen in over a century.

Throughout 2023, NYT and other media outlets continued to shed light on the increasing number of UCs being seriously injured or killed while illegally working in dangerous jobs throughout the country. Those reports repeatedly made clear that UCs as young as 12 have been exploited and worked in dangerous jobs at

² Hannah Dreier, *Alone and Exploited, Migrant Children Work Brutal Jobs Across the U.S.*, THE N.Y. TIMES (Feb. 25, 2023), <https://www.nytimes.com/2023/02/25/us/unaccompanied-migrant-child-workers-exploitation.html>.

³ *Id.* The article also cites to interviews with more than 60 caseworkers, most of whom “independently estimated that about two-thirds of all unaccompanied migrant children ended up working full time.” *Id.*

⁴ *Id.*

⁵ Press Release, U.S. Dep’t of Lab., More Than 100 Children Illegally Employed in Hazardous Jobs, Federal Investigation Finds; Food Sanitation Contractor Pays \$1.5M in Penalties (Feb. 17, 2023), <https://www.dol.gov/newsroom/releases/whd/whd20230217-1>.

⁶ See Consent Ord. & Judgment, *Walsh v. Packers Sanitation Servs., Inc., Ltd.*, No. 4:22-CV-03246-JMG-SMB (D. Neb. Dec. 6, 2022).

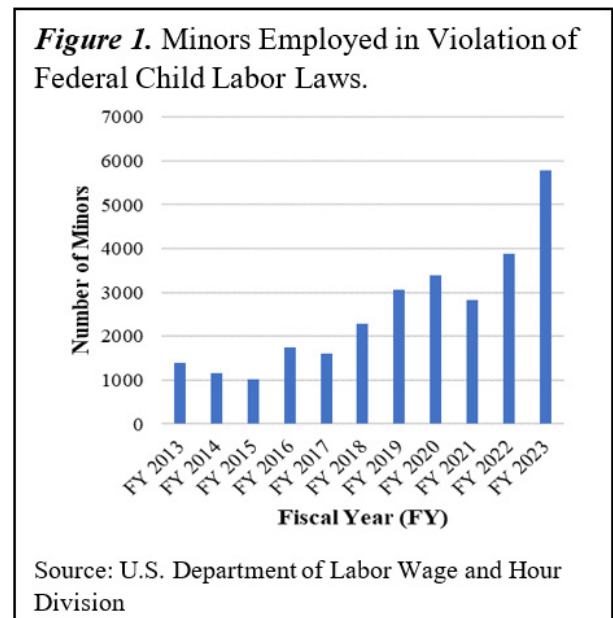
all hours of the day and night. This included, “[t]welve year old roofers in Florida and Tennessee,” “underage slaughterhouse workers in Delaware, Mississippi and North Carolina,” and “[c]hildren sawing planks of wood on overnight shifts in South Dakota.”⁷ NYT found children running milking machines in Vermont, packing cereal boxes on the night shift in North Dakota, delivering food in New York City, harvesting coffee beans and building lava rock walls around vacation homes in Hawaii, and washing hotel sheets in Virginia.⁸

In September 2023, NYT released a report of a 14-year-old boy in Virginia who spent his nights working for Fayette Industrial, a chemical cleaning company contracted to clean a Perdue Farms slaughterhouse, for \$100 per shift.⁹ Each night he worked, the boy was responsible for donning protective gear and cleaning machinery that was used during the day to process chickens by spraying the chickens with hot water and scrubbing them with chemicals too dangerous to touch his skin.¹⁰ To perform this job, the 14-year-old boy purchased fake identification documents that showed him to be in his 20s.¹¹ While cleaning one of these machines, the machine turned on while his arm was inside, severely maiming him to an extent that required numerous surgeries.¹²

In December 2023, NYT reported on migrant children working in dangerous roofing jobs—some of whom had been working these jobs since they were young enough to be in elementary school.¹³ Notwithstanding federal laws that prohibit minor children from working on roofs due to the inherent danger such as stifling heat and the use of dangerous tools, NYT’s report detailed over 100 child roofers in roughly 24 states who often worked long 12-hour shifts instead of going to school.¹⁴

Reports like these continued in 2024, including one story of a fatal incident in Mississippi in which a 16-year-old migrant child from Guatemala was killed while cleaning machinery at a chicken plant after being pulled into a deboning machine.¹⁵

Even the Biden-Harris administration acknowledged a significant increase in child labor violations during this surge in illegal immigration. In 2023, DOL announced that it found 5,792 minors working in violation of federal labor laws—an 88 percent increase since 2019 and a 50 percent increase since 2022 (see Figure 1).¹⁶



The fallout from ORR’s failed policies and the Biden-Harris administration’s lawless practices have extended to communities across the country. As a result, children have been placed in dangerous workplaces, given over

7 Hannah Dreier, *Alone and Exploited, Migrant Children Work Brutal Jobs Across the U.S.*, THE N.Y. TIMES (Feb. 25, 2023), <https://www.nytimes.com/2023/02/25/us/unaccompanied-migrant-child-workers-exploitation.html>.

8 *Id.*

9 Hannah Dreier, *The Kids on the Night Shift*, THE N.Y. TIMES (Sept. 18, 2023), <https://www.nytimes.com/2023/09/18/magazine/child-labor-dangerous-jobs.html>.

10 *Id.*

11 *Id.*

12 *Id.*

13 Hannah Dreier et al., *Children Risk Their Lives Building America’s Roofs*, THE N.Y. TIMES (Dec. 14, 2023), <https://www.nytimes.com/interactive/2023/12/14/us/roofing-children-immigrants.html>.

14 *Id.*

15 Jesus Jiménez, *U.S. Faults Mississippi Poultry Plant in Death of 16-Year-Old*, THE N.Y. TIMES (Jan. 16, 2024), <https://www.nytimes.com/2024/01/16/business/mississippi-marjac-poultry-teen-death.html>.

16 U.S. Dep’t of Lab., *Child Labor Enforcement: Keeping Young Workers Safe*, <https://www.dol.gov/agencies/whd/data/child-labor>; Rebecca Rainey, *Child Labor Violations Up 50% in 2023 Amid Federal Crackdown*, BLOOMBERG LAW (Oct. 19, 2023), <https://www.dol.gov/agencies/whd/data/child-labor>.

to criminal gangs and cartels, and forced to live with sponsors who seek to exploit them. Despite its rhetoric, the Biden-Harris administration's immigration policies have not been just, humane, or empathetic. They have placed vulnerable children in danger.

A. Ranking Member Cassidy's Investigation

On March 30, 2023, Senate HELP Committee Ranking Member Bill Cassidy launched an investigation in response to the NYT articles, the WHD announcement of widespread child labor violations at PSSI, and reports of ongoing failures by ORR to ensure the safety of UCs in its custody. Since then, he has taken several steps to ensure compliance with the law by both the Biden-Harris administration and companies, aiming to protect UCs from abuse and exploitation. These actions include:

- Two letters to ORR Director Robin Dunn Marcos regarding the agency's care for UCs in its custody and its sponsor vetting practices;¹⁷
- Two letters to HHS Secretary Becerra concerning the deaths of UCs in ORR custody and ORR's failure to comply with congressional oversight requests;¹⁸
- A letter to ORR contractor The Providencia Group about its role in the sponsor vetting process;¹⁹
- Two letters to DOL Acting Secretary Julie Su regarding the agency's efforts to address child labor violations;²⁰
- A letter to WHD Administrator Jessica Looman regarding the agency's investigations into illegal child labor and UCs who have been severely injured while working dangerous jobs;²¹
- Letters to Tyson Foods, Perdue Farms, Monogram Food Solutions, and QSI Sanitation regarding the companies' efforts to prevent illegal child labor;²² and
- A letter to PSSI regarding the company's hiring practices and age verification policies.²³

17 Letter from Sen. Bill Cassidy, Ranking Member, S. Comm. on Health, Educ., Lab., & Pensions, to Robin Dunn Marcos, Dir., Off. of Refugee Resettlement (Sept. 11, 2023), https://www.help.senate.gov/imo/media/doc/orr_migrant_kids_letter.pdf; letter from Sen. Bill Cassidy, Ranking Member, S. Comm. on Health, Educ., Lab., & Pensions, to Robin Dunn Marcos, Dir., Off. of Refugee Resettlement (Mar. 5, 2024), https://www.help.senate.gov/imo/media/doc/24-0305_letter_from_sen_cassidy_to_director_marcos_re_orr_sponsor_vetting_requirements.pdf.

18 Letter from Sen. Bill Cassidy, Ranking Member, S. Comm. on Health, Educ., Lab., & Pensions, to Xavier Becerra, Sec'y, U.S. Dep't of Health & Hum. Servs. (May 15, 2023), https://www.help.senate.gov/imo/media/doc/hhs_migrant_child_letter.pdf; letter from Sen. Bill Cassidy, Ranking Member, S. Comm. on Health, Educ., Lab., & Pensions, to Xavier Becerra, Sec'y, U.S. Dep't of Health & Hum. Servs. (May 16, 2024), https://www.help.senate.gov/imo/media/doc/2024-05-16_letter_from_sen_cassidy_to_secbecerrareoversightoforr.pdf.

19 Letter from Sen. Bill Cassidy, Ranking Member, S. Comm. on Health, Educ., Lab., & Pensions, to Maria Campos, President & Chief Exec. Officer, The Providencia Grp., LLC (May 16, 2024), https://www.help.senate.gov/imo/media/doc/2024-05-16_letter_from_sencassidytotpgresponsorvetting.pdf.

20 Letter from Sen. Bill Cassidy, Ranking Member, S. Comm. on Health, Educ., Lab., & Pensions, to Julie A. Su, Acting Sec'y, U.S. Dep't of Lab. (Apr. 24, 2023), https://www.help.senate.gov/imo/media/doc/julie_su_child_labor_letter.pdf; letter from Sen. Bill Cassidy, Ranking Member, S. Comm. on Health, Educ., Lab., & Pensions, to Julie A. Su, Acting Sec'y, U.S. Dep't of Lab. (Oct. 19, 2023), https://www.help.senate.gov/imo/media/doc/julie_su_child_labor_letter_2.pdf.

21 Letter from Sen. Bill Cassidy, Ranking Member, S. Comm. on Health, Educ., Lab., & Pensions, to Jessica Looman, Adm'r, U.S. Dep't of Lab. Wage & Hour Div. (Mar. 5, 2024), https://www.help.senate.gov/imo/media/doc/20240305_letter_to_whd_looman_re_child_labor_investigations.pdf.

22 Letter from Sen. Bill Cassidy, Ranking Member, S. Comm. on Health, Educ., Lab., & Pensions, to Donnie D. King, Chief Exec. Officer, Tyson Foods, Inc. (Apr. 18, 2024), https://www.help.senate.gov/imo/media/doc/2024-04-18_-_letter_to_tysons_on_child_labor_practices.pdf; letter from Sen. Bill Cassidy, Ranking Member, S. Comm. on Health, Educ., Lab., & Pensions, to Randall M. Day, Chief Exec. Officer, Perdue Farms, Inc. (Jan. 22, 2024), https://www.help.senate.gov/imo/media/doc/perdue_farms_child_labor_letter.pdf; letter from Sen. Bill Cassidy, Ranking Member, S. Comm. on Health, Educ., Lab., & Pensions, to Karl Schledwitz, Chief Exec. Officer, Monogram Food Sols., LLC (Jan. 22, 2024), https://www.help.senate.gov/imo/media/doc/monogram_child_labor_letter.pdf; letter from Sen. Bill Cassidy, Ranking Member, S. Comm. on Health, Educ., Lab., & Pensions, to Robert C. Bullard, Chief Exec. Officer, QSI Sanitation (Jan. 22, 2024), https://www.help.senate.gov/imo/media/doc/qsi_child_labor_letter.pdf.

23 Letter from Sen. Bernard Sanders, Chair, S. Comm. on Health, Educ., Lab., & Pensions, & Sen. Bill Cassidy, Ranking Member, S. Comm. on Health, Educ., Lab., & Pensions, to Dan Taft, Chief Exec. Officer, Packers Sanitation Servs., Inc. (Mar. 30, 2023), https://www.help.senate.gov/imo/media/doc/pssi_letter.pdf.

As part of the investigation, Ranking Member Cassidy’s staff also conducted numerous interviews and briefings with officials from ORR, DOL, and WHD, met with stakeholders and industry representatives, and interviewed ORR whistleblowers and former employees. Staff also engaged with state officials to obtain information about how they are addressing the exploitation of UCs and met with ORR contractors and grantees to hear about their experiences working with UCs.

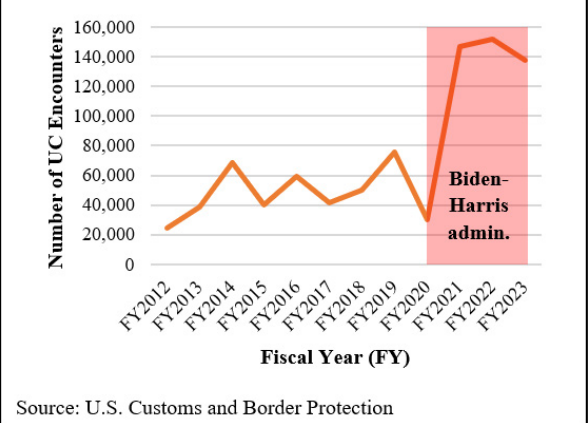
Despite Ranking Member Cassidy’s efforts and those of other Senate Republicans, Senate Democrats have largely resisted holding committee hearings to conduct oversight of the administration’s failure to protect UCs from abuse and exploitation.²⁴ In response to this lack of action, Ranking Member Cassidy, along with Senators Chuck Grassley and Ron Johnson, organized a roundtable in July 2024. This roundtable aimed to examine the administration’s handling of UCs and explore ways the federal government can enhance protections for UCs.²⁵ The roundtable included testimony from two ORR whistleblowers, the Florida Department of Children and Families Secretary, and a criminologist who has written about the exploitation and trafficking of UCs. The witnesses explained that ORR failed to properly train employees to spot signs of potential trafficking and discussed how ORR prevents staff from alerting law enforcement and child welfare agencies about abuse in the UC Program. They also shared examples of UCs placed with sponsors affiliated with violent gangs and the gaps in the sponsor vetting process that led to children being released to sponsors that sought to harm them or force them into exploitative child labor. The witnesses further stated that ORR instructed employees to continue to place UCs with sponsors even when there was evidence that the sponsor was affiliated with a gang or sought to harm the child. In addition, two of the witnesses shared that HHS retaliated against them when they sought to blow the whistle on the failures of ORR contractors and flag cases where UCs were subject to trafficking and exploitation.

II. How the Biden-Harris Administration’s Policies Contributed to the Record-Breaking Influx of UCs

Since the Biden-Harris administration took office in 2021, the number of annual encounters involving UCs at the U.S.-Mexico border by U.S. law enforcement has reached and maintained historic highs.

As of August 2024, the U.S. Department of Homeland Security (DHS) and U.S. Customs and Border Protection (CBP) encountered 103,474 UCs crossing the southern border illegally in FY 2024.²⁶ These figures are roughly comparable to the totals in FY 2023 (137,275), FY 2022 (152,057), and FY 2021 (146,925).²⁷ Notably, under the Biden-Harris administration, the United States has seen more UC encounters at the border than any time in our nation’s history (see Figure 2).²⁸ These figures

Figure 2. Number of UC Encounters at the Southwest Land Border from FY 2012 – FY 2023.



²⁴ In the 118th Congress, there has been only one Senate committee hearing with government officials regarding the administration’s failure to ensure the safety and well-being of UCs. See *Ensuring the Safety and Well-Being of Unaccompanied Children, Part II: Hearing Before the S. Comm. on the Judiciary*, 118th Cong. (2023).

²⁵ See Press Release, Ranking Member Cassidy, Grassley, Johnson Lead Roundtable on Biden’s Failure to Prevent Exploitation of Migrant Children (July 9, 2024), <https://www.help.senate.gov/ranking/newsroom/press/ranking-member-cassidy-grassley-johnson-lead-roundtable-on-bidens-failure-to-prevent-exploitation-of-migrant-children>.

²⁶ *Southwest Land Border Encounters*, U.S. CUSTOMS & BORDER PROT., <https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters> (last visited Oct. 11, 2024).

²⁷ *Id.*

²⁸ *U.S. Border Patrol Monthly UC Encounters by Sector (FY 2010 – FY 2020)*, U.S. CUSTOMS & BORDER PROT., https://www.cbp.gov/sites/default/files/assets/documents/2021-Aug/U.S.%20Border%20Patrol%20Total%20Monthly%20UC%20Encounters%20by%20Sector%20%28FY%202010%20-%20FY%202020%29%20%28508%29a_0.pdf (last visited Oct. 11, 2024); *Southwest Land Border Encounters*, U.S. CUSTOMS & BORDER PROT., <https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters> (last visited Oct. 11, 2024).

do not account for “gotaways,” migrants who have crossed the southern border, but avoided capture by law enforcement.

During the first three years of the Biden-Harris administration, there were 1.6 million gotaways at the southern border,²⁹ surpassing the 1.4 million gotaways recorded over the entire previous decade.³⁰

Given that UCs typically represent about six percent of the total encounters at the southwest border, it is estimated that an additional 100,000 UCs have come to the United States as gotaways during this administration.

DURING THE FIRST THREE YEARS OF THE BIDEN-HARRIS ADMINISTRATION, THERE WERE 1.6 MILLION GOTAWAYS AT THE SOUTHERN BORDER, SURPASSING THE 1.4 MILLION GOTAWAYS RECORDED OVER THE ENTIRE PREVIOUS DECADE.

President Biden and Vice President Harris’s policy decisions have incentivized UCs to come to the United States, resulting in a record-breaking surge that began in FY 2021 and has persisted.³¹

A. President Biden and Vice President Harris’s Rhetoric Leading Up to the 2020 Presidential Election

Prior to the 2020 presidential election, then-candidates Biden and Harris criticized President Trump’s immigration policies and supported more lenient immigration restrictions that they argued would encourage migrants to come to the United States. During the 2019 Democratic presidential debate moderated by Univision’s Jorge Ramos, then-candidate Biden urged migrants to “surge the border,” declaring that “[migrants] deserve to be heard,” and that “we’re a nation that says, ‘you want to flee, and you’re fleeing oppression, you should come.’”³² In September 2020, then-candidate Biden released an immigration position paper³³ promising to overturn many of President Trump’s immigration policies that had deterred migration and resulted in the lowest levels of illegal immigration in over 45 years.³⁴

Then-candidate Harris took a notably more extreme stance on immigration. During the first Democratic presidential debate in 2019, she raised her hand in response to a moderator’s question about whether crossing the border illegally should be decriminalized.³⁵ This radical position contrasted sharply with that of then-candidate Biden who explicitly stated, “No, I don’t” when asked the same question.³⁶ In 2017, Harris tweeted, “[a]n undocumented immigrant is not a criminal”³⁷ and in a 2019 interview, she declared “[w]e are not

29 Adam Shaw & Bill Melugin, *New data reveals Illegal immigrants eluding Border Patrol spiked under Biden, surpassing predecessors*, FOX NEWS (May 15, 2024), <https://www.foxnews.com/politics/new-data-reveals-illegal-immigrants-eluding-border-patrol-spiked-under-biden-surpassing-predecessors>.

30 *Id.*

31 E.g. Ken Cuccinelli, *Biden in Denial as Border Crisis Escalates Due to His Rhetoric and Immigration Policies*, THE HERITAGE FOUND. (Mar. 17, 2021), <https://www.heritage.org/immigration/commentary/biden-denial-border-crisis-escalates-due-his-rhetoric-and-immigration>; Mark Krikorian, *The Biden Effect Continues at the Border*, NAT’L REV. (Feb. 26, 2021), <https://www.nationalreview.com/corner/the-biden-effect-continues-at-the-border/>.

32 *Read the full transcript of ABC News’ 3rd Democratic Debate*, ABC NEWS (Sep. 13, 2019), <https://abcnews.go.com/US/read-full-transcript-abc-news-3rd-democratic-debate/story?id=65587810>.

33 John Burnett, *Biden Pledges to Dismantle Trump’s Sweeping Immigration Changes – But Can He Do That?*, NPR (Sept. 14, 2020), <https://www.npr.org/2020/09/14/912060869/biden-pledges-to-dismantle-trumps-sweeping-immigration-changes-but-can-he-do-tha>.

34 In FY 2017, there were only 303,916 apprehensions at the southern border—the lowest level since 1971. *Southwest Border Migration FY2017*, U.S. CUSTOMS & BORDER PROT., <https://www.cbp.gov/newsroom/stats/sw-border-migration-fy2017> (last visited Oct. 11, 2024).

35 *Where Democrats Stand*, THE WASH. POST, <https://www.washingtonpost.com/graphics/politics/policy-2020/immigration/criminal-penalties-section-1325/> (last visited Oct. 11, 2024).

36 *Id.*

37 @KamalaHarris, X (Apr. 17, 2017, 7:38 PM), <https://x.com/KamalaHarris/status/855566507526565888>.

going to treat people who are undocumented and cross the border as criminals.”³⁸ At the same presidential primary debate in 2019, Harris raised her hand when the moderator asked which candidates would include undocumented migrants in their government-funded health insurance plans.³⁹ During a 2019 campaign event, when asked whether she would commit to closing immigration detention centers if elected, Harris responded, “Absolutely, on day one. On day one.”⁴⁰

It is evident that President Biden and Vice President Harris’s rhetoric significantly influenced migrant behavior, leading to a dramatic surge in crossings at the southern border following the Biden-Harris administration’s arrival. This influx created a humanitarian crisis and an unprecedented surge in UCs that the administration was ill-prepared to manage. Since taking office, the Biden-Harris administration has overseen over 8.3 million southern border crossings—by far the most of any administration in American history.⁴¹

This data clearly demonstrates that Biden and Harris’s statements prior to taking office—such as encouraging migrants to “surge” to the border, decriminalizing border crossings, pledging to close immigrant detention centers, and providing free health care—and their policies upon ascending to power have directly incentivized illegal migration and the accompanying influx of UCs at our southern border.

B. Upon Taking Office, Biden and Harris’s Immigration Policy Decisions Contributed to the Influx of UCs

Upon taking office in 2021, President Biden swiftly signed a series of executive orders undoing many of the Trump administration’s border policies. Key actions included: (1) halting border wall construction, (2) revoking the biometric/biographic information-sharing agreement between ORR and DHS, which was intended to ensure the health and safety of UCs placed with sponsors; and (3) overturning the “Remain in Mexico” policy.

In February 2021, President Biden also exempted UCs from Title 42, a Trump-era policy enacted during the COVID-19 pandemic that authorized CBP, pursuant to the authority given by the Centers for Disease Control and Prevention, to expel migrants who crossed the border illegally back to their country of last transit (i.e. Mexico).⁴² Following this exemption, the number of UCs encountered by CBP at the southern border skyrocketed, with 18,870 encounters in March 2021 alone—the highest monthly total ever recorded.⁴³ This surge continued throughout 2021, culminating in approximately 146,925 UC encounters in FY 2021—the largest annual increase ever recorded at that time.⁴⁴ The record was then surpassed in FY 2022, with 152,880 UC encounters at the southern border, before slightly declining to 137,275 in FY 2023, still marking third highest annual total in history.⁴⁵

Despite the surge in UCs following their exemption from Title 42, the Biden-Harris administration continued to incentivize UC migration by exempting UCs from a June 2024 proclamation that suspended the entry of

38 Todd Garrin, *Kamala Harris Claps Back at Meghan McCain on Border Security: ‘We Can’t Treat People Like Criminals’*, YAHOO! ENTERTAINMENT (July 12, 2019), <https://www.yahoo.com/entertainment/kamala-harris-claps-back-at-meghan-mc-cain-on-border-security-we-cant-treat-people-like-criminals-215623428.html?guccounter=1>.

39 NBC News, *Health Care for Undocumented Immigrants: Where the Candidates Stand*, YOUTUBE (June 27, 2019), <https://www.youtube.com/watch?v=O-QP5TBTvY>.

40 Alexander Hall, *Harris Shredded for Resurfaced Video of Promising to Close Migrant Detention Centers*, FOX NEWS (Aug. 13, 2024), <https://www.foxnews.com/media/harris-shredded-old-video-promising-close-migrant-detention-centers-did-she-just-admit-out-loud>.

41 *Southwest Land Border Encounters*, U.S. CUSTOMS & BORDER PROT., <https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters> (last visited Oct. 11, 2024).

42 Notice of Temporary Exception From Expulsion of Unaccompanied Noncitizen Children Pending Forthcoming Public Health Determination, 86 C.F.R. 9942 (2021).

43 *Southwest Land Border Encounters*, U.S. CUSTOMS & BORDER PROT., <https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters> (last visited Oct. 11, 2024).

44 *Id.*

45 *Id.*

noncitizens during periods of high border crossings.⁴⁶ Under this policy, the entry of noncitizens to the United States is suspended once encounters at the southern border reach a daily average of 2,500 encounters over a seven-day period.⁴⁷ However, UCs are excluded from this calculation and are not denied entry when it is in effect.⁴⁸ Allowing UCs to enter the United States when the border is otherwise “closed” incentivizes cartels and traffickers to target and exploit vulnerable children, such as using them to traffic drugs or weapons, or subjecting them to physical and sexual abuse. It also incentivizes families to pay for human traffickers to bring UCs to the United States so their children can work and send money home.⁴⁹

C. Vice President Harris Appointed Border Czar; Fails to Stem the Influx of UCs

On March 24, 2021, amid a massive influx of UCs, President Biden appointed Vice President Kamala Harris as his “point person on immigration issues at the nation’s southern border”⁵⁰—in other words, his border czar. Her responsibilities included leading diplomatic efforts to address the root cause of migration from the Northern Triangle, urging those countries to strengthen enforcement of their own borders, and crafting a long-term strategy to curb migration.⁵¹ President Biden expressed confidence in her capabilities, stating, “I can think of nobody more qualified to do this”⁵² and emphasizing that “[w]hen she speaks, she speaks for me.”⁵³

However, after more than three years as “border czar,” Vice President Harris’s leadership has been an abject failure. Despite the record surge of UCs, she delayed visiting the southern border for over three months, opting instead to visit Mexico and Guatemala while deflecting calls to address the situation directly at the U.S.-Mexico border. When questioned in an interview about her absence, Vice President Harris repeatedly claimed “[w]e’ve been to the border”⁵⁴ until Lester Holt correctly pointed out that she had not personally visited. Harris responded, “[a]nd I haven’t been to Europe,” further deflecting the issue.⁵⁵

Vice President Harris finally made her first visit to the southern border on June 25, 2021,⁵⁶ but then waited more than three years before visiting again as a presidential candidate on September 27, 2024,⁵⁷ despite her role as border czar. However, this recent

VICE PRESIDENT HARRIS FINALLY MADE HER FIRST VISIT TO THE SOUTHERN BORDER ON JUNE 25, 2021, BUT THEN WAITED MORE THAN THREE YEARS BEFORE VISITING AGAIN AS A PRESIDENTIAL CANDIDATE ON SEPTEMBER 27, 2024, DESPITE HER ROLE AS BORDER CZAR.

46 Proclamation No. 10733, 89 Fed. Reg. 48487, 48491 (June 7, 2024), <https://federalregister.gov/documents/2024/06/07/2024-12647/securing-the-border>.

47 *Id.*

48 *Id.*

49 See Jim Saunders, *Florida Supreme Court approves DeSantis grand jury to investigate child smuggling, immigration*, JACKSONVILLE.COM (June 29, 2022), <https://www.jacksonville.com/story/news/2022/06/29/florida-governor-ron-desantis-can-impanel-grand-jury-immigration-child-smuggling/7771272001/>.

50 Eugene Daniels, *Biden makes Harris the point person on immigration issues amid border surge*, POLITICO (Mar. 24, 2021), <https://www.politico.com/news/2021/03/24/kamala-harris-immigration-border-surge-477810>.

51 Jonathan Lemire et al., *Biden taps VP Harris to lead response to border challenges*, AP (Mar. 24, 2021), <https://apnews.com/general-news-3400f56255e000547d1ca3ce1aa6b8e9>.

52 Eugene Daniels, *Biden makes Harris the point person on immigration issues amid border surge*, POLITICO (Mar. 24, 2021), <https://www.politico.com/news/2021/03/24/kamala-harris-immigration-border-surge-477810>.

53 Jonathan Lemire et al., *Biden taps VP Harris to lead response to border challenges*, AP (Mar. 24, 2021), <https://apnews.com/general-news-3400f56255e000547d1ca3ce1aa6b8e9>.

54 Dominick Mastrangelo, *Harris defends not going to border: ‘And I haven’t been to Europe’*, THE HILL (June 8, 2021), <https://thehill.com/homenews/administration/557282-vp-harris-not-discounting-concerns-about-events-at-us-border-during/>.

55 *Id.*

56 Maegan Vazquez, *Kamala Harris makes her first visit to the US-Mexico border as vice president*, CNN (June 25, 2021), <https://www.cnn.com/2021/06/25/politics/harris-el-paso-border-visit/index.html>.

57 Will Weissert & Jonathan J. Cooper, *Harris walks fence at US-Mexico border as she works to project tougher stance on migration*, AP (Sept. 27, 2024), <https://apnews.com/article/kamala-harris-donald-trump-border-arizona-4a87c6f3b2df1736aa226bc620f51b89>.

trip, in the midst of the election season, was nothing more than a political stunt and Vice President Harris continues to deflect responsibility for her failures that have put so many vulnerable children in danger.

The data further reveals Vice President Harris's failed response to the migration crisis from Northern Triangle countries. While the share of migrants from Honduras, Guatemala, and El Salvador decreased from 41 percent of encounters in 2021 to 22 percent in 2023, overall encounters have continued to rise. Throughout Vice President Harris's tenure, approximately 85 percent of UCs referred to ORR have come from Honduras, Guatemala, and El Salvador, indicating that her efforts to address these challenges have not yielded any significant results.⁵⁸

D. ORR's Chaotic Response to the Influx of UCs

In response to the UC influx beginning in March 2021, ORR opened 14 EISs to supplement its conventional shelters.⁵⁹ These facilities were hastily scaled up, were usually located on federal property, and were not state licensed as required under the *Flores v. Reno* settlement agreement. The EISs were intended to house UCs for a short time during periods of severe bed shortages in ORR's conventional shelters, providing ORR with the capacity to accept UCs from DHS into facilities where they could be processed, cared for, and either released to a sponsor or transferred to a conventional ORR shelter for longer-term care. The surge in UCs caused by the Biden-Harris administration's open border policies, however, caused tens of thousands of UCs to be housed in EISs for long periods of time with insufficient access to case management services, education, mental health services, or outdoor recreation activity—services that are provided at conventional ORR shelters.

By May 31, 2021, 48 percent of all UCs in ORR custody were being housed in EISs.⁶⁰ In June 2021, the average length of stay for UCs in EISs reached 28 days,⁶¹ with over 2,600 UCs spending 41 days or longer in an EIS.⁶² In other words, ORR ignored the *Flores* settlement agreement requirement that UCs be placed in properly licensed facilities “as expeditiously as possible” during cases of emergency or influx.⁶³ Despite ORR's claims that EISs were “designed as short-term, stop-gap facilities opened for a limited period of time (generally under 6 months),”⁶⁴ ORR used EISs for well over a year, even as the number of UCs in ORR custody dropped substantially.

The living conditions at the EISs were appalling. UCs “slept in rows of cots in massive tents or convention halls with hundreds of other children, no social distancing, and no privacy.”⁶⁵

58 *Fact Sheets and Data*, OFF. OF REFUGEE RESETTLEMENT, <https://www.acf.hhs.gov/orr/about/ucs/facts-and-data> (last visited Oct. 11, 2024).

59 The 14 facilities were: Long Beach Convention Center, Long Beach, CA; Pomona Fairplex, Pomona, CA; San Diego Convention Center, San Diego, CA; Starr Commonwealth Campus, Albion, MI; Pennsylvania International Academy, Erie, PA; Dimmit EIS, Carrizo Springs, TX; Delphi EIS, Donna, TX; Fort Bliss, El Paso, TX; Joint Base Lackland, San Antonio, TX; Freeman Expo Center, San Antonio, TX; Midland, Midland, TX; Target Lodge Pecos North, Pecos, TX; Kay Bailey Hutchinson Convention Center, Dallas, TX; and Houston EIS, Houston, TX.

60 June 4, 2021 ORR Juvenile Coordinator Report at 3, *Flores v. Garland*, No. 2:85-CV-04544 (C.D. Cal. 2021), ECF No. 1124-2.

61 *Unregulated & Unsafe: The Use of Emergency Intake Sites to Detain Immigrant Children*, NAT'L CTR. FOR YOUTH LAW 17 (June 2022), <https://youthlaw.org/sites/default/files/attachments/2022-06/EIS%20Briefing%20FINAL.pdf>

62 June 4, 2021 ORR Juvenile Coordinator Report at 7, *Flores v. Garland*, No. 2:85-CV-04544 (C.D. Cal. 2021), ECF No. 1124-2.

63 Stipulated Settlement Agreement at 8, *Flores v. Reno*, No. 85-CV-4544 (C.D. Cal. 1997).

64 Off. of Refugee Resettlement, *ORR Field Guidance #13, Emergency Intake Sites (EIS) Instructions and Standards* (Apr. 30, 2021) (attached at App. 1-6).

65 *Unregulated & Unsafe: The Use of Emergency Intake Sites to Detain Immigrant Children*, NAT'L CTR. FOR YOUTH LAW 18 (June 2022), <https://youthlaw.org/sites/default/files/attachments/2022-06/EIS%20Briefing%20FINAL.pdf>

Some children reported “a lack of clean clothes and underwear,” “receiving insufficient and undercooked food,” “lack of adequate food and water,” and “limited access to showers and bathrooms.”⁶⁶ UCs housed in EISs also received little to no education and few recreation

SOME CHILDREN REPORTED “A LACK OF CLEAN CLOTHES AND UNDERWEAR,” “RECEIVING INSUFFICIENT AND UNDERCOOKED FOOD,” “LACK OF ADEQUATE FOOD AND WATER,” AND “LIMITED ACCESS TO SHOWERS AND BATHROOMS.”

activities. It was reported that children “spent most of their days on their cots with little adult interaction and almost nothing to do.”⁶⁷ A Stanford University clinical psychologist who visited the Fort Bliss EIS said that the lack of recreational opportunities resulted in children experiencing “extreme boredom, lethargy, low motivation, hopelessness, and helplessness, all of which are symptoms [of] and contributors to depression and psychological stress.”⁶⁸ At two EISs, in Dallas and Houston, children were not allowed outside except to access shower facilities.⁶⁹

The UCs at EISs also received insufficient medical and mental health care. A June 2022 report by the HHS Office of Inspector General (OIG) auditing EISs from March 2021 through June 2021 found that the facilities “did not adequately safeguard [UCs] from COVID-19,” stating that EISs lacked procedures for COVID-19 testing of children and employees, lacked measures to protect against the spread of COVID-19, and lacked procedures to report required testing and results to ORR and state and local health entities.⁷⁰ All of this occurred while testing and mitigation methods were widely available. Whistleblowers also reported that when children reached out to staff for medical help, staff “questioned a child’s request for medical attention and/or made the child wait for hours before escorting the child to the medical or mental health tents for care.”⁷¹ UCs at many of the EISs also reported little to no access to mental health counselors, despite experiencing “depression and other mental health challenges.”⁷² Some EIS facilities had no mental health counselors at all, while at others, some of the counselors lacked minimum qualifications.⁷³

It was also discovered that ORR contractors staffed EISs with employees who lacked any relevant child-welfare experience and who did not undergo required background checks prior to their employment. A group of 11 ORR supervisors wrote a memorandum of concern to superiors at HHS in July 2021 saying that these employees did not have “the knowledge, skills, or abilities to serve as case managers in the UC program” and that new case managers “started working cases without adequate training or supervision.”⁷⁴

A September 2022 HHS OIG audit further found that ORR filled case management positions with

66 *Id.* at 18, 33.

67 *Id.* at 18.

68 Memorandum in Support of Motion to Enforce Settlement re Emergency Intake Sites at 7, *Flores v. Garland*, No. 85-CV-4544 (C.D. Cal. 2021), ECF No. 1161-1.

69 *Unregulated & Unsafe: The Use of Emergency Intake Sites to Detain Immigrant Children*, NAT’L CTR. FOR YOUTH LAW 18 (June 2022), <https://youthlaw.org/sites/default/files/attachments/2022-06/EIS%20Briefing%20FINAL.pdf>

70 Christi A. Grimm, Inspector Gen., U.S. Dep’t Health & Hum. Servs. Off. of Inspector Gen., *Operational Challenges Within ORR and the ORR Emergency Intake Site at Fort Bliss Hindered Case Management for Children* 8 (Sept. 2022), <https://oig.hhs.gov/oei/reports/OEI-07-21-00251.pdf>.

71 Letter from David Z. Seide & Dana L. Gold, Gov’t Accountability Project, to U.S. House of Reps. Comm. on Energy & Com. et al. (July 7, 2021), <https://whistleblower.org/wp-content/uploads/2021/07/070721-Fort-Bliss-Whistleblowers-Disclosure.pdf>

72 *Unregulated & Unsafe: The Use of Emergency Intake Sites to Detain Immigrant Children*, NAT’L CTR. FOR YOUTH LAW 29 (June 2022), <https://youthlaw.org/sites/default/files/attachments/2022-06/EIS%20Briefing%20FINAL.pdf>

73 *Id.* at 23, 27, 34.

74 Memorandum of Concern from ORR Federal Field Specialist Supervisors to Stephen Antkowiak, Dir., Off. of Refugee Resettlement Div. of Unaccompanied Child.’s Operations 5 (July 23, 2021) (attached at App. 7-13).

“inexperienced case managers who lacked knowledge about child-welfare best practices.”⁷⁵ HHS OIG also found that ORR initially waived policy guidance requiring training for all staff who have contact with children for 60 days.⁷⁶ In addition to providing insufficient training to contractors, ORR failed to ensure these new employees passed background checks prior to interacting with children. In a May 2023 audit, the HHS OIG found that EISs “did not fully comply with ORR’s background check requirements; specifically, not all required public records checks, FBI fingerprint checks, [Child Abuse and Neglect (CA/N)] checks, and [Department of Justice] sex offender registry checks were conducted, documented, or conducted in a timely manner.”⁷⁷ The failure to conduct needed background checks on employees led to allegations of sexual misconduct by staff towards minors at EISs.⁷⁸

III. The Federal Government’s Role in Protecting UCs

The Homeland Security Act of 2002 defines UCs as individuals who (1) are under the age of 18, (2) lack lawful immigration status in the United States, and (3) have no parent or legal guardian in the United States or no parent or legal guardian in the United States who can provide care and physical custody.⁷⁹

A. ORR’s Legal Responsibilities

When a UC arrives at a U.S. port of entry or is apprehended by U.S. law enforcement during an illegal border crossing, they are taken into custody by CBP. CBP processes the UCs and holds them temporarily in border facilities until they can be referred and transferred to ORR custody.

The 1997 *Flores v. Reno* settlement agreement established a “nationwide policy for the detention, release, and treatment of minors” in immigration custody, which includes UCs.⁸⁰ According to the *Flores* agreement, when a minor is apprehended by CBP, the government has three to five days to either (1) release the minor to a parent, legal guardian, or adult relative; or (2) place the minor in a nonsecure facility “licensed by an appropriate State agency to provide residential, group, or foster care services for dependent children.”⁸¹

Under the William Wilberforce Trafficking Victims Protection Reauthorization Act (TVPRA) of 2008, UCs from countries other than Mexico and Canada are allowed to enter and remain in the United States while awaiting a hearing before an immigration judge.⁸² The TVPRA also mandates that a child in government custody be transferred to ORR within 72 hours after determining that the child is a minor.⁸³ ORR then retains custody of UCs until ORR is able to find a suitable sponsor to care for them while they await their immigration hearing.

75 Christi A. Grimm, Inspector Gen., U.S. Dep’t Health and Hum. Servs. Off. of Inspector Gen., *Operational Challenges Within ORR and the ORR Emergency Intake Site at Fort Bliss Hindered Case Management for Children* 11 (Sept. 2022), <https://oig.hhs.gov/oei/reports/OEI-07-21-00251.pdf>.

76 *Id.* at 12.

77 Christi A. Grimm, Inspector Gen., U.S. Dep’t of Health & Hum. Servs. Off. of Inspector Gen., *The Office of Refugee Resettlement Needs to Improve its Practices for Background Checks During Influxes* 11 (May 2023), <https://oig.hhs.gov/documents/audit/8306/A-06-21-07003-Complete%20Report.pdf>.

78 *E.g.*, Julia Ainsley & Didi Martinez, *Audio from migrant shelter reveals allegations of sex misconduct by staff with minors*, NBC NEWS (July 31, 2021), <https://www.nbcnews.com/politics/immigration/audio-migrant-kids-shelter-reveals-discussion-sex-between-staff-minors-n1275547>.

79 *See* Homeland Security Act of 2002, Pub. L. No. 107-296 § 462, 116 Stat. 2135, 2205 (2002) (6 U.S.C. § 279(g)(2)).

80 Stipulated Settlement Agreement at 6, *Flores v. Reno*, No. 85-CV-4544 (C.D. Cal. 1997). *See also* Cong. Res. Serv., *Child Migrants at the Border: The Flores Settlement Agreement and Other Legal Developments* (Apr. 1, 2021), <https://crsreports.congress.gov/product/pdf/IF/IF11799>.

81 Stipulated Settlement Agreement at 9, *Flores v. Reno*, No. 85-CV-4544 (C.D. Cal. 1997).

82 The William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, Pub. L. No. 110-457, 122 Stat. 5044.

83 8 U.S.C. § 1232(b)(3).

ORR is tasked with placing a UC in “the least restrictive setting appropriate to the minor’s age and special needs,” considering such factors as danger to self, danger to the community, and risk of flight.⁸⁴ Most UCs are cared for by a network of state-licensed, ORR-funded care providers until they are released to a sponsor, turn 18, or their immigration status is resolved.

Most UCs entering the United States are released to sponsors in California, Florida, and Texas.⁸⁵ Between October 2023 and August 2024, of the 93,994 UCs who were placed with sponsors across the United States and its territories, 9,120 were released to sponsors in Florida, 10,122 released to sponsors in California, and 12,294 released to sponsors in Texas.⁸⁶ This means that over 30 percent of all UCs in the United States are placed with sponsors in these three states alone.

UCs are released to sponsors according to a hierarchy of preferences:

1. Category 1: parent or legal guardian;
2. Category 2A: an immediate relative such as a sibling or grandparent, or a close relative such as an aunt or first cousin who previously served as the primary caregiver;
3. Category 2B: immediate relatives such as an aunt or first cousin who was not previously the child’s primary caregiver;
4. Category 3: distant relatives and unrelated adults; and,
5. Category 4: no sponsor identified.⁸⁷

The majority of UCs are released to Category 1 and Category 2 sponsors. To illustrate, in September 2024, 2,852 UCs were released to Category 1 sponsors, 2,089 UCs were released to Category 2 sponsors, and 454 UCs were released to Category 3 sponsors.⁸⁸

Before releasing a UC to a sponsor, ORR is legally responsible for ensuring the safety and suitability of a potential sponsor. This process is supposed to include ORR or its designated third-party contractors identifying and contacting a potential sponsor, that sponsor submitting an application, assessment of the potential sponsor’s suitability, pre-release safety checks for all sponsors, and, if applicable, a home study and/or post-release services. In actuality, ORR has failed to ensure each of these steps is taken for every child in its custody before releasing that child to a sponsor.

B. ORR’s Sponsor Vetting Process Prior to 2023

ORR’s sponsor vetting and release decision process requires extensive coordination among many government and non-government entities, which include the following roles: care provider case management staff (Case Managers), non-governmental third-party reviewers (Case Coordinators), ORR staff (ORR Federal Field Specialists), independent third-party child advocates, and other federal agencies and stakeholders, where applicable.

84 Stipulated Settlement Agreement at 7, *Flores v. Reno*, No. 85-CV-4544 (C.D. Cal. 1997). See also Cong. Res. Serv., *Child Migrants at the Border: The Flores Settlement Agreement and Other Legal Developments* (Apr. 1, 2021), <https://crsreports.congress.gov/product/pdf/IF/IF11799>.

85 *Unaccompanied Children Released to Sponsors by State*, OFF. OF REFUGEE RESETTLEMENT, <https://www.acf.hhs.gov/orr/grant-funding/unaccompanied-children-released-sponsors-state> (last updated Oct. 17, 2024).

86 *Id.*

87 Sec. 2.2.1, *ORR Unaccompanied Children Program Policy Guide: Section 2*, OFF. OF REFUGEE RESETTLEMENT, <https://www.acf.hhs.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide-section-2> (last visited Oct. 11, 2024).

88 *Latest UC Data – FY2024*, OFF. OF REFUGEE RESETTLEMENT, <https://www.hhs.gov/programs/social-services/unaccompanied-children/latest-uc-data-fy2024/index.html> (last updated Oct. 22, 2024).

- **Case Managers** are care provider staff that communicate with potential sponsors, gather necessary information and documentation, talk to any relevant stakeholders, such as child advocates and legal service providers, and assess sponsors to formulate a recommendation to the Case Coordinators. They also ensure all services for UCs are documented and maintain case files for each child. Case managers are based on site at ORR shelter facilities.⁸⁹
- **Case Coordinators** are non-governmental contractor field staff assigned to one or more care provider primarily to review UC cases and provide transfer and release recommendations to ORR staff. They are responsible for integrating all areas of assessment from the Case Managers, Child Advocates (where applicable), and other stakeholders into a release plan. Case Coordinators are not located on site at ORR facilities.⁹⁰
- **ORR Federal Field Specialists (FFS)** are ORR’s field staff located throughout the country and are assigned to a group of care providers within a particular geographic region. FFS coordinate all aspects of a UC’s case with care provider staff (including Case Managers), Case Coordinators, stakeholders, and other federal agencies. They make the *final* decision to approve all UC release requests and make final decisions as to whether home studies are conducted and/or post-release services are provided.⁹¹
- **Child Advocates** are third parties that ORR may appoint for victims of trafficking and other vulnerable children to make independent recommendations regarding the best interests of a UC. Their recommendations are based on information obtained from the child and other sources, such as the child’s parents, potential sponsors, government agencies, legal service providers, and others. ORR considers child advocates’ recommendations when making decisions regarding the care, placement, and release of UCs.⁹²

Prior to August 2023, Case Managers at individual ORR facilities were responsible for most steps in the sponsor vetting process, including initiating and maintaining ongoing communication with the potential sponsor, gathering sponsor information, and assessing whether the potential sponsor is a suitable sponsor who can safely provide for the physical and mental well-being of the child.⁹³ The case managers then made a recommendation on the UC’s release to the Case Coordinator, who then reviewed all assessment information on a UC and the sponsor and also made their own recommendation. Once Case Managers and Case Coordinators agreed on a particular recommendation for release, the FFS made a final release decision. If the Case Manager and Case Coordinator could not agree on a recommendation, the case was elevated to the FFS for further guidance.⁹⁴

C. ORR’s Sponsor Vetting Process After 2023

On August 23, 2023, ORR issued Field Guidance #24 (FG-24) to announce and provide an overview of its newly-created Sponsor Services Initiative, which centralizes sponsor services under one third-party contractor, “shifting certain sponsor vetting responsibilities [from the Case Manager] to the *new* contractor Unification Specialist role.”⁹⁵

- **Unification Specialists** are non-governmental contract staff that conduct sponsor vetting activities in

⁸⁹ Sec. 2.3, *ORR Unaccompanied Children Program Policy Guide: Section 2*, OFF. OF REFUGEE RESETTLEMENT, <https://www.acf.hhs.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide-section-2> (last visited Oct. 11, 2024).

⁹⁰ *Id.*

⁹¹ *Id.*

⁹² *Id.*

⁹³ *Id.*

⁹⁴ See Sec. 2.3, *ORR Unaccompanied Children Program Policy Guide: Section 2*, OFF. OF REFUGEE RESETTLEMENT, <https://www.acf.hhs.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide-section-2> (last visited Oct. 11, 2024).

⁹⁵ Off. of Refugee Resettlement, *ORR Field Guidance #24, Sponsor Services Role Guidance for Selected Grantees* (Aug. 23, 2023) (emphasis in original) (attached at App. 14-26).

accordance with ORR policies and procedures guidance. Case Managers identify a potential sponsor, Unification Specialists vet the potential sponsor, and Unification Specialists then make a recommendation to Case Managers of “suitable” or “unsuitable” based on ORR’s defined guidelines. Case Managers then consider the Unification Specialist’s suitability recommendation when they provide a release recommendation to the Case Coordinator and FFS. Unification Specialists are not based on site at ORR facilities. They primarily work remotely, and do not communicate directly with UCs.⁹⁶

ORR’s FG-24 further increases ORR’s reliance on third-party contractors to conduct case management and sponsor vetting. Based on Ranking Member Cassidy’s investigation, ORR engages in very little oversight to ensure their third-party contractors remain accountable, calling into question how successful ORR’s attempt to shift sponsor vetting responsibilities to a Unification Specialist will be.

IV. Key Findings

A. The Biden-Harris Administration Took a Number of Actions That Weakened the Sponsor Vetting Process, Putting UCs in Harm’s Way

The Biden-Harris administration responded to the influx of UCs by weakening sponsor vetting requirements in an effort to move UCs out of government custody *as quickly as possible*, putting UCs in danger. This included changes to preexisting ORR policy through field guidance memos issued to ORR staff and orders from HHS leadership for ORR staff to prioritize speed over safety when releasing UCs to sponsors. The agency also reversed a number of policy proposals from the Trump administration that sought to verify sponsor’s relationships with UCs, bolster post-release services, and facilitate interagency information sharing to protect UCs from sponsors who may seek to exploit or abuse them. ORR’s weakening of sponsor vetting requirements demonstrates a failure to learn from previous mistakes at the agency, namely loosening vetting requirements when responding to previous influxes that led to the exploitation and abuse of UCs at the hands of insufficiently-vetted sponsors. Finally, ORR continues to require home studies in only a very small number of cases and rarely requires an in-person meeting with the potential sponsor before releasing UCs from government custody, in contrast to requirements in the traditional foster care system in the United States.

ORR CONTINUES TO REQUIRE HOME STUDIES IN ONLY A VERY SMALL NUMBER OF CASES AND RARELY REQUIRES AN IN-PERSON MEETING WITH THE POTENTIAL SPONSOR BEFORE RELEASING UCs FROM GOVERNMENT CUSTODY, IN CONTRAST TO REQUIREMENTS IN THE TRADITIONAL FOSTER CARE SYSTEM IN THE UNITED STATES.

i. The Administration Pushed an Early Focus on Speed Over Safety

In the early months of the Biden-Harris administration, in the midst of the influx of UCs at the southern border caused by their administration’s policies, top officials pushed for ORR to release UCs as quickly as possible. In a March 2021 meeting at the White House, DHS Secretary Alejandro Mayorkas told HHS Secretary Xavier Becerra that HHS needed to move UCs more quickly out of federal custody.⁹⁷ Susan Rice, the President’s domestic policy advisor, told Secretary Becerra that he should open more ORR shelters.⁹⁸ By the summer of 2021, as ORR continued to be overwhelmed, Secretary Becerra was pushing ORR staff for faster results

⁹⁶ Letter from Peter Spivack, Partner, Hogan Lovells US LLP, to Sen. Bill Cassidy, Ranking Member, S. Comm. on Health, Educ., Lab., & Pensions 5, 7-8 (June 19, 2024) (attached at App. 27-40).

⁹⁷ Zolan Kanno-Youngs et al., *Disagreement and Delay: How Infighting Over the Border Divided the White House*, THE N.Y. TIMES (Apr. 9, 2022), <https://www.nytimes.com/2022/04/09/us/politics/biden-border-immigration.html>.

⁹⁸ *Id.*

in releasing UCs from its custody. In a video uncovered by the NYT, Secretary Becerra told ORR staff in a meeting that they should release UCs with machine-like efficiency, saying, “[i]f Henry Ford had seen this in his plants, he would have never become famous and rich. This is not the way you do an assembly line.”⁹⁹

After Secretary Becerra’s comment, ORR staff issued warnings, writing memos to their superiors of the danger of releasing UCs to sponsors without thorough vetting. In a July 2021 Memorandum of Concern sent to the Director of the ORR Division of Unaccompanied Children’s Operations, 11 ORR Federal Field Specialist Supervisors said they were worried that labor trafficking was increasing and that the “climate in ORR that has been *created by leadership* has been one that rewards individuals for making quick releases, and not one that rewards individuals for preventing unsafe releases.”¹⁰⁰ They stated that under the Biden-Harris administration, ORR had transformed from “a child-welfare focused model to one that emphasizes what seems to be a ‘release to someone as soon as possible model.’ In other words, throughput [releasing children to sponsors quickly] seems to be the primary goal of the program with a nod to some safety measures.”¹⁰¹

HHS leadership continued to push for faster releases, despite warnings from ORR staff that the focus on speed over safety was endangering UCs. By March 2022, Secretary Becerra told then-ORR Director Cindy Huang that if she could not increase the number of discharges of UCs from ORR custody, he would find someone who could.¹⁰² Huang resigned a month later.¹⁰³ Secretary Becerra made a similar threat to Huang’s successor, Robin Dunn Marcos,¹⁰⁴ who followed Secretary Becerra’s directive to focus on speed over safety at the agency, maintaining expedited release policies for certain categories of UCs, but without bolstering sponsor vetting requirements to keep children safe.

ii. ORR Issued Field Guidance That Endangered UCs

In the midst of the early pressure from administration officials to release UCs as quickly as possible, ORR issued a series of field guidance memos in March 2021 to expedite its sponsor vetting process. These field guidance memos “removed basic safety measures from the sponsor screening process in an effort to expedite children’s release from care.”¹⁰⁵ In the July

2021 Memorandum of Concern, the 11 ORR Federal Field Specialist Supervisors wrote that the field guidance memos “dismantle[d] current sponsor vetting policies,” “were done with the *sole* intent to reduce delays in releases,” and “were made even despite protests from career ORR staff.”¹⁰⁶ Consistent with the Memorandum of Concern, the HHS OIG found that these field guidance memos were “developed

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99 Hannah Dreier, *Alone and Exploited, Migrant Children Work Brutal Jobs Across the U.S.*, THE N.Y. TIMES (Feb. 25, 2023), <https://www.nytimes.com/2023/02/25/us/unaccompanied-migrant-child-workers-exploitation.html>.

100 Memorandum of Concern from ORR Federal Field Specialist Supervisors to Stephen Antkowiak, Dir., Off. of Refugee Resettlement Div. of Unaccompanied Child.’s Operations 3 (July 23, 2021) (emphasis added) (attached at App. 7-13).

101 *Id.* at 2.

102 Hannah Dreier, *Alone and Exploited, Migrant Children Work Brutal Jobs Across the U.S.*, THE N.Y. TIMES (Feb. 25, 2023), <https://www.nytimes.com/2023/02/25/us/unaccompanied-migrant-child-workers-exploitation.html>.

103 *Id.*

104 *Id.*

105 Christi A. Grimm, Inspector Gen., U.S. Dep’t Health and Hum. Servs. Off. of Inspector Gen., *Operational Challenges Within ORR and the ORR Emergency Intake Site at Fort Bliss Hindered Case Management for Children* 16 (Sept. 2022), <https://oig.hhs.gov/oei/reports/OEI-07-21-00251.pdf>.

106 Memorandum of Concern from ORR Federal Field Specialist Supervisors to Stephen Antkowiak, Dir., Off. of Refugee Resettlement Div. of Unaccompanied Child.’s Operations 4 (July 23, 2021) (attached at App. 7-13).

without adequate input from ORR staff with expertise in child welfare” and that “ORR’s child welfare experts were not given the chance to review these policies and ensure that they prioritized children’s safety.”¹⁰⁷

The most troublesome field guidance memos issued were Field Guidance #10 (FG-10) and Field Guidance #11 (FG-11), both issued in March 2021. FG-10 reduced the information collected by case managers, removed third-party Case Coordinator review of the sponsor vetting process, and removed background checks and identity verification for adult household members in cases involving a sponsor who is the UC’s parent or legal guardian (Category 1 sponsors).¹⁰⁸ FG-11 went even further, and reduced the background checks and identity verification required in cases involving a sponsor who is the UC’s sibling, grandparent, cousin, or other close relative (Category 2 sponsors).¹⁰⁹

By removing basic safeguards to ensure that UCs were being released into safe environments, ORR made it more likely that children would be released to dangerous sponsors and subjected to human trafficking and forced labor. In interviews with the HHS OIG, ORR staff said that “these changes have weakened ORR’s ability to vet sponsors and protect children from risks such as trafficking and exploitation.”¹¹⁰ ORR staff further said that “[c]ase management staff are encouraged to do *the absolute minimum vetting of sponsors* to effectuate the quickest releases,” and as a result, “there are *safety issues* that are likely being overlooked.”¹¹¹

Despite admonishment from the HHS OIG, protests from ORR career staff and supervisors, record levels of illegal child labor, and countless stories of the exploitation of UCs, ORR inexplicably kept both FG-10 and FG-11 in place until February 13, 2024, releasing over 240,000 UCs to sponsors under these weakened requirements.¹¹² Upon rescission of these field guidances, ORR subsequently published policy and procedure revisions that marginally enhanced its sponsor vetting requirements, including requiring proof of address documentation and sex offender registry checks for sponsors and adult household members and caregivers in Category 1 cases.¹¹³ ORR also added requirements for proof of identity and criminal background checks for all adult household members and caregivers with an exception for certain Category 1 cases where there are no safety concerns, as determined by ORR. While ORR did not provide an explanation for these policy changes, the re-imposition of these requirements is a tacit acknowledgment that the policies in FG-10 and FG-11 failed to keep UCs safe from sponsors who sought to harm them.

On March 5, 2024, Ranking Member Cassidy wrote a letter to ORR asking why the agency refused to rescind FG-10 and FG-11 even after the HHS OIG’s findings, and requested the production of internal documents that

107 Christi A. Grimm, Inspector Gen., U.S. Dep’t Health and Hum. Servs. Off. of Inspector Gen., *Operational Challenges Within ORR and the ORR Emergency Intake Site at Fort Bliss Hindered Case Management for Children* 15 (Sept. 2022), <https://oig.hhs.gov/oei/reports/OEI-07-21-00251.pdf>.

108 Off. of Refugee Resettlement, *ORR Field Guidance #10, Expedited Release for Eligible Category 1 Cases* (Mar. 22, 2021) (attached at App. 41-44).

109 Off. of Refugee Resettlement, *ORR Field Guidance #11, Temporary Waivers of Background Check Requirements for Category 2 Adult Household Members and Adult Caregivers* (Mar. 31, 2021) (attached at App. 45).

110 Christi A. Grimm, Inspector Gen., U.S. Dep’t Health and Hum. Servs. Off. of Inspector Gen., *Operational Challenges Within ORR and the ORR Emergency Intake Site at Fort Bliss Hindered Case Management for Children* 17 (Sept. 2022), <https://oig.hhs.gov/oei/reports/OEI-07-21-00251.pdf>.

111 *Id.* (emphasis added).

112 *HHS Unaccompanied Children Program*, HEALTHDATA.GOV, https://healthdata.gov/National/HHS-Unaccompanied-Children-Program/ehpz-xc9n/data_preview (last visited Oct. 11, 2024).

113 See Sec. 2.5, *ORR Unaccompanied Children Program Policy Guide: Section 2*, OFF. OF REFUGEE RESETTLEMENT, <https://www.acf.hhs.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide-section-2> (last visited Oct. 11, 2024). It is of note that even though Sec. 2.5.1 of the Policy Guide states that non-sponsor adult household members and adult caregivers must undergo a sex offender registry check in *all* cases, Sec. 2.5 of the Policy Guide states that only adult household members of potential sponsors in *some* Category 1 cases must undergo a sex offender registry check. This is a significant contradiction and ORR should update its Policy Guide to ensure that these sections are consistent with one another.

reference concerns with ORR’s sponsor vetting requirements, including the two field guidance memos.¹¹⁴ In its April 23, 2024 response, ORR failed to acknowledge the severe consequences of the field guidance, did not provide an explanation for why it took nearly three years for them to be rescinded, and did not produce any of the internal documents requested.¹¹⁵ Furthermore, ORR has refused to produce copies of any of its previously-issued field guidance memos, including FG-10 and FG-11, to the Committee despite numerous requests. While the Committee was able to obtain these documents through other means, ORR’s continued unwillingness under the Biden-Harris administration to provide basic policy documents is a shameful attempt to deflect from its role in putting hundreds of thousands of UCs in harm’s way.

iii. ORR Reversed a Number of Trump-Era Policies that Protected UCs

Under the Trump administration, ORR proposed to add an option for potential sponsors to voluntarily submit to a DNA test, paid for by ORR, to prove that they are biologically related to the child.¹¹⁶ This test could be used to prove a biological relationship where supporting paperwork, such as a birth certificate is difficult or impossible to obtain and/or authenticate in a timely manner. ORR also proposed to require DNA testing when it has “serious concerns about fraud regarding the biological relationship” of the UC and the proposed sponsor or household member.¹¹⁷ The Biden-Harris administration rescinded this proposal soon after taking office in February 2021.¹¹⁸

The Trump administration also proposed adding an additional provision to the Sponsor Care Agreement requiring sponsors to enroll in post-release services as a condition of release.¹¹⁹ This would have required post-release services caseworkers to make initial contact with the UC within two days of release and an in-person home visit within 30 days of release.¹²⁰ It would have also required caseworkers to contact the UC via phone at least once a month and make additional home visits every 90 days, giving the caseworkers discretion as to how long the phone contact and home visits need to continue.¹²¹ The proposal was intended to “ensur[e] that released [UCs] are thriving and . . . provide an opportunity for the [UC] to express any safety or well-being concerns.”¹²² It would also “assist[] in ensuring that sponsors are acutely aware of the responsibilities of sponsorship.”¹²³ Again, despite the clear benefits of providing required post-release services to UCs to ensure their safety and well-being once released, the Biden-Harris administration rescinded this proposal in February 2021.¹²⁴

The rescission of this proposal is all the more curious given that ORR Director Marcos testified to Congress that “this Administration is committed to expanding [post-release services]” and requested increased funding

114 See Letter from Sen. Bill Cassidy, Ranking Member, S. Comm on Health, Educ., Lab., & Pensions, to Robin Dunn Marcos, Dir., Off. of Refugee Resettlement (Mar. 5, 2024), https://www.help.senate.gov/imo/media/doc/24-03-05_letter_from_sen_cassidy_to_director_marcos_re_orr_sponsor_vetting_requirements.pdf.

115 See Letter from Melanie Anne Egorin, Assistant Sec’y for Legis., U.S. Dep’t of Health & Hum. Servs., to Sen. Bill Cassidy, Ranking Member, S. Comm on Health, Educ., Lab., & Pensions (Apr. 23, 2024) (attached at App. 46-49).

116 See Proposed Information Collection Activity; Sponsor Review Procedures for Unaccompanied Alien Children (OMB #0970-0278), 86 Fed. Reg. 308 (Jan. 5, 2021).

117 *Id.* at 309.

118 See Proposed Information Collection Activity; Sponsor Review Procedures for Unaccompanied Alien Children (OMB #0970-0278); Correction, 86 Fed. Reg. 11537 (Feb. 25, 2021).

119 See Proposed Information Collection Activity; Sponsor Review Procedures for Unaccompanied Alien Children (OMB #0970-0278), 86 Fed. Reg. 308 (Jan. 5, 2021).

120 *Id.*

121 *Id.*

122 *Id.* at 309.

123 *Id.*

124 See Proposed Information Collection Activity; Sponsor Review Procedures for Unaccompanied Alien Children (OMB #0970-0278); Correction, 86 Fed. Reg. 11537 (Feb. 25, 2021).

from Congress to do so.¹²⁵ If the Biden-Harris administration is committed to expanding post-release services, it is unclear why it would rescind a proposal that would have ensured *all* UCs receive post-release services upon their release. The Trump administration proposal would have made post-release services a *mandatory* condition for sponsors to agree to, while ORR’s current policy is that “[c]hildren and sponsors are not required to answer [post-release services] calls.”¹²⁶

Finally, the Trump administration enacted a Memorandum of Agreement (MOA) between ORR and DHS to ensure DHS provided ORR with necessary information to conduct suitability assessments for sponsors before approving the release of a UC.¹²⁷ This information included the immigration history, criminal history, and a check for outstanding arrest warrants for the potential sponsor and all adult members of the potential sponsor’s household.¹²⁸ ORR used this information to determine if the sponsor was suitable for caring for a UC. This information was critical in ensuring that UCs were not released to dangerous sponsors who sought to exploit and/or traffic them, and provided an additional check beyond the background checks ORR already conducts on its own. However, in March 2021, the Biden-Harris administration rescinded this MOA and replaced it with an MOA that stripped all of the information sharing requirements between ORR and DHS.¹²⁹ Since this change, there have been increasing reports concerning abuse, exploitation, and trafficking of UCs at the hands of their sponsors, many of whom were not thoroughly vetted.

iv. ORR Failed to Learn from Previous Mistakes

In 2014 under the Obama administration, there was a surge of UCs at the southern border, with 68,541 UC encounters in FY 2014 alone—a new record at the time. During this time, reports surfaced that ORR placed a number of UCs with human traffickers who exploited these children and forced them to work on egg farms.¹³⁰ In 2016, the Senate Homeland Security and Governmental Affairs Committee’s Permanent Subcommittee on Investigations (PSI) launched a bipartisan investigation into ORR’s process for screening potential sponsors and other measures to protect UCs from trafficking.¹³¹ The subcommittee then issued a report finding that ORR’s “policies and procedures are inadequate to protect children in the agency’s care,” and that ORR’s policies “expose [UCs] to an unacceptable risk of trafficking and other forms of abuse at the hands of their government-approved sponsors.”¹³²

PSI found that ORR only conducted background checks on sponsors, and not on any other adult living in

125 *Oversight of the Office of Refugee Resettlement’s Unaccompanied Alien Children Program: Hearing Before the H. Comm. on Oversight & Accountability*, 118th Cong. (2023) (testimony of Robin Dunn Marcos, Dir., Off. of Refugee Resettlement).

126 Letter from Melanie Anne Egorin, Assistant Sec’y for Legis., U.S. Dep’t of Health & Hum. Servs., to Sen. Bill Cassidy, Ranking Member, S. Comm. on Health, Educ., Lab., & Pensions (Apr 23, 2024) (attached at App. 46-49).

127 See Memorandum of Agreement Among the Office of Refugee Resettlement of the U.S. Department of Health and Human Services and U.S. Immigration and Customs Enforcement and U.S. Customs and Border Protection of the U.S. Department of Homeland Security Regarding Consultation and Information Sharing in Unaccompanied Alien Children Matters (Apr. 13, 2018) (attached at App. 50-56).

128 *Id.* at 4-5.

129 See Memorandum of Agreement Among the Office of Refugee Resettlement of the U.S. Department of Health and Human Services and U.S. Immigration and Customs Enforcement and U.S. Customs and Border Protection of the U.S. Department of Homeland Security Regarding Consultation and Information Sharing in Matters Relating to Unaccompanied Children (Mar. 11, 2021) (attached at App. 57-64).

130 See, e.g., Abbie VanSickle, *Overwhelmed federal officials released immigrant teens to traffickers in 2014*, WASH. POST. (Jan. 26, 2016), https://www.washingtonpost.com/national/failures-in-handling-unaccompanied-migrant-minors-have-led-to-trafficking/2016/01/26/c47de164-c138-11e5-9443-7074c3645405_story.html.

131 See Staff of S. Permanent Subcomm. on Investigations, Comm. on Homeland Sec. & Governmental Affs., 114th Cong., Rep. on Protecting Unaccompanied Alien Children from Trafficking and Other Abuses: The Role of the Office of Refugee Resettlement (2016), <https://cmsny.org/wp-content/uploads/2016/02/Majority-Minority-Staff-Report-Protecting-Unaccompanied-Alien-Children-from-Trafficking-and-Other-Abuses-2016-01-282-1.pdf>.

132 *Id.* at 2-3.

the sponsor's home or on the person designated as the "backup" sponsor.¹³³ And even if that check revealed a criminal history, ORR policy was that *no* criminal conviction could disqualify a sponsor, no matter how serious.¹³⁴ Soon after, in February 2016, ORR strengthened background check requirements to include all adults in the household and "backup" sponsors.¹³⁵ However, in the midst of another influx at the southern border, the Biden-Harris administration again reverted to the failed Obama-era policies.¹³⁶ This weakening of sponsor vetting requirements came despite PSI's findings, the admonishment from the HHS OIG, and the protests of ORR career staff and supervisors.

PSI also found that ORR performed home studies in less than 4.3 percent of cases.¹³⁷ Home studies assess the sponsor's ability to ensure the UC's safety and well-being and assess whether the sponsor's home is suitable for a child, including whether there is running water, electricity, and readily available food.¹³⁸ They are performed by specialized providers and usually include interviews with the UC, the sponsor, and other individuals in the sponsor's household. Care providers and experts believe "home studies are an invaluable tool for assessing the suitability for a foster-care placement for any child" and when ORR does not use home studies, the entire sponsor vetting process is conducted over the phone, "without a care provider or anyone from HHS ever meeting a sponsor in person or being able to detect problems in the child's living environment."¹³⁹

Lastly, PSI found that ORR allowed sponsors to refuse post-release services and even barred contact between the child and an ORR care provider attempting to provide those services.¹⁴⁰ Post-release services usually consist of home visits and the identification of community resources like educational support, legal assistance, and mental health services.¹⁴¹ They also help to cultivate family and community relationships, and help to protect UCs from abuse, abandonment, neglect, and other harm. PSI noted that, despite these benefits, only a small number of UCs actually received post-release services and that sponsors are free to refuse them and can withdraw consent whenever the sponsor chooses.¹⁴² It further found that the sponsor actively refused post-release services in a number of the trafficking and forced labor cases PSI examined.¹⁴³

Despite PSI's findings over eight years ago, the Biden-Harris ORR still does not conduct enough home studies and its post-release services remain insufficient to keep all UCs safe from abuse and exploitation. In FY 2022, the most recent year in which data is available, home studies were performed in less than seven percent of cases, barely above the 4.3 percent level found by PSI in 2016.¹⁴⁴ Furthermore, while 43 percent of UCs released by ORR were served by post-release services in FY 2022, up from 26 percent in FY 2015,¹⁴⁵ a sponsor who seeks

133 *Id.* at 2.

134 *Id.*

135 *Id.*

136 As noted above, FG-10 and FG-11 removed background checks and identity verification for adult household members and "backup" sponsors for Category 1 and 2 cases. *See* Off. of Refugee Resettlement, *ORR Field Guidance #10, Expedited Release for Eligible Category 1 Cases* (Mar. 22, 2021) (attached at App. 41-44); Off. of Refugee Resettlement, *ORR Field Guidance #11, Temporary Waivers of Background Check Requirements for Category 2 Adult Household Members and Adult Caregivers* (Mar. 31, 2021) (attached at App. 45).

137 Staff of S. Permanent Subcomm. on Investigations, Comm. on Homeland Sec. & Governmental Affs., 114th Cong., Rep. on Protecting Unaccompanied Alien Children from Trafficking and Other Abuses: The Role of the Office of Refugee Resettlement 3 (2016), <https://cmsny.org/wp-content/uploads/2016/02/Majority-Minority-Staff-Report-Protecting-Unaccompanied-Alien-Children-from-Trafficking-and-Other-Abuses-2016-01-282-1.pdf>.

138 *Id.* at 19.

139 *Id.* at 33-34.

140 *Id.* at 3.

141 *Id.* at 23.

142 *Id.* at 23-24.

143 *Id.* at 40.

144 *Fact Sheets and Data*, OFF. OF REFUGEE RESETTLEMENT, <https://www.acf.hhs.gov/orr/about/ucs/facts-and-data> (last visited Oct. 11, 2024).

145 *Id.*

to harm a child still faces no repercussions for refusing post-release services, and ORR is thus unable to verify the child’s safety or refer the case to local law enforcement and child welfare agencies.

Despite HHS Secretary Becerra stating, “[e]very child in this country, regardless of their circumstance, deserves protection and care as we would expect for our own child,”¹⁴⁶ the sponsor vetting process for UCs falls short compared to what is required for adults seeking to sponsor traditional foster children in the United States. As Florida’s Department of Children and Families Secretary Shevaun Harris stated at the July 2024 roundtable, “I could not bring a child into my home to foster or to adopt without there being supervised visitation, home studies, background checks, extensive work being done to make sure it’s a good match.”¹⁴⁷ She continued, “At a bare minimum, we should require ORR to follow basic standards and requirements in ensuring that these individuals are who they say they are and that these kids are safe when they’re placed in these homes.”¹⁴⁸

v. ORR’s Current Policies That Seek to Prevent Exploitation Are Optional and Lack Proper Enforcement

In addition to home studies and post-release services, ORR has a number of programs that seek to educate potential sponsors and UCs about child labor laws, ways to prevent exploitation, and legal obligations to comply with immigration proceedings. However, participation in these programs is optional for sponsors and ORR lacks any enforcement mechanism when sponsors do not comply with their legal responsibilities to ensure UCs appear at all immigration proceedings.

ORR policy states that “[a]ll potential sponsors of [UCs] *should* attend a presentation provided by the Legal Orientation Program for Custodians” to inform them of their responsibilities in ensuring the UC’s appearance at all immigration proceedings and protecting the child from mistreatment, exploitation, and trafficking.¹⁴⁹ ORR policy also states that a potential sponsor’s attendance at a presentation is “a factor in the release assessment,” but that attending the presentation is not mandatory for potential sponsors.¹⁵⁰ The optional nature of this presentation directly conflicts with federal law mandating that ORR must “*ensure* that [potential sponsors] receive legal orientation presentations.”¹⁵¹ And while approved sponsors are required to sign an ORR Verification of Release form agreeing to comply with the provisions of the Sponsor Care Agreement, even these provisions only require a sponsor to attend a legal orientation program “if available where [the sponsor] reside[s].”¹⁵²

ORR’s optional legal orientation likely impacts whether a UC attends their immigration proceedings. A recent DHS Office of Inspector General (DHS OIG) report found that more than 32,000 UCs, or 20 percent, failed to appear for their immigration court hearings from FY 2019 to FY 2023.¹⁵³ This is despite approved sponsors agreeing to “[e]nsure the child’s presence at all future proceedings before the DHS/Immigration and Customs

146 Press Release, U.S. Dep’t of Lab., Departments of Labor, Health and Human Services Announce New Efforts to Combat Exploitative Child Labor, (Feb. 27, 2023), <https://www.dol.gov/newsroom/releases/osec/osec20230227>.

147 *The Exploitation Crisis: How the U.S. Government is Failing to Protect Migrant Children from Trafficking and Abuse*, 118th Cong. (July 9, 2024) (statement of Shevaun Harris, Sec’y, Fla. Dep’t of Child. & Fams.) (1:47:19-1:47:44), <https://www.youtube.com/live/dldr8vNwXmc>.

148 *Id.*

149 Sec. 2.2.5, *ORR Unaccompanied Children Program Policy Guide: Section 2*, OFF. OF REFUGEE RESETTLEMENT (emphasis added), <https://www.acf.hhs.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide-section-2> (last visited Oct. 11, 2024).

150 *Id.*

151 8 U.S.C. § 1232(c)(4) (emphasis added).

152 *Sponsor Care Agreement*, OFF. OF REFUGEE RESETTLEMENT 1 (Mar. 25, 2024) (attached at App. 65-67).

153 *Management Alert – ICE Cannot Monitor All Unaccompanied Migrant Children Released from DHS and U.S. Department of Health and Human Services’ Custody*, U.S. DEP’T OF HOMELAND SEC. OFF. OF INSPECTOR GEN. 1 (Aug. 19, 2024), <https://www.oig.dhs.gov/sites/default/files/assets/2024-08/OIG-24-46-Aug24.pdf>.

Enforcement (ICE)” when signing the ORR Verification of Release form.¹⁵⁴

The optional nature of sponsor requirements is an unacceptable and obvious flaw in ORR policy. ORR says that it “has policies in place to promote [UCs’] well-being after they have been released,”¹⁵⁵ but these resources only help UCs who are placed with sponsors who want to follow the law. For example, ORR says that “every child and their sponsor receives Safety and Well-being calls” after their release from ORR custody, but acknowledges that “[c]hildren and sponsors are not required to answer these calls.”¹⁵⁶ The NYT reported that from 2021 to 2022, ORR could not reach more than 85,000 UCs through Safety and Well-being calls after being released from ORR custody.¹⁵⁷ Furthermore, despite the contention that “every” child and their sponsor receives Safety and Well-being calls, the HHS OIG found that during the UC influx in early 2021, ORR did not conduct timely Safety and Well-being calls in 22 percent of cases and follow-up calls were not documented in children’s case files in 18 percent of cases.¹⁵⁸ Despite requests for further information on this topic, ORR has been unwilling to provide data regarding the number of potential sponsors who failed to attend the legal orientation presentation, or how many sponsors had their Sponsor Care Agreement revoked for failing to attend the legal orientation presentation or for failing to ensure that the UC attended their immigration proceedings.¹⁵⁹

Overall, ORR lacks any enforcement mechanism to ensure compliance with the requirements in the Sponsor Care Agreement. If the sponsor does not enroll the UC in school, does not report violations of child labor laws to DOL, and does not ensure the UC reports to their immigration proceedings, there is no recourse. ORR also does not seek to remove the child from the sponsor’s home, even for egregious violations of the Sponsor Care Agreement, and it is not clear that ORR conducts any sort of oversight on sponsor compliance with the Agreement once the UC is released from its custody. Because ORR fails to monitor sponsor compliance with their Sponsor Care Agreement obligations, it makes it nearly impossible for the agency to ensure that sponsors it vets are providing for the safety and well-being of UCs. ORR is thus unable use information on sponsor compliance to inform its sponsor vetting practices, and it is unclear how the agency could ensure the sponsor vetting conducted by its contractors is sufficient to keep UCs safe.

B. ORR Relies Heavily on Third-Party Contractors to Conduct Case Management and Sponsor Vetting, But Engages in Very Little Oversight to Ensure Accountability

Under the Biden-Harris administration, ORR began outsourcing much of its case management and sponsor vetting responsibilities to third-party contractors. Beginning in March 2021, ORR hastily contracted with a number of private entities with little to no child-welfare experience to provide services at EISs. Despite the well-documented failures by these contractors, ORR continues to rely on third-parties for much of this work. The agency issued field guidance in August 2023 that outlined its plans to centralize sponsor vetting services under one third-party contractor, The Providencia Group, LLC (TPG), beginning with a pilot program.¹⁶⁰ In May 2024, ORR indicated that it was seeking to have TPG conduct sponsor vetting services at *all* ORR

154 *Sponsor Care Agreement*, OFF. OF REFUGEE RESETTLEMENT 2 (Mar. 25, 2024) (attached at App. 65-67).

155 Letter from Melanie Anne Egorin, Assistant Sec’y for Legis., U.S. Dep’t of Health & Hum. Servs., to Sen. Bill Cassidy, Ranking Member, S. Comm. on Health, Educ., Lab., & Pensions (Apr 23, 2024) (attached at App. 46-49).

156 *Id.* (emphasis added).

157 Hannah Dreier, *Alone and Exploited, Migrant Children Work Brutal Jobs Across the U.S.*, THE N.Y. TIMES (Feb. 25, 2023), <https://www.nytimes.com/2023/02/25/us/unaccompanied-migrant-child-workers-exploitation.html>.

158 See Christi A. Grimm, Inspector Gen., U.S. Dep’t Health and Hum. Servs. Off. of Inspector Gen., *Gaps in Sponsor Screening and Followup Raise Safety Concerns for Unaccompanied Children* 18-20 (Feb. 2024), <https://oig.hhs.gov/documents/evaluation/3093/OEI-07-21-00250-Complete%20Report.pdf>.

159 See Letter from Jennifer M. Cannistra, Acting Assistant Sec’y for Child. & Fams., to Rep. Andy Biggs (Feb. 24, 2022), <https://x.com/RepAndyBiggsAZ/status/1498691219656003585/photo/1>.

160 Off. of Refugee Resettlement, *ORR Field Guidance #24, Sponsor Services Role Guidance for Selected Grantees* (Aug. 23, 2023) (emphasis in original) (attached at App. 14-26).

facilities by early 2025.¹⁶¹ ORR also contracts with General Dynamics Information Technology, Inc. (GDIT) to provide case coordination services—reviewing case files and providing release recommendations to ORR staff. ORR has not provided a substantive justification to support its plan to centralize the sponsor vetting process under one contractor and there are questions as to why TPG was selected to provide these services given its past work. There are also gaps in the case coordination services GDIT provides and a lack of accountability for past failures in ensuring the safe release of UCs.

i. The Providencia Group, LLC

TPG was established in June 2020 as a limited liability company based in Virginia.¹⁶² It is unclear what prior experience TPG leadership or any of its employees had in providing sponsor vetting or child welfare services prior to the company’s inception. TPG is closely related to MVM, Inc. (MVM), a defense contractor previously accused of mistreating UCs and hiring transportation employees with criminal records.¹⁶³ For example, in 2023, HHS OIG found that ORR did not require its transportation services contractor—MVM—¹⁶⁴ to conduct background checks on its employees as required by ORR minimum standards.¹⁶⁵ And, in 2018, “[v]ideos shot by an alarmed neighbor show children dressed in sweatsuits being led—one so young she was carried—into [a] 3,200-square-foot building in early June.”¹⁶⁶ According to reports, this building, which was leased by MVM President and CEO Kevin Marquez, did not have a kitchen and had few toilets, yet MVM found it suitable to house migrant children.¹⁶⁷

Despite the lack of outward acknowledgment from TPG about its close relations with MVM, the companies’ public filings tell a different story. TPG’s sole controlling member, KG&P Strategies, Inc., is a corporation in which Mr. Marquez is the President and CEO.¹⁶⁸ In November 2020, Mr. Marquez—acting as KG&P’s President—amended TPG’s articles of organization to provide that the company be manager-managed.¹⁶⁹ Subsequent filings, including as recently as August 2023, list Mr. Marquez as TPG’s “Manager.”¹⁷⁰ Furthermore, it appears that TPG President and CEO, Maria Campos, has also been serving as the Vice President of MVM since at least March 2023.¹⁷¹ Despite TPG’s claims that Ms. Campos does not serve as the Vice President of MVM,¹⁷² public filings with the Virginia Secretary of State clearly list her as holding this position from March

161 Off. of Refugee Resettlement, *Field Guidance – Revised May 20, 2024 (First Issued August 23, 2023) Field Guidance #24, Sponsor Services Role Guidance for Selected Grantees* (May 20, 2024), <https://www.acf.hhs.gov/sites/default/files/documents/orr/fg-24-sponsor-services-role-guidance-for-selected-grantees.pdf>.

162 Articles of Organization of The Providencia Group, LLC (June 22, 2020) (attached at App. 68-69).

163 *Biden Showers Cash on Ex-CIA Contractor to Transfer Migrants*, DAILY BEAST (MAY 3, 2021), <https://www.thedailybeast.com/biden-showers-cash-on-ex-cia-contractor-mvm-inc-to-transfer-migrants>.

164 *USA Spending, Contract Summary, MVM, LLC*, https://www.usaspending.gov/award/CONT_AWD_75ACF121C00023_7590_-NONE_-NONE- (last visited Oct. 11, 2024).

165 Christi A. Grimm, Inspector Gen., U.S. Dep’t of Health & Hum. Servs. Off. of Inspector Gen., *The Office of Refugee Resettlement Needs to Improve Its Practices for Background Checks During Influxes* (May 2023), <https://oig.hhs.gov/documents/audit/8306/A-06-21-07003-Complete%20Report.pdf>.

166 Aura Bogado et al., *Defense contractor detained migrant kids in vacant Phoenix office building*, REVEAL (July 6, 2018), <https://revealnews.org/article/defense-contractor-detained-migrant-kids-in-vacant-phoenix-office-building/>; *Activists Question Tie Between Ex-ICE Contractor and Virginia Democrats*, VPM (July 18, 2019), <https://www.vpm.org/news/2019-07-18/activists-question-ties-between-ex-ice-contractor-and-virginia-democrats>.

167 Aura Bogado et al., *Defense contractor detained migrant kids in vacant Phoenix office building*, REVEAL (July 6, 2018), <https://revealnews.org/article/defense-contractor-detained-migrant-kids-in-vacant-phoenix-office-building/>.

168 KG&P Strategies, Inc. 2024 Annual Report (Aug. 28, 2024) (attached at App. 70).

169 Articles of Amendment to the Articles of Organization of The Providencia Group, LLC (Nov. 2, 2020) (attached at App. 71-72).

170 The Providencia Group, LLC Statement of Change of Registered Office and/or Registered Agent (Aug. 3, 2023) (attached at App. 73).

171 MVM, Inc. 2023 Annual Report (Mar. 2, 2023) (attached at App. 74)

172 Letter from Peter Spivack, Partner, Hogan Lovells US LLP, to Sen. Bill Cassidy, Ranking Member, S. Comm. on Health, Educ., Lab., & Pensions 3 (June 19, 2024) (attached at App. 27-40).

2023 until at least March 2024.¹⁷³ Her close ties to MVM and Mr. Marquez’s ties to TPG call into question the ability of TPG to sufficiently vet potential sponsors and ensure that UCs are being released into safe environments, given MVM’s past handling of UCs.

a. TPG’s Previous Experience Providing Sponsor Vetting and Case Management Services to ORR

ORR awarded TPG with a contract in early 2021 to provide case management and sponsor vetting services for UCs at ORR’s Dallas and Pecos EISs.¹⁷⁴ Reports document numerous failures at these sites which put vulnerable UCs in harm’s way. At the Dallas EIS, a *Flores* counsel visit in March 2021 found “children consistently reported that they had not met with case managers, did not understand the sponsorship process, and were confused and worried about when they would be released.”¹⁷⁵ Furthermore, internal HHS documents indicated that in May 2021, “the facility still lacked adequate case management and was unable to handle complex cases.”¹⁷⁶

At the Pecos EIS, the situation was even more dire. Children reported “extreme stress” related to their release process, including “long gaps in case management.”¹⁷⁷ A *Flores* counsel visit in June 2021 found that “some children detained for over two months reported that they had *never* spoken to their case manager.”¹⁷⁸ In July 2021, UCs continued to report confusion about their cases and

CHILDREN REPORTED “EXTREME STRESS” RELATED TO THEIR RELEASE PROCESS, INCLUDING “LONG GAPS IN CASE MANAGEMENT.” A FLORES COUNSEL VISIT IN JUNE 2021 FOUND THAT “SOME CHILDREN DETAINED FOR OVER TWO MONTHS REPORTED THAT THEY HAD NEVER SPOKEN TO THEIR CASE MANAGER.”

said they “did not have regular meetings with the case manager assigned to their case.”¹⁷⁹ TPG says that its President and CEO, Ms. Campos, “served in an executive leadership role at TPG overseeing TPG’s successful case management and sponsor vetting work at the ORR Dallas and Pecos EIS.”¹⁸⁰ Far from being “successful,” TPG’s work at the EISs, as documented by *Flores* counsel, shows that the company failed to provide satisfactory case management and sponsor vetting services, putting UCs in harm’s way.

b. Despite TPG’s Record, HHS Awarded TPG Contracts to Conduct Sponsor Vetting Worth Hundreds of Millions of Dollars

Under the Biden-Harris administration, HHS has awarded two contracts to TPG to conduct case management and sponsor vetting services on behalf of the agency. On August 26, 2021, HHS awarded TPG a \$191.3 million contract for “case management services, sponsor assessments and verification, as well as timely UC reunification.”¹⁸¹ On September 19, 2022, HHS awarded TPG a second contract worth up to \$524.3 million for

173 See MVM, Inc. 2023 Annual Report (Mar. 2, 2023) (attached at App. 74); MVM, Inc. 2024 Annual Report (Mar. 12, 2024) (attached at App. 75).

174 Letter from Peter Spivack, Partner, Hogan Lovells US LLP, to Sen. Bill Cassidy, Ranking Member, S. Comm. on Health, Educ., Lab., & Pensions 3 (June 19, 2024) (attached at App. 27-40).

175 *Unregulated & Unsafe: The Use of Emergency Intake Sites to Detain Immigrant Children*, NAT’L CTR. FOR YOUTH LAW 28 (June 2022), <https://youthlaw.org/sites/default/files/attachments/2022-06/EIS%20Briefing%20FINAL.pdf>.

176 *Id.*

177 *Id.* at 25.

178 *Id.* (emphasis added).

179 *Id.*

180 Letter from Peter Spivack, Partner, Hogan Lovells US LLP, to Sen. Bill Cassidy, Ranking Member, S. Comm. on Health, Educ., Lab., & Pensions 5 (June 19, 2024) (attached at App. 27-40).

181 Contract Summary, *The Providencia Group LLC*, USASPENDING.GOV, https://www.usaspending.gov/award/CONT_AWD_75ACF121C00089_7590_-NONE_-NONE- (last visited Oct. 11, 2024).

“sponsor services.”¹⁸² The September 2022 contract gave TPG responsibility for the Unification Specialist role as part of the new Sponsor Services Initiative. All told, HHS awarded TPG over \$715 million in contracts to assist ORR with sponsor vetting and the placement of UCs with sponsors.

ORR indicated that TPG will be the sole third-party contractor to provide Unification Specialist services, and its contract has the potential to extend to the end of FY 2027.¹⁸³ The Sponsor Services Initiative began as a pilot program with a limited number of care providers. In FY 2023, TPG Unification Specialists conducted sponsor vetting in 9.4 percent of cases,¹⁸⁴ and ORR reports that TPG was conducting sponsor vetting in about 20 percent of cases as of July 2024. However, ORR has announced plans to expand this program to cover all sponsor vetting for the agency. According to the updated version of FG-24, released in May 2024, ORR anticipates that all care providers will be enrolled in the Sponsor Services Initiative by February 17, 2025.¹⁸⁵

By centralizing the sponsor vetting process, ORR is taking the responsibility out of the hands of case managers who are on site at ORR shelter facilities and interacting with UCs face-to-face and giving it to a third-party contractor whose employees work remotely and have no interaction with the UCs. This is confirmed by TPG, which states that “TPG staff do not communicate directly with [UCs]” and that the “responsibility for working directly with [UCs] is retained by shelter operators.”¹⁸⁶ By not working directly with the UCs, it is more difficult for Unification Specialists to have a holistic understanding of the child’s individualized circumstances and specific concerns a child may raise about a potential sponsor. It also makes it harder for the Unification Specialist to ensure the accuracy of information provided by potential sponsors, as they cannot compare statements given by the UCs with statements given by sponsors.

ORR seemingly has very little ability to change course if the Sponsor Services Initiative does not prove to be a success because it already awarded TPG a contract worth over \$524.3 million and announced that TPG would be the sole provider of these services for the foreseeable future prior to conducting a successful pilot program for this new method of sponsor vetting. While the contract information indicates that the agency received seven bids for the contract to provide the Unification Specialist role,¹⁸⁷ ORR decided to contract with only TPG to provide these services. It is unclear what sponsor vetting experience the six other bidding companies had, but ORR has provided no information as to why other entities were not chosen to conduct simultaneous competing pilot programs before deciding to move forward with only one contractor to overhaul the sponsor vetting process.

It is difficult to know how successful TPG Unification Specialists have been since all current HHS OIG and ORR audits into sponsor vetting were conducted prior to the start of the Sponsor Services Initiative. For its part, TPG states that as of June 2024, it “is not aware of any instances in which a sponsor vetted by TPG and approved for release by ORR was ultimately shown to be unsuitable following release.”¹⁸⁸ However, it is unclear what information ORR provides TPG on the quality of its release recommendations after the fact, and

182 Contract Summary, *The Providencia Group LLC*, USASPENDING.GOV, https://www.usaspending.gov/award/CONT_AWD_140D0422C0037_1406_-NONE_-NONE- (last viewed Oct. 11, 2024).

183 *Id.*

184 Letter from Peter Spivack, Partner, Hogan Lovells US LLP, to Sen. Bill Cassidy, Ranking Member, S. Comm. on Health, Educ., Lab., & Pensions 10 (June 19, 2024) (attached at App. 27-40).

185 Off. of Refugee Resettlement, *Field Guidance – Revised May 20, 2024 (First Issued August 23, 2023) Field Guidance #24, Sponsor Services Role Guidance for Selected Grantees* (May 20, 2024), <https://www.acf.hhs.gov/sites/default/files/documents/orr/fg-24-sponsor-services-role-guidance-for-selected-grantees.pdf>.

186 Letter from Peter Spivack, Partner, Hogan Lovells US LLP, to Sen. Bill Cassidy, Ranking Member, S. Comm. on Health, Educ., Lab., & Pensions 7, 10 (June 19, 2024) (attached at App. 27-40).

187 See Contract Summary, *The Providencia Group LLC*, USASPENDING.GOV, https://www.usaspending.gov/award/CONT_AWD_140D0422C0037_1406_-NONE_-NONE- (last visited Oct. 11, 2024).

188 Letter from Peter Spivack, Partner, Hogan Lovells US LLP, to Sen. Bill Cassidy, Ranking Member, S. Comm. on Health, Educ., Lab., & Pensions 2 (June 19, 2024) (emphasis added) (attached at App. 27-40).

as described throughout this report, ORR has proven to be incapable at monitoring the safety and well-being of UCs once they are released to sponsors. While the Committee remains hopeful that the Sponsor Services Initiative is a success, ORR must provide quantitative and qualitative metrics to Congress demonstrating the effectiveness of this new initiative in ensuring UCs are released to well-qualified sponsors. The HHS OIG should also conduct an audit into this initiative to ensure ORR's goals are being met and that past documented failures in the sponsor vetting process are not continuing.

ii. General Dynamics Information Technology, Inc.

GDIT is a global technology and professional services company based in Virginia that delivers consulting, technology, and mission services to every major agency in the federal government.¹⁸⁹ It is a subsidiary of the global aerospace and defense company, General Dynamics, but GDIT provides its technology and professional services to a wide swath of government agencies and currently contracts with HHS to perform Case Coordinator services for ORR.

A February 2024 HHS OIG report found that, in March and April 2021, there were serious gaps in the sponsor vetting process that raised safety concerns for UCs.¹⁹⁰ Two of its findings indicate failures by Case Coordinators to ensure case files were complete and sponsor vetting requirements had been met, namely that in 16 percent of case files, one or more required sponsor safety checks lacked any documentation indicating that the checks were conducted, and that in 35 percent of case files, sponsor-submitted IDs contained legibility concerns.¹⁹¹ The missing sponsor safety checks included required public background checks, public records checks, sex offender registry checks, and required address checks.¹⁹² The sponsor-submitted IDs included images that were overly dark, light, blurry, or grainy, and images of IDs that were incomplete and missing key security details.¹⁹³

Prior to making release recommendations to the FFS, Case Coordinators are expected to ensure required sponsor vetting steps were conducted, potential sponsors underwent required safety checks, verification of the sponsor's identity, and documentation for the safety checks and identity verification are in the case file. Based on the findings of the HHS OIG, it appears that Case Coordinators failed to ensure required sponsor vetting was conducted and documented prior to making release recommendations to the FFS.

Given that GDIT performs some Case Coordinator services for ORR, the Committee sought to obtain HHS's contracts with GDIT to get a better understanding of GDIT's Case Coordinator responsibilities and how they relate to the HHS OIG findings. However, despite legal obligations to produce those contracts to Congress, HHS has thus far blocked Ranking Member Cassidy's efforts to obtain their federal contracts.

iii. HHS's Refusal to Conduct Regular Third-Party Audits into Its Sponsor Vetting Practices Prevents the Agency from Holding Contractors to Account

HHS fails to conduct necessary third-party audits on ORR's sponsor vetting practices, neglecting to ensure sufficient oversight over its contractors' performance of the vetting process. Under the Biden-Harris administration, HHS has conducted one internal audit on sponsor vetting, and the audit was not sufficient to scrutinize ORR's policies and its contractors' conduct given the focus on only one narrow category of sponsors. While it announced that a future audit would be conducted by a third-party, HHS has provided no further details

189 *About*, GEN. DYNAMICS INFO. TECH., <https://www.gdit.com/about-gdit/> (last visited Oct. 11, 2024).

190 Christi A. Grimm, Inspector Gen., U.S. Dep't Health and Hum. Servs. Off. of Inspector Gen., *Gaps in Sponsor Screening and Followup Raise Safety Concerns for Unaccompanied Children* (Feb. 2024), <https://oig.hhs.gov/documents/evaluation/3093/OEI-07-21-00250-Complete%20Report.pdf>.

191 *Id.* at 12, 14.

192 *Id.* at 12.

193 *Id.* at 14.

and no subsequent report has been released. Without regular third-party audits, HHS is unable to identify flaws and seek areas for improvement.

On February 27, 2023, two days after NYT published its first story regarding ORR’s failures to properly vet sponsors and the subsequent exploitation of UCs through illegal child labor, HHS announced that it would conduct an internal audit of ORR’s sponsor vetting procedures related to potential sponsors who have previously sponsored a UC.¹⁹⁴ Notably, HHS did not hire an independent third-party to conduct this audit.

HHS released the audit results on June 2, 2023, having reviewed sponsor vetting practices for those sponsors who took in three or more unrelated children between 2021 and 2022.¹⁹⁵ This was a staggeringly narrow sample in response to a significantly larger problem, especially given that only 344 UCs were discharged to a sponsor that met that criteria—accounting for *fewer than one percent* of the children released during that period.¹⁹⁶ HHS’s internal audit also did not look at whether its weakened policies were sufficient to properly vet sponsors or contributed to the increase in exploited UCs. Instead, it asked only whether ORR was properly following its current policies, which it found in the affirmative.¹⁹⁷

Upon releasing the audit, ORR announced that it would work with an “outside entity . . . over the next 6-12 months” to conduct a more thorough audit of all sponsor categories to determine adherence to program policies.¹⁹⁸ On March 5, 2024, Ranking Member Cassidy wrote a letter to ORR Director Robin Dunn Marcos asking whether ORR had contracted with an outside entity to conduct this audit, and if so, requesting that she provide the name of the entity conducting the audit, the parameters of the audit, and a copy of the contractual agreement between the two parties.¹⁹⁹ HHS responded that it contracted with an outside entity in October 2023 and that the audit would include “in-depth reviews of random samples of case files by sponsor category for all children released from ORR care from January 2021-December 2022.”²⁰⁰ HHS also stated that this audit was expected to be completed “in the summer of 2024.”²⁰¹ However, to date, HHS has not released any results from this new audit and has not announced any future third-party audits.

ORR’s failure to sufficiently vet potential sponsors and properly audit its sponsor vetting procedures and requirements puts UCs in danger of being released to sponsors who seek to harm them or force them into exploitative illegal child labor. As a result, the United States is experiencing record levels of child labor violations, yet the Biden-Harris administration has been unwilling to take meaningful steps to combat it.

C. DOL Has a Single-Minded Focus on Post-Harm Enforcement and Does Not Work Collaboratively with Companies to Combat Illegal Child Labor

Despite record levels of illegal child labor, DOL focuses primarily on post-harm enforcement and does little

194 Press Release, U.S. Dep’t of Health & Hum. Servs., Departments of Labor and Health and Human Services Announce New Efforts to Combat Exploitative Child Labor (Feb. 27, 2023), <https://www.hhs.gov/about/news/2023/02/27/departments-labor-and-health-and-human-services-announce-new-efforts-combat-exploitative-child-labor.html>.

195 *Update on Efforts to Mitigate Child Labor Exploitation and Internal Audit on Placement Process Used to Transfer Custody of Unaccompanied Children to Vetted Sponsors*, OFF. OF REFUGEE RESETTLEMENT 2 (June 2, 2023), <https://www.acf.hhs.gov/sites/default/files/documents/orr/update-on-efforts-to-mitigate-child-labor-exploitation-internal-audit-placement-process.pdf>.

196 *Id.* at 7.

197 *Id.* at 12.

198 *Id.* at 15.

199 Letter from Sen. Bill Cassidy, Ranking Member, S. Comm. on Health, Educ., Lab., & Pensions, to Robin Dunn Marcos, Dir., Off. of Refugee Resettlement (Mar. 5, 2024), https://www.help.senate.gov/imo/media/doc/24-03-05_letter_from_sen_cassidy_to_director_marcos_re_orr_sponsor_vetting_requirements.pdf.

200 Letter from Melanie Anne Egorin, Assistant Sec’y for Legis., U.S. Dep’t of Health & Hum. Servs., to Sen. Bill Cassidy, Ranking Member, S. Comm. on Health, Educ., Lab., & Pensions (Apr. 23, 2024) (attached at App. 46-49).

201 *Id.*

to prevent illegal child labor from occurring in the first place. There is also little evidence that DOL took any meaningful action to prevent child labor violations prior to the 2023 reports documenting the extent of the illegal child labor crisis, despite the agency knowing about the severity of the situation for well over a year. Even when the agency acted following public outcry, the steps taken were insufficient, and the agency did not constructively engage with private entities that are seeking ways to prevent illegal child labor in their companies, despite efforts by the companies to work collaboratively with DOL to find solutions.

Ranking Member Cassidy sent letters to DOL and DOL's WHD—the sub-agency responsible for enforcing the Fair Labor Standards Act and its child labor protections—to determine what the agencies were doing to prevent illegal child labor from happening in the first place. Ranking Member Cassidy also sent letters to a number of companies in the meat packing industry and their contracted sanitation companies requesting documents and information to get a better understanding of how minors could be employed in these dangerous places.

i. DOL's Insufficient Actions and Single-Minded Focus on Post-Harm Enforcement

On April 24, 2023, Ranking Member Cassidy sent a letter to DOL Acting Secretary Julie Su, shortly after her nomination hearing, asking how DOL was responding to the widespread reports of the exploitation of UCs across the country in violation of federal child labor laws.²⁰² The letter asked what steps DOL had taken to notify the White House and HHS of child labor violations, how DOL was increasing enforcement activities in this area, and for specific details about the activities of its newly announced interagency task force to combat illegal child labor.²⁰³ In lieu of a response, Acting Secretary Su simply added an addendum to her responses to questions for the record from the hearing.²⁰⁴ In the addendum, Acting Secretary Su did not answer any of the seven questions directly and instead provided what amounted to a summary of previous DOL press releases on the topic of child labor, including copying sections of some of the press releases verbatim.²⁰⁵ When Ranking Member Cassidy requested a formal response to his letter, DOL responded 38 days after the requested deadline, again failing to answer any of the questions and regurgitating generalized publicly available information about how DOL addresses child labor violations.²⁰⁶

In the months that followed, child labor violations continued at record levels. Acting Secretary Su also continued to push a narrative that DOL was not negligent in its enforcement duties to ensure children are not employed in violation of federal law. During a June 7, 2023 hearing before the House Committee on Education and the Workforce, Acting Secretary Su was asked about NYT articles reporting that the White House and federal agencies were repeatedly alerted to signs of children at risk yet ignored or missed these alerts.²⁰⁷ She responded, "I don't believe the story said that the Department of Labor was not doing what we need to do. In fact, I believe the stories came out because the Department of Labor was doing our job."²⁰⁸ Contrary to her characterization, the NYT articles faulted DOL, stating that "[DOL] is supposed to find and punish child labor

202 Letter from Sen. Bill Cassidy, Ranking Member, S. Comm on Health, Educ., Lab., & Pensions, to Julie A. Su, Acting Sec'y, U.S. Dep't of Lab. (Apr. 24, 2023), https://www.help.senate.gov/imo/media/doc/julie_su_child_labor_letter.pdf.

203 *Id.*

204 Questions for the Record, at 159-60, *Hearing on the Nomination of Julie Su to serve as Secretary of Labor Before the S. Comm. on Health, Educ., Lab., & Pensions*, 118th Cong. (2023) (attached at App. 76-78).

205 *Id.*

206 Letter from Liz Watson, Assistant Sec'y, Off. of Cong. & Intergovernmental Affs., U.S. Dep't of Lab., to Sen. Bill Cassidy, Ranking Member, S. Comm. on Health, Educ., Lab., & Pensions (June 2, 2023) (attached at App. 79-81).

207 *Examining the Policies and Priorities of the Department of Labor: Hearing Before the H. Comm. on Educ. & the Workforce*, 118th Cong. (2023) (question of Rep. Jim Banks); Hannah Dreier, *As Migrant Children Were Put to Work, U.S. Ignored Warnings*, THE N.Y. TIMES (Apr. 17, 2023), <https://www.nytimes.com/2023/04/17/us/politics/migrant-child-labor-biden.html>; Hannah Dreier, *Alone and Exploited, Migrant Children Work Brutal Jobs Across the U.S.*, THE N.Y. TIMES (Feb. 25, 2023), <https://www.nytimes.com/2023/02/25/us/unaccompanied-migrant-child-workers-exploitation.html>.

208 *Examining the Policies and Priorities of the Department of Labor: Hearing Before the H. Comm. on Educ. & the Workforce*, 118th Cong. (2023) (statement of Julie Su, Acting Sec'y, U.S. Dep't of Lab.).

violations, but inspectors in a dozen states said their understaffed offices could barely respond to complaints, much less open original investigations.”²⁰⁹ Despite Acting Secretary Su’s testimony, it is clear that DOL is not “doing [its] job” when the number of minors employed in violation of child labor laws has jumped 105 percent since FY 2021.²¹⁰

Ranking Member Cassidy again wrote to Acting Secretary Su on October 19, 2023, requesting additional information on how DOL was working to combat illegal child labor, including changes DOL made to its enforcement priorities, specifics on the data being shared under the interagency task force, and the extent that DOL tracks geographic areas where high numbers of UCs are released.²¹¹ Again, DOL failed to answer any of the questions directly, repackaged publicly available information about the interagency task force, and provided an overview of its child labor data that was already posted on its website.²¹²

After hearing from companies within the meat-packing industry, including their concerns that DOL was not giving them the tools they need to comply with the wide array of hiring laws, Ranking Member Cassidy contacted DOL to determine what, if anything, it was doing to help companies comply with federal law and stop illegal, harmful child labor before it begins. On March 5, 2024, Ranking Member Cassidy sent a letter to WHD Administrator Jessica Looman, highlighting WHD’s own statistics about the rise in illegal child labor, claims from employers and the media that DOL has ignored reported signs of potential child labor violations, and the perception that DOL is only interested in punishing employers for violating child labor laws, but not actually stopping children from entering harmful situations before they are injured.²¹³ Specifically, Ranking Member Cassidy asked Administrator Looman “[w]hat *proactive* steps does WHD take to combat illegal child labor before it receives a complaint or other information that raises suspicion of illegal child labor,” how WHD has worked to address the documented trend of underage workers using fake identification documents to circumvent E-Verify, and whether DOL interacts with other agencies such as ORR or DHS to try to stop child labor before a child is harmed.²¹⁴

Instead of providing substantive answers as to how DOL is working to solve this problem, DOL focused entirely on its enforcement efforts *after* children have been injured in the workplace, requested additional funding from Congress, and touted an internal task force DOL founded that seemingly only exists to allow agencies talk amongst themselves.²¹⁵ In fact, of the twelve questions asked, DOL answered two of them.²¹⁶ DOL stated only that it remains committed to “investigate child labor violations and hold companies accountable,” “continu[e] its whole of government approach to combatting this problem,” and “work closely with [its] interagency partners to root out exploitative child labor.”²¹⁷ DOL also highlighted its post-injury enforcement of child labor laws—specifying a number of enforcement actions DOL took against companies *after* children were found already working hazardous jobs—and its “Interagency Task Force to Combat Child Labor Exploitation.”²¹⁸ According

209 Hannah Dreier, *Alone and Exploited, Migrant Children Work Brutal Jobs Across the U.S.*, THE N.Y. TIMES (Feb. 25, 2023), <https://www.nytimes.com/2023/02/25/us/unaccompanied-migrant-child-workers-exploitation.html>.

210 See *Child Labor*, U.S. DEP’T OF LAB. WAGE & HOUR DIV., <https://www.dol.gov/agencies/whd/data/charts/child-labor> (last visited Oct. 11, 2024).

211 Letter from Sen. Bill Cassidy, Ranking Member, S. Comm. on Health, Educ., Lab., & Pensions, to Julie A. Su, Acting Sec’y, U.S. Dep’t of Lab. (Oct. 19, 2023), https://www.help.senate.gov/imo/media/doc/julie_su_child_labor_letter_2.pdf.

212 Letter from Liz Watson, Assistant Sec’y, Off. of Cong. & Intergovernmental Affs., U.S. Dep’t of Lab., to Sen. Bill Cassidy, Ranking Member, S. Comm. on Health, Educ., Lab., & Pensions (Nov. 20, 2023) (attached at App. 82-83).

213 Letter from Sen. Bill Cassidy, Ranking Member, S. Comm. on Health, Educ., Lab., & Pensions, to Jessica Looman, Adm’r, U.S. Dep’t of Lab. Wage & Hour Div. (Mar. 5, 2024), https://www.help.senate.gov/imo/media/doc/20240305_letter_to_whd_looman_re_child_labor_investigationspdf1.pdf.

214 *Id.*

215 Letter from Liz Watson, Assistant Sec’y, Off. of Cong. & Intergovernmental Affs., U.S. Dep’t of Lab., to Sen. Bill Cassidy, Ranking Member, S. Comm. on Health, Educ., Lab., & Pensions (May 3, 2024) (attached at App. 84-87).

216 *Id.*

217 *Id.*

218 *Id.* at 1-4.

to DOL, this task force includes eight cabinet-level agencies, and does things like “taking concrete steps to improve cross-training, outreach, education, and health outcomes of children who could be subject to illegal child labor.”²¹⁹ When pressed about the “concrete steps,” DOL simply repeated its own talking points, providing no evidence that this task force yields any real results for vulnerable children, and making clear that it operates simply to shield the agencies from political scrutiny.

DOL’s responses clarified two realities: (1) DOL has not done enough to help employers comply with federal laws in light of the actual problems companies face in hiring new employees, and (2) DOL is unable to solve the underlying problem on its own without help from ORR and DHS. Notably, on August 21, 2023, the DOL OIG announced that it would be investigating WHD’s efforts to curtail child labor law violations.²²⁰ The Committee looks forward to reviewing the findings of this investigation and will continue to request information from DOL on its actions to prevent illegal child labor.

ii. Private Companies’ Actions to Attempt to Prevent Child Labor Violations

Ranking Member Cassidy sent letters and requests for information to five separate companies: Perdue Farms, Inc., Tyson Foods, Inc., and Monogram Food Solutions, LLC—all companies in the meat packing industry—as well as Packers Sanitation Services, Inc. (PSSI) and QSI Solutions—both companies that contract with meat packers to chemically clean their facilities. Ranking Member Cassidy requested internal policies and procedures for hiring new employees, use of federal government tools such as E-Verify during the hiring process, training materials for human resources to detect minor applicants, and any interactions they had with DOL or any other government entity regarding their hiring practices.

Each company responded with the requested data, as well as explanations of changes they made to their workplaces in light of the industry-wide rise in child labor violations. For example, QSI Sanitation explained how it amended its policies and procedures in 2022 to ensure all employees are of legal age and eligible to work in the United States.²²¹ QSI amended its hiring practices in a number of ways, including increasing its minimum age of employment to 21 years old, hiring additional compliance staff, conducting additional compliance training for management and staff, using artificial intelligence to estimate workers’ ages, and participating in internal and external audits of its hiring practices.²²² The other companies responded with similar policy and practice changes in their efforts to ensure no underaged workers are present at their facilities, including unannounced, visual age-audits of workers and requiring third-party contractors to use photo security badges.²²³

These companies also responded with information about what they believe is the root of this problem: underaged children using fake identification documents to obtain employment, and a legal system that ties companies’ hands without any guidance from the federal government on how to comply with the law without being accused of workplace discrimination. For example, QSI reported that, after learning from media reports that minors were using falsified identification documents to bypass the DHS E-Verify system to secure

219 *Id.*

220 Memorandum from Carolyn R. Hantz, Assistant Inspector Gen. for Audit, U.S. Dep’t of Lab. Off. of Inspector Gen., to Jessica Looman, Principal Deputy Adm’r, U.S. Dep’t of Lab. Wage & Hour Div. (Aug. 21, 2023), <https://www.oig.dol.gov/public/oaprojects/Child%20Labor%20Laws%20Engagement%20Letter%20Discretionary%20Audit.pdf>.

221 Letter from James Hamilton, Vice President of Inspired Performance and Compliance, QSI Sanitation, to Sen. Bill Cassidy, Ranking Member, S. Comm. on Health, Educ., Lab., & Pensions, at 2 (Feb. 5, 2024) (attached at App. 88-104).

222 *Id.* at 2-3.

223 See Letter from Herbert D. Frerichs, Jr., Gen. Couns., Perdue Farms, Inc., to Sen. Bill Cassidy, Ranking Member, S. Comm. on Health, Educ., Lab., & Pensions (Feb. 5, 2024) (attached at App. 105-111); letter from Brian A. Benczkowski to Sen. Bill Cassidy, Ranking Member, S. Comm. on Health, Educ., Lab., & Pensions (Feb. 5, 2024) (attached at App. 112-118); letter from Andy York, Vice President, Head of Glob. Gov’t Affs., Tyson Foods, to Sen. Bill Cassidy, Ranking Member, S. Comm. on Health, Educ., Lab., & Pensions (May 2, 2024) (attached at App. 119-124).

employment, it sought guidance from DOL’s website on how to deal with this situation.²²⁴ According to QSI, DOL had not provided any guidance on how to identify and avoid relying on false identification documents—even those that fool E-Verify during the employment process. Instead, DOL only provided recommended steps for supply chain compliance, including “1. Engage Stakeholders, 2. Assess Risks and Impacts, 3. Develop a Code of Conduct, 4. Communicate and Train Across a Supply Chain, 5. Monitor Compliance, 6. Remediate Violations, 7. Independent Review, and 8. Report Performance and Engagement.”²²⁵ Even now, DOL’s guidance for employers does not address this issue, but rather tells employers to train managers, distribute resources, build trust with employees, and post stickers on equipment DOL considers hazardous for use by minors.²²⁶

Ultimately, employers have the obligation to ensure all of their employees are authorized to work in the United States and that they are eligible to work in their assigned job. However, when the federal government is not willing to partner with companies to address the child labor crisis that stems directly from the chaos at the southern border created by the Biden-Harris administration’s policies, no amount of policy and process changes by private companies can eliminate the problem.

D. The Biden-Harris Administration is Obstructing Congressional and State Investigations into the Exploitation and Trafficking of UCs

When Ranking Member Cassidy attempted to hold the Biden-Harris administration accountable, the administration made every effort to cover its failures up and to stonewall each new oversight effort—a course of action that continues today. The administration also refuses to comply with state-level efforts to investigate and prevent the trafficking and exploitation of UCs caused by its own weak sponsor vetting policies and the chaos at the southern border. This comes despite urging from state officials to engage with them to help protect the vulnerable children subject to abuse.

i. HHS is Stonewalling Congressional Oversight Efforts

Ranking Member Cassidy has routinely sent letters to HHS demanding answers on their failures to protect vulnerable children from harm, including UCs that come through ORR and end up in exploitative child labor. These letters requested a litany of documents and information from HHS regarding its responses to the crisis at the border, the care UCs receive in ORR custody, ORR’s failed sponsor vetting process, how ORR uses third-party contractors, and how ORR works to ensure UCs are safe after release to sponsors. HHS has repeatedly failed to respond to these requests for months at a time, and sometimes not at all.

HHS HAS REPEATEDLY FAILED TO RESPOND TO THESE REQUESTS FOR MONTHS AT A TIME, AND SOMETIMES NOT AT ALL.

The agency’s responses were largely unhelpful and rarely provided the information requested. The following provides an overview of HHS’s stonewalling of congressional oversight:

- On September 11, 2023, Ranking Member Cassidy sent a letter to ORR Director Marcos asking 12 specific questions about the level of care being given to UCs in ORR custody and its insufficient reporting of children with communicable diseases to state and local health authorities.²²⁷ HHS

224 Letter from James Hamilton, Vice President of Inspired Performance and Compliance, QSI Sanitation, to Sen. Bill Cassidy, Ranking Member, S. Comm. on Health, Educ., Lab., & Pensions, at 2 (Feb. 5, 2024) (attached at App. 88-104).

225 *Comply Chain, Business Tools for Labor Compliance in Global Supply Chains*, U.S. DEP’T OF LAB. BUREAU OF INT’L LAB. AFFS., <https://www.dol.gov/agencies/ilab/comply-chain> (last visited Oct. 11, 2024).

226 *Seven Child Labor Best Practices for Employers*, U.S. DEP’T OF LAB. WAGE & HOUR DIV., <https://www.dol.gov/agencies/whd/child-labor/seven-child-labor-best-practices-for-employers> (last visited Oct. 11, 2024).

227 Letter from Sen. Bill Cassidy, Ranking Member, S. Comm on Health, Educ., Lab., & Pensions, to Robin Dunn Marcos, Dir., Off. of Refugee Resettlement (Sept. 11, 2023), https://www.help.senate.gov/imo/media/doc/orr_migrant_kids_letter.pdf.

responded on December 22, 2023—nearly three months past the requested deadline—answering none of the questions directly and providing a summary of ORR’s Policy Guide, which was already publicly available on its website.²²⁸

- In light of the five deaths of UCs in ORR’s custody in 2023, Committee staff repeatedly requested that ORR provide the total number of deaths of UCs in its custody since 2003 (the year ORR began caring for these children).²²⁹ ORR responded by saying it can only produce records for this administration, but has not provided any justification for why it does not have access to historical records at its own agency.²³⁰ Committee staff has also requested that ORR provide the current census data for each of the ORR facilities in the UC Program in order to monitor ORR bed capacity and certain areas of concern.²³¹ ORR responded by saying it cannot provide this information and sent only a list of the names of ORR facilities from the prior year with no information on bed capacity and current occupancy.²³²
- On March 5, 2024, Ranking Member Cassidy sent a letter to ORR Director Marcos asking 16 specific questions and requesting the production of a series of documents related to ORR’s sponsor vetting processes and the actions it is taking to coordinate with other federal agencies to combat the record high child labor violations and ongoing exploitation of migrant children.²³³ HHS responded on April 23—over a month past the requested deadline—answering only four of the 16 questions directly, largely using repurposed information already publicly available on ORR’s website, and refusing to answer the remaining 12 questions. ORR also did not produce any of the requested documents and materials regarding its sponsor vetting processes.²³⁴
- Following ORR’s failure to respond in full to Ranking Member Cassidy’s requests for information regarding the contractors used for sponsor vetting, Committee staff contacted TPG and requested a briefing to discuss its experience doing this work, the processes it follows, and its coordination with ORR.²³⁵ TPG responded by saying ORR directed it not to speak to the Committee and to direct questions to HHS’s legislative affairs office.²³⁶ Despite over a year of HHS dragging its feet to respond to Ranking Member Cassidy’s other oversight requests, it silenced the contractor within days of his outreach. In response, on May 15, 2024, Ranking Member Cassidy sent letters to both TPG and ORR, requesting information on TPG’s experience and expertise in caring for UCs as well as for a copy of the contract ORR has with TPG to conduct sponsor vetting.²³⁷ Under federal law, HHS

228 Letter from Melanie Anne Egorin, Assistant Sec’y for Legis., U.S. Dep’t of Health & Hum. Servs., to Sen. Bill Cassidy, Ranking Member, S. Comm. on Health, Educ., Lab., & Pensions (Dec. 22, 2023) (attached at App. 125-127).

229 Email from HELP Committee staff to HHS staff (Jan. 5, 2024, 2:37 PM) (on file with Committee); Email from HELP Committee staff to HHS staff (Jan. 30, 2024, 3:41 PM) (on file with Committee).

230 Email from HHS staff to HELP Committee staff (Jan. 30, 2024, 1:27 PM) (on file with Committee); Email from HHS staff to HELP Committee staff (Feb. 7, 2024, 6:16 PM) (on file with Committee).

231 Email from HELP Committee staff to HHS staff (Jan. 5, 2024, 2:37 PM) (on file with Committee).

232 Email from HHS staff to HELP Committee staff (Jan. 30, 2024, 1:27 PM) (on file with Committee).

233 Letter from Sen. Bill Cassidy, Ranking Member, S. Comm on Health, Educ., Lab., & Pensions, to Robin Dunn Marcos, Dir., Off. of Refugee Resettlement (Mar. 5, 2024), https://www.help.senate.gov/imo/media/doc/24-0305_letter_from_sen_cassidy_to_director_marcos_re_orr_sponsor_vetting_requirements.pdf.

234 Letter from Melanie Anne Egorin, Assistant Sec’y for Legis., U.S. Dep’t of Health & Hum. Servs., to Sen. Bill Cassidy, Ranking Member, S. Comm. on Health, Educ., Lab., & Pensions (Apr. 23, 2024) (attached at App. 46-49).

235 Email from HELP Committee staff to TPG (Apr. 2, 2024, 4:36 PM) (on file with Committee).

236 Email from Outside Counsel for TPG to HELP Committee Staff (Apr. 12, 2024, 4:45 PM) (on file with Committee).

237 Letter from Sen. Bill Cassidy, Ranking Member, S. Comm on Health, Educ., Lab., & Pensions, to Maria Campos, President & Chief Exec. Officer, The Providencia Grp., LLC (May 16, 2024), https://www.help.senate.gov/imo/media/doc/2024-05-16_letter_from_sencassidytotpgresponsorvetting.pdf; lxfetter from Sen. Bill Cassidy, Ranking Member, S. Comm on Health, Educ., Lab., & Pensions, to Xavier Becerra, Sec’y, U.S. Dep’t of Health & Hum. Servs. (May 16, 2024), https://www.help.senate.gov/imo/media/doc/2024-05-16_letter_from_sen_cassidy_to_secbecerrareoversightoforr.pdf.

is required to “give Members of Congress, upon their request, detailed information regarding any particular contract.”²³⁸ To date, however, HHS has continued its blanket obstinance—despite repeated and regular follow-up communications—and still refuses to provide a copy of that contract.²³⁹ By contrast, TPG responded in full to Ranking Member Cassidy’s letter, providing detailed answers to the questions asked and producing a copy of its contract with ORR.²⁴⁰

- On August 21, 2024, Committee staff requested that ORR produce its contracts with GDIT to conduct Case Coordinator services for the agency, pursuant to federal law cited above that these contracts must be produced to Members of Congress upon their request.²⁴¹ Despite a deadline of September 4, HHS staff responded on September 5, saying for the first time that the request for the contract must come via a signed letter from Ranking Member Cassidy.²⁴² On September 6, Ranking Member Cassidy sent a signed letter to HHS, again requesting the GDIT contracts be immediately produced pursuant to federal law.²⁴³ Despite five follow-ups from Committee staff, HHS has still refused to produce the contracts and declined to provide a timeline for their production as of the date of this report.²⁴⁴ Committee staff also requested the contracts from GDIT directly, but were told by GDIT that the Committee must obtain them from HHS itself.²⁴⁵
- On September 16, 2024, Committee staff requested that ORR provide all versions of its field guidance published since January 21, 2021.²⁴⁶ On September 25, HHS staff responded saying that they would only be able to produce these documents in response to a signed letter from Ranking Member Cassidy.²⁴⁷ All field guidance is publicly available on ORR’s website when it is in effect, but is removed from the website when it is rescinded or replaced by an updated version.²⁴⁸ Because field guidance supersedes the ORR Policy Guide and a number of the since-rescinded field guidance was in effect for significant periods of time, it is important that the Committee be able to have an accurate understanding of the policies in place at ORR under this administration. After HHS’s obstruction, the Committee was able to obtain the field guidance memos through alternative sources.

The administration’s refusal to acknowledge its many failures and to continuously block any congressional oversight efforts that might bring about a solution for fear that they will be politically embarrassed is unacceptable, yet all-too familiar. Despite these efforts to cover up the Biden-Harris administration’s abject failure to keep UCs safe from abuse and exploitation, Ranking Member Cassidy will continue to pursue all

238 See 48 CFR § 5.403 (“Contracting officers shall give Members of Congress, upon their request, detailed information regarding any particular contract.”).

239 See Letter from Melanie Anne Egorin, Assistant Sec’y for Legis., U.S. Dep’t of Health & Hum. Servs., to Sen. Bill Cassidy, Ranking Member, S. Comm. on Health, Educ., Lab., & Pensions (July 12, 2024) (attached at App. 128).

240 Letter from Peter Spivack, Partner, Hogan Lovells US LLP, to Sen. Bill Cassidy, Ranking Member, S. Comm. on Health, Educ., Lab., & Pensions 5, 7-8 (June 19, 2024) (attached at App. 27-40).

241 Email from HELP Committee staff to HHS staff (Aug. 21, 2024, 11:47 AM) (on file with Committee).

242 Email from HHS staff to HELP Committee staff (Sept. 5, 2024, 4:41 PM) (on file with Committee).

243 Letter from Sen. Bill Cassidy, Ranking Member, S. Comm on Health, Educ., Lab., & Pensions, to Xavier Becerra, Sec’y, U.S. Dep’t of Health & Hum. Servs. (Sept. 6, 2024) (attached at App. 129).

244 Email from HELP Committee staff to HHS staff (Sept. 11, 2024, 12:47 PM) (on file with Committee); email from HELP Committee staff to HHS staff (Sept. 18, 2024, 11:04 AM) (on file with Committee); email from HELP Committee staff to HHS staff (Sept. 24, 2024, 2:56 PM) (on file with Committee); email from HELP Committee staff to HHS staff (Oct. 1, 2024, 11:59 AM) (on file with Committee); email from HELP Committee staff to HHS staff (Oct. 1, 2024, 7:58 PM) (on file with Committee).

245 Email from HELP Committee staff to GDIT (Aug. 22, 2024, 11:46 AM) (on file with Committee); email from GDIT to HELP Committee staff (Sept. 3, 2024, 11:45 AM) (on file with Committee); email from GDIT to HELP Committee staff (Sept. 9, 2024, 9:57 AM) (on file with Committee).

246 Email from HELP Committee staff to HHS Staff (Sept. 16, 2024, 3:21 PM) (on file with Committee).

247 Email from HHS staff to HELP Committee staff (Sept. 25, 2024, 11:48 AM) (on file with Committee).

248 See *Unaccompanied Children Program Field Guidance*, OFF. OF REFUGEE RESETTLEMENT, <https://www.acf.hhs.gov/orr/policy-guidance/uc-program-field-guidance> (last updated Oct. 4, 2024).

avenues to ensure these agencies are held accountable and will seek to enact common sense solutions to protect these vulnerable children going forward.

ii. HHS Continues to Obstruct State Investigations into the Exploitation and Trafficking of UCs

HHS Secretary Becerra has said that “Everyone from employers to local law enforcement and civic leaders must do their part to protect children.”²⁴⁹ However, HHS continually refuses to share information with state and local law enforcement conducting investigations into the exploitation of UCs and has actively sought to obstruct state investigations into the treatment of UCs at ORR facilities.

a. HHS Refused to Comply with a Florida Grand Jury Empaneled to Investigate the Exploitation and Trafficking of UCs

In response to numerous findings of the smuggling of UCs to Florida to be sexually exploited or used to traffic drugs or weapons, Governor Ron DeSantis petitioned the Florida Supreme Court to empanel a grand jury to investigate criminal or wrongful activity related to the smuggling and endangerment of UCs from the southern border to Florida.²⁵⁰ The Grand Jury spent two years investigating the practices of ORR and other federal agencies that have facilitated the human trafficking and abuse of UCs, including ORR’s treatment of UCs in its custody, the consequences of failed sponsor vetting policies, and the role of government contractors in caring for these children. However, just as it has done with congressional oversight requests, the Biden-Harris administration sought to obstruct this investigation from day one. Both the Grand Jury itself and the Florida Attorney General stated that HHS refused to provide documents or produce witnesses before the Grand Jury, ignored subpoenas, and actively encouraged Florida entities that contract with ORR not to cooperate with the Grand Jury’s investigation.²⁵¹

BOTH THE GRAND JURY ITSELF AND THE FLORIDA ATTORNEY GENERAL STATED THAT HHS REFUSED TO PROVIDE DOCUMENTS OR PRODUCE WITNESSES BEFORE THE GRAND JURY, IGNORED SUBPOENAS, AND ACTIVELY ENCOURAGED FLORIDA ENTITIES THAT CONTRACT WITH ORR NOT TO COOPERATE WITH THE GRAND JURY’S INVESTIGATION.

Following the Grand Jury’s third presentment, on April 17, 2023, Florida’s Attorney General sent a letter to Congress requesting an investigation into ORR’s handling and placement of UCs in the United States. According to the April 17 letter:

A Florida Grand Jury recently released a presentment that details how the federal government is facilitating and allowing unaccompanied alien children to be placed with unrelated individuals and in situations where they are subject to abuse, including rape, molestation, and effectively forced to work to

249 Press Release, U.S. Dep’t of Health & Hum. Servs., Departments of Labor and Health and Human Services Announce New Efforts to Combat Exploitative Child Labor (Feb. 27, 2023), <https://www.hhs.gov/about/news/2023/02/27/departments-labor-and-health-and-human-services-announce-new-efforts-combat-exploitative-child-labor.html>.

250 Jim Saunders, *Florida Supreme Court Approves DeSantis Grand Jury to Investigate Child Smuggling, Immigration*, JACKSONVILLE.COM (June 29, 2022), <https://www.jacksonville.com/story/news/2022/06/29/florida-governor-ron-desantis-can-impanel-grand-jury-immigration-child-smuggling/7771272001/>.

251 Third Presentment of the Twenty-First Statewide Grand Jury, *In re Statewide Grand Jury #21*, No. SC22-796 (Fla. 2022); letter from Ashley Moody, Att’y Gen., State of Fla., to The Hon. Kevin McCarthy, Speaker, U.S. House of Reps. et al. (Apr. 17, 2023), https://www.myfloridalegal.com/files/pdf/page/97C618EE4BA8653E85258995005017EA/Call+Congress+Grand+Jury_JHP.docx.pdf.

pay for their travel to the United States in violation of child labor laws.²⁵²

The Florida Attorney General also faulted ORR for hiring case managers who typically come to the job with no experience, are provided with little to no training, and are “actively discouraged from independently investigating” things like the safety or legitimacy of addresses where a child is being sent.²⁵³ The third presentment found that Case Managers at some facilities discovered and attempted to pursue inconsistencies between a UC’s story and that of a potential sponsor, but were “chastised by their superiors at ORR and reminded that they are *not* to investigate suspicions, or question documents or addresses.”²⁵⁴

b. ORR Prevents Its Staff from Reporting Concerns to State and Local Authorities

In testimony during the July Senate roundtable, Secretary of the Florida Department of Children and Families (DCF), Shevaun Harris stated that one of the most “startling” things she learned from the Florida Grand Jury presentments was that “the case managers, the staff, [were] being discouraged from asking questions, being discouraged from sharing with law enforcement any concerns.”²⁵⁵

Secretary Harris explained that ORR actively obstructed her agency from investigating ORR shelter facilities even after DCF received reports of abuse and poor standards of living at these facilities. For example, after a UC died at an ORR facility in Florida, DCF attempted to conduct interviews with the staff and other children at the facility, but were prevented from doing so by ORR.²⁵⁶ Secretary Harris further said that when her agency would attempt to visit ORR facilities to ensure they comply with state licensing requirements, DCF would be “stonewalled from the facility under the direction of ORR.”²⁵⁷ They were told that the facility had to check with ORR before allowing DCF to interview any staff or UCs and were told they could not have access to a number of relevant records. Secretary Harris also said that when staff at ORR facilities would try to report abuse or neglect to law enforcement or to her office, facility leadership discouraged reporting.²⁵⁸

c. HHS Does Not Cooperate with State and Local Law Enforcement Investigating Cases of Abuse and Exploitations of UCs

Secretary Harris also explained that ORR regularly refuses to provide information about UCs and sponsors to state law enforcement and child welfare agencies who were investigating reports of trafficking and exploitation. In the July roundtable, Senator James Lankford stated that Secretary Becerra “assured” him in a public hearing

252 Letter from Ashley Moody, Att’y Gen., State of Fla., to The Hon. Kevin McCarthy, Speaker, U.S. House of Reps. et al. (Apr. 17, 2023), https://www.myfloridalegal.com/files/pdf/page/97C618EE4BA8653E85258995005017EA/Call+Congress+Grand+Jury_JHP.docx.pdf.

253 *Id.*

254 Third Presentment of the Twenty-First Statewide Grand Jury, *In re Statewide Grand Jury #21*, No. SC22-796 (Fla. 2022) (emphasis added).

255 *The Exploitation Crisis: How the U.S. Government is Failing to Protect Migrant Children from Trafficking and Abuse*, 118th Cong. (July 9, 2024) (statement of Shevaun Harris, Sec’y, Fla. Dep’t of Child. & Fams.) (2:01:04-2:01:19), <https://www.youtube.com/live/dldr8vNwXmc>.

256 *Id.*

257 *Id.* at 1:07:30-1:07:42.

258 *Id.* at 1:46:42-1:47:50.

that HHS is “letting states know all about these locations and sponsors.”²⁵⁹ Senator Lankford then asked Secretary Harris if Florida is “aware of every child that’s being delivered to Florida by HHS.”²⁶⁰ Secretary Harris responded by saying, “That is 100 percent a false statement by the Secretary [Becerra]. They are not transparent.”²⁶¹

SENATOR LANKFORD THEN ASKED SECRETARY HARRIS IF FLORIDA IS “AWARE OF EVERY CHILD THAT’S BEING DELIVERED TO FLORIDA BY HHS.” SECRETARY HARRIS RESPONDED BY SAYING, “THAT IS 100 PERCENT A FALSE STATEMENT BY THE SECRETARY [BECERRA]. THEY ARE NOT TRANSPARENT.”

Similarly, state officials in Virginia have sounded the alarm over ORR’s refusal to share information with law enforcement who are investigating cases of trafficking and abuse. Virginia Attorney General Jason Miyares wrote a letter to President Biden and Secretary Becerra on February 29, 2024 highlighting the difficulty for local law enforcement to investigate cases of missing and exploited UCs, given the “very little information” shared with them by HHS.²⁶² He further requested that ORR revise its UC placement policies “to include the immediate notification of child placements with local governments.”²⁶³ On April 17, 2024, Attorney General Miyares sent a follow-up letter to Secretary Becerra stating that he had not received any response from HHS regarding his February 2024 letter and request.²⁶⁴ Attorney General Miyares again requested that ORR notify local governments of UC placements and asked that his office be granted access to sponsor data in the UC Portal, along with possible criminal history, so that Virginia law enforcement can better understand UCs’ whereabouts and protect these children.²⁶⁵

V. Conclusion

The Biden-Harris administration has failed to protect UCs from abuse and exploitation. By incentivizing UCs to come to the United States in record numbers through their broken immigration policies, this administration overwhelmed DHS, ORR, and other federal agencies tasked with ensuring UCs’ safety. Instead of looking to the root cause and securing our southern border to stem this influx, the administration sought to shield the problem from the public’s eyes and enacted policies that directly put vulnerable children in harm’s way. From the early days of this administration, agency leadership’s commands were to release UCs as quickly as possible, even if it meant disregarding children’s safety. From reversing Trump administration policies that sought to protect these children, to reenacting previously-failed Obama-era sponsor vetting procedures, this administration has failed since day one.

Following the widespread, horrific reports of child abuse, trafficking, and exploitation, the Biden-Harris administration took nominal steps to address this crisis that were too little, too late. From announcing interagency task forces that have done nothing of consequence, to awarding private contractors with hundreds of millions of dollars to continue the failed sponsor vetting practices long-relied upon, the Biden-Harris

259 *The Exploitation Crisis: How the U.S. Government is Failing to Protect Migrant Children from Trafficking and Abuse*, 118th Cong. (July 9, 2024) (statement of Sen. James Lankford) (1:46:30-1:46:35), <https://www.youtube.com/live/dldr8vNwXmc>.

260 *Id.* at 1:46:35-1:46:42.

261 *The Exploitation Crisis: How the U.S. Government is Failing to Protect Migrant Children from Trafficking and Abuse*, 118th Cong. (July 9, 2024) (statement of Shevaun Harris, Sec’y, Fla. Dep’t of Child. & Fams.) (1:46:42-1:46:48), <https://www.youtube.com/live/dldr8vNwXmc>.

262 Letter from Jason S. Miyares, Att’y Gen., Commonwealth of Va., to President Joe Biden & Xavier Becerra, Sec’y, U.S. Dep’t of Health & Hum. Servs. (Feb. 29, 2024), <https://files.constantcontact.com/d3e83e11901/2527d423-ec6a-485e-a840-74241dfafe2e.pdf?rdr=true>.

263 *Id.*

264 Letter from Jason S. Miyares, Att’y Gen., Commonwealth of Va., to Xavier Becerra, Sec’y, U.S. Dep’t of Health & Hum. Servs. (Apr. 17, 2024), <https://files.constantcontact.com/d3e83e11901/0a9bfe2d-f859-4f3c-864f-462fa55039ad.pdf?rdr=true>.

265 *Id.*

administration is willing to do everything but address the problem head-on. And instead of acknowledging its mistakes and seeking to work with Congress on bipartisan solutions to protect UCs, this administration has stonewalled every meaningful oversight effort and continued to try to hide its failed policies. Perhaps even worse, the administration refuses to cooperate with state and local law enforcement attempting to save children from situations of abuse and exploitation caused by their own policies.

While the Biden-Harris administration has wasted time evading congressional oversight, children have been trafficked, abused, maimed, and killed. While HHS was obstructing state law enforcement and treating children as goods on an assembly line, cartels got rich on child labor, exploitation, and sex and drug trafficking. This administration must be held to account for not only its failures, but also its refusal to work toward a solution for fear it would result in political retribution or embarrassment. Vulnerable children deserve more than another political shell game, and the Biden-Harris administration deserves our contempt for forcing that upon them.

APPENDIX



ADMINISTRATION FOR
CHILDREN & FAMILIES

Office of Refugee Resettlement | 330 C Street, S.W., Washington, DC 20201
www.acf.hhs.gov/programs/orr

FIELD GUIDANCE – April 30, 2021

RE: ORR Field Guidance #13, Emergency Intake Sites (EIS) Instructions and Standards

GUIDANCE

ORR is issuing this field guidance to clarify the applicable standards for ORR Emergency Intake Sites (EIS), due to their emergency and temporary nature. This Field Guidance supersedes Field Guidance #12, published on April 9, 2021, and any previous guidance related to EIS standards.

1. Overview

In the event of a severe shortage of standard state-licensed facilities and influx care facilities, ORR may open non-state licensed Emergency Intake Sites (EIS).

A severe shortage occurs when ORR is unable to accept referrals of children for placement in state-licensed facilities and influx care facilities that result or would result in unaccompanied children remaining in DHS custody for over 72-hours without a placement designation due to shortages of available non-EIS ORR bed capacity. In such instances, ORR may place children in EIS facilities.

EIS facilities are designed for mass care with basic standards to meet immediate sheltering needs of unaccompanied children. HHS implements the standards of care used for children in an emergency response setting. EIS are not designed or intended to provide the full range of services available at traditional ORR care provider facilities or even Influx Care Facilities.

EIS are designed as short-term, stop-gap facilities opened for a limited period of time (generally under 6 months) to decompress dangerous overcrowding at DHS-run facilities. EIS may have site-specific requirements and services available may vary by site. A facility may transition from an EIS to an Influx Care Facility upon designation by ORR, provided services and sufficient staffing are available. See [ORR Policy 7.1 Overview](#).

2. Placement in an Emergency Intake Site

To the extent feasible, ORR endeavors to follow placement criteria required of Influx Care Facilities, see [ORR Policy 7.2.1 Criteria for Placement](#). Generally, placement in an EIS is reserved for direct border placements, or transfers from other EIS facilities or Influx Care Facilities. The ability to distinguish the criteria in [ORR Policy 7.2.1 Criteria for Placement](#) may be impracticable or impossible, as information regarding the child may be incomplete or

unknown by DHS. However, medically fragile children (e.g., children with acute needs that cannot be met at an EIS) or children who otherwise require close supervision (i.e., those eligible for placement in a staff-secure, secure, or RTC facility) are not eligible for placement in an EIS.

3. Placement of Tender Age Children in an Emergency Intake Site

ORR may place tender age children in EIS facilities, on a site by site basis, upon a determination by the Assistant Secretary for the Administration for Children and Families, based on a recommendation by ORR that placing tender age children in such a facility is safe and in the best interest of the children.

To account for the vulnerability and special needs of young children, EIS facilities accepting tender age children must meet the following standards:

- Make concerted efforts to ramp up services to meet minimum standards of an influx care facility, either in part or in whole, whenever practicable. See [ORR Policy 7.5.1 Influx Care Facility Minimum Services](#) and [7.5.2 Influx Care Facility Medical Services](#).
- Maintain the tender age staffing ratios outlined in paragraph 5 of this guidance.
- Maintain age appropriate services and boundaries between tender age children and older youth.

In addition, ORR will make efforts to expedite release of tender age children from EIS facilities.

4. Services

EIS meet basic standards of care as outlined in this section, but should, to the extent practicable, ramp up services to meet minimum standards of an influx care facility. See [ORR Policy 7.5.1 Influx Care Facility Minimum Services](#) and [7.5.2 Influx Care Facility Medical Services](#).

a. Basic Standards for Emergency Intake Sites

EIS must take the following actions in order to provide basic standards of care:

- Maintain facilities that are safe and sanitary;
- Provide access to toilets, sinks, and showers;
- Provide drinking water and food;
- Maintain adequate temperature control and ventilation;
- Provide adequate supervision (see paragraph 5 below);
- Provide same gender supervision for any area where unaccompanied children regularly undress, including restrooms and showers;

- Provide unaccompanied children with appropriate clothing and personal grooming items;
- Separate unaccompanied children who are subsequently found to have past criminal/juvenile history and/or who exhibit behavior that presents a danger to themselves or to others from other unaccompanied children;
- Adhere to a zero tolerance policy towards sexual abuse, sexual harassment, and inappropriate sexual behavior;
- Establish reporting on significant incident and sexual abuse allegations and follow-up procedures consistent with ORR's policies and reporting guidance;
- Allow reasonable access to legal services providers, unaccompanied children's attorneys of record, and child advocates that have provided proper documentation, subject to time, place, and public health restrictions;
- Provide legal services information, including the availability of free legal assistance, the right to be represented by counsel at no expense to the government, the right to a removal hearing before an immigration judge, the right to apply for asylum or to request voluntary departure in lieu of deportation. (see [Legal Resource Guide for Unaccompanied Children](#));
- Allow access to religious services, if available;
- Provide access to emergency clinical services;
- Comply with reporting requirements as specified by ORR in consultation with providers;
- Provide children the right to be free from discrimination on the basis of gender, race, religion, national origin, or sexual orientation; and
- Keep children free from any cruel, harsh, unnecessary, demeaning, or humiliating punishment.

As soon as possible and to the extent practicable, EIS should seek to provide the following services:

- Case management services for safe and timely release;
- A reasonable access to privacy, which includes the opportunity for all children to: wear their own clothes, as appropriate; retain a space for storage of personal belongings; talk privately on the phone, as appropriate; visit privately with guests, as appropriate; and receive and send uncensored mail unless there is a reasonable belief that the mail contains contraband;
- An in-person Know Your Rights presentation by a legal service provider (see [sub-paragraph \(d\) below](#));
- Educational services; and

- Daily Recreational/Leisure time that includes one hour of large muscle activity and one hour of structured leisure time activities.

b. Medical Services

EIS facilities provide access to emergency health care. Additional health services are site specific and may include a limited initial medical exam (IME) (see [ORR Policy 3.4.2 Initial Medical Examination](#)), although such exams may not take place within 2 business days; they will take place as soon as arrangements can be made. For those children who receive limited initial medical exams, which may vary depending on the sites, the child will either receive a comprehensive IME at a later point, at a facility capable of providing the exam, or after release to their sponsor.¹

To the extent feasible, ORR ensures there are staff who can render first aid; assess whether a child requires immediate medical attention due to acute medical distress; clear obstructed airways; administer ephedrine pens if needed. Children determined to have a communicable disease are segregated from other children as appropriate.

c. Case Management

Case management services are established either at the time of an EIS stand-up or as soon as reasonable under the circumstances. Case management services at EIS facilities are primarily focused on family reunification services in order to release a child without unnecessary delay to a sponsor (following the policies identified in [ORR Policy Guide Section 2](#)) and may be conducted to the extent feasible remotely. Additionally, case management services include processing children placed at an EIS for transfer to an ORR facility with more comprehensive services (either an influx care facility or traditional state-licensed program) capable of providing for the child's individual needs. Case management at EIS may be conducted by volunteers.

d. Legal Service Information

ORR provides legal service information to unaccompanied children placed at an EIS.

ORR provides children access to attorneys and may to the extent practicable fund legal service providers to deliver know your rights (KYR) presentations and screen children for potential legal immigration relief. Although private meeting space may be restricted by the physical plant of

¹ The child's sponsor is provided information regarding the health services the child received at the EIS, and as a condition of release is required to ensure a comprehensive IME is performed with a community provider, if such an exam was not completed in ORR custody.

the EIS, to the extent feasible, ORR makes available space for children to meet privately with attorneys.

If a child is not able to receive a KYR and/or legal screening while placed at an EIS, ORR may notify a legal service provider after the child's release, to provide post-release legal services.

5. Staffing

EIS may be staffed by volunteers from NGOs, federal staff, ORR contractors, and grantees (including staff from other ORR care providers or non-care providers).

a. Staffing Ratios

EIS are subject to the following minimum staffing ratios:

- **Youth Care Workers:** Minimum of 1 youth care worker to every 15 children aged 13 years and over (1:15); a minimum of 1 youth care worker to every 8 tender age children aged 6-12 years old (1:8), and a minimum of 1 youth care worker to every 4 tender age children aged 0-5 years old (1:4).

The following additional staff and staffing ratios for those positions should be maintained at any EIS operating longer than 20 days. Additionally, case managers and mental health clinicians may provide services remotely or on site:

- **Childcare Team Lead:** Minimum of 1 childcare team lead to every 60 children (1:60). EIS should make efforts to staff up to a minimum of 1 childcare team lead to every 30 children as resources allow (1:30).
- **Childcare Shift Supervisor:** Minimum of 1 supervisor to 5 childcare team workers per shift (1:5).
- **Child Welfare Program Leads/Coordinators:** Minimum of 2 child welfare program leads/coordinators per site, including at least 1 per shift at all times, to implement guidance for their EIS site.
- **Case Managers:** Minimum of 1 case manager to every 8 children (1:8).
- **Mental Health Clinicians:** Minimum of 1 mental health clinician to every 50 children (1:50).

Please note that the above staffing ratios are only minimum staffing ratios and that EIS should staff up to higher than the minimum ratios if resources and hiring allow for higher levels of supervision (for example, staffing up to ratios at Influx Care Facilities as outlined by [ORR Policy 7.7 Influx Care Facility Staffing Levels](#)).

These minimum standards may be modified on an exceptional basis and for short periods of time, within the first 20 days of EIS operations or in the event of a sudden increase in referrals, as directed by ORR. Approval for a decrease in staffing-to-child ratios are made in consultation

with ORR personnel at EIS sites, and with consideration for ages and of the children and the physical layout of the site. Staffing ratios may be adjusted to meet the unique physical layout of an EIS on a case by case basis.

b. Background Checks for Staff

Only EIS federal personnel, or personnel who have been cleared through a fingerprint-based, federal background check, are permitted to supervise direct care staff. Staff and volunteers who provide direct care must pass public record criminal background checks for deployment at EIS. ORR will ensure receipt of background checks required of influx care facilities for EIS staff within 30 days of an EIS opening. Staff and volunteers who provide direct care may not have unsupervised contact with unaccompanied children until all background checks have been completed. ORR may waive or modify background check requirements on a facility to facility basis.

c. Incident Commander

During the operation of an EIS while children are on site, ORR will have staffed an incident commander who is a federal employee to oversee operation of the facility. The incident commander is responsible for the facility, operations, and custodial care of the children.

If you have any questions regarding these policies, please contact UCPolicy@acf.hhs.gov.

MEMO OF CONCERN

TO: Stephen Antkowiak, DUCO Director

DATE: 7/23/2021

FROM: The Office of Refugee Resettlement's Division of Unaccompanied Children's Operations
(ORR/DUCO) Federal Field Specialist Supervisors

RE: Concerns regarding the erosion of child-welfare practices within the UC Program

Introduction

Over these past few months, our nation has experienced historic challenges in a very brief time. One such challenge has been the arrival of an unprecedented number of Unaccompanied Children [UC] across the Southwest border of the United States. Never in the history of the Unaccompanied Alien Children's program has ORR agency seen such high levels of UC entering the United States. This large and steady migration of unaccompanied children has posed many unique challenges to both HHS/ACF/ORR as the principal agency that provides care and custody of the migrant children, and to the federal government as a whole in leveraging its resources to accommodate this sustained influx.

Although our current times represent the largest influx of UC that ORR has experienced, ORR is no stranger to surges of UC. As an agency, ORR has managed previous influx and crisis situations involving UC, as well as it has managed the day to day operations of caring for unaccompanied children during non-influx times. In fact, ORR has been engaged in this work since the early 2000s after the care, custody, and release of UC from the then Immigration and Naturalization Service was turned over to HHS.

Noting that the migration of UC is unique from the general phenomena of immigration and migration, the care, custody, and release of UC was taken away from the government's immigration agencies [INS and later DHS] and handed over to the government's human services' and social welfare agency [HHS] approximately 2 decades ago. This discovery that the care, custody, and release of UC should be managed by social welfare, health, and child welfare professionals in a developmentally appropriate care model resulted in the Flores settlement agreement. In 2002, Congress enacted the Homeland Security Act. This Act created the Department of Homeland Security and established that DHS would be the principal agency to manage immigration and immigration related issues (i.e. processing visas, enforcement of immigration laws, etc...). However, the Act made clear that the care, custody, and release of UC would be managed by HHS and not DHS. By voluntarily entering into the Flores settlement, and later by the passing of the Homeland Security Act of 2002, the United States has made clear that managing UC must be accomplished using child welfare frameworks rather than systems for managing other types of migrants and immigrants. The fact that HHS further decided to place the UC program within its Administration for Children and Families, the child welfare arm of the Department, underlines

that statutory intent to manage the UC program should be done under the auspices of child welfare professionals and not immigration officers.

The phenomenon of migration is undeniably complex. From a child welfare lens, migration and its surrounding issues bring out the best and the worst in societies. The more vulnerable an individual is, the greater the risks associated with migration. These risks include sex and labor trafficking, exploitative labor, physical and sexual abuse, as well as neglect to name a few. Unaccompanied children are especially vulnerable as a group. Being a migrant, itself, carries a certain amount of vulnerability. UC are not only migrants, but they lack the power, connectedness, and ability for full self-determination that adult migrants often have. Likewise, UC lack the connectedness to bonded adults that children traveling with their parents may have. There are often other specific vulnerabilities, such as significant attachment trauma, mental and behavioral health needs, lack of insight toward predatory behavior by adults, and an inability to identify and access resources to name a few. For these reasons and others, a child welfare professional with experience in working with this population is needed.

Since the beginning of this current influx surge of UC, ORR field staff have seen the transformation of the Division of Unaccompanied Children's Operations within ORR from a child-welfare focused model to one that emphasizes what seems to be "release to someone as soon as possible model". In other words, throughput seems to be the primary goal of the program with a nod to some safety measures. Whereas child safety, informed by child welfare principals unique to the UC population, should be prioritized. As child welfare professionals with combined decades of experience working with UC, we, the ORR field staff supervisors, have become growingly alarmed at the erosion of child-welfare centered approaches within the UC program. We see the curtailing of ORR's child-welfare centered practices, developed over the past two decades specifically for UC, as dangerous on many levels. Therefore, we feel compelled to act by expressing this concern to you, our leadership. It is our hope and intent with this letter to change the course of managing this current influx away from what has seemingly become a "fastest-possible-release" model back to one informed by child-welfare principles and best practices for UC.

As stated, this letter was created, drafted, and signed by the Field Supervisors of the UC Program within ORR, the vast majority of our front-line field staff have expressed the same, or similar, sentiment regarding the content of this letter. Therefore, the concerns noted in this letter are shared more broadly by ORR career staff than just the signatories. As Supervisors, we feel that we must communicate the concerns brought to us by our assigned staff who carry an enormous amount of education and experience in the field of child-welfare and with the UC population.

Below is a breakdown, and description, of the key areas of concern that have been identified. These areas demonstrate where, in our opinion, child welfare principles and best practices have been significantly diminished, or erased, to the point of creating a dangerous environment for the unique population of children we serve.

The Language of Flow and "Throughput"

Words could heal and hurt, as well as shape attitudes and behaviors. There is no denying that words, and how they are used, absolutely matter. Over the past few months, discussions regarding operations of the UC Program have been framed using words like "maximizing flow [of kids]", "expedited release", "throughput", and "expedited processing/vetting" to name a few. The language surrounding the UC program, specifically about its service obligations, has been characterized by many to be like processing

commodities rather than making placement decisions for children. As a result, inordinate emphasis has been placed by senior leadership for the program to focus on maximizing the greatest amount of releases of children as quickly and expeditiously as possible as the principle goal above all others. In fact, when there is a discussion of problem areas within ORR that need to be solved, they are almost always reduced to being a failure to release kids quickly.

Framing the current influx situation as a failure to maximize throughput (viz. not releasing children fast enough to sponsors), staff involved in assessing releases for UC can feel forced to make dangerous decisions regarding placement in favor of demonstrating that they are quickly releasing UC to sponsors. The current climate in ORR that has been created by leadership has been one that rewards individuals for making quick releases, and not one that rewards individuals for preventing unsafe releases.

Over the course of the past month or so, ORR field staff and our partners are seeing rising concerns surrounding potential trafficking schemes, and the Office of Trafficking in Persons has alerted UC field staff to a rise in released UC working at the same places of employment as their sponsors. Due to the emphasis on speedy releases in the current agency culture, we feel that releasing UC to risky environments is significantly more heightened. Therefore, we encourage leadership to consider taking a more balanced approach to UC sponsor releases that does not emphasize speed over safety. Rather, an approach that aligns safe and timely releases would be more beneficial to the children and families we serve.

The Opening and Operation of EIS Facilities

Perhaps one of the most vivid examples of the erosion of child welfare best practices that we have seen to date has been the rushed opening of the EIS facilities. The EIS facilities were the alternative for keeping children for excess time in CBP custody. And although there is broad agreement with the signatories of this letter with the intent to limit a child's stay in a CBP processing center, the EIS sites did not create a significantly safer alternative than CBP processing sites. In fact, at a WebEx meeting on 3/16/2021, the Director of DUCO, Mr. Stephen Antkowiak, was pressed by white house staff, Vivian Graubard, on the speed of the openings of the EIS facilities. Ms. Graubard was emphatic in communicating to the DUCO director that these EIS facilities be opened as quickly as possible and without delay. In what appeared to be a frustrated tone, the DUCO Director said, "I'm just trying to make these places safe right now. They're not even safe for children." After Stephen said that, there was no discussion of this comment by Ms. Graubard or any other senior leader on the call. The expectation for speed of opening these EIS facilities was left in place.

As field-based child-welfare professionals, we appreciate the need to move children from CBP facilities to more developmentally appropriate settings. However, the rush to open large convention center sites was not a safe alternative. These sites lacked the basic services needed to safely care for and assess the needs of UC before UC were placed there. And thousands of UC were placed in these settings in the initial openings. What adds further concern was that the Homestead Influx Care Facility was ready to receive approximately 2000 UC. It is undeniable that an influx care facility is not the same level of care as ORR's licensed bed network. However, this facility has an agency with experienced and dedicated staff, who are familiar with the UC program. They have the knowledge, experience, and abilities to care for UC. However, opening of EIS facilities with no such capacity as Homestead had was prioritized.

The EIS facilities were poorly staffed from the beginning. Many individuals in key leadership positions were federal volunteers and detailees who had no specific education, background, knowledge, or training in child-welfare specific to the UC program. It was alarming to many of our ORR field staff that youth care workers in the EISs were not provided with adequate training in child-care prior to being appointed over the care of the children. Further, many youth care workers, including federal volunteers and detailees, had not been trained to identify and respond to mental health issues of children in care. This was unfortunately true despite the fact that being in an EIS facility itself seemed to be an aggravating factor for the emergence of mental health issues in the children staying there.

The EISs, however, were opened despite many flags being raised. They were opened in facilities that are not child friendly nor developmentally appropriate (i.e. convention centers, oilfield man camps, tent structures in very inhospitable environmental situations, etc....). Further, the EISs were opened with little to no programming for the children, and the individuals staffing them had little to no experience with the UC population. As a result, our ORR staff became first-hand witnesses of the deterioration of the mental and behavioral health of UC. ORR staff also became exposed to children having been sexually assaulted in these facilities. Children's basic needs for clean clothing and personal space was also absent in some of the EIS facilities, and the few ORR field staff available to serve in the EIS facilities reported they had to be constantly vigilant to ensure the basic safety of the UC in care there. To this day, the EISs are run like disaster camps rather than developmentally appropriate childcare settings. Seeing children in these settings has demoralized a great number of field staff. Some field staff, tenured and seasoned in both the UC and domestic child welfare programs, are reporting symptoms of secondary stress from having been at the EIS facilities or working with them.

Again, it is understood that there is a need to place UC in alternative setting to CBP processing centers. However, the alternative placements should be deemed safer than the CBP facilities, as well as more developmentally oriented toward child-care than the CBP settings the UC are coming from. In fact, some EIS facilities are indistinguishable from the CBP settings UCs were previously in.

The Systematic Dismantling of Sponsor Vetting/UC Release Procedures

Since the inception of the UC program at ORR, the agency has developed methods for making safe release decisions over the approximate past 2 decades. Through the trial and error that comes with experience, and through a child-welfare lens, ORR had created a system that protected the vast majority of children from trafficking, exploitation, and other dangers that can come with being an unaccompanied migrant child. As previously stated, ORR had managed the UC program during previous influxes and non-influx times alike. As an agency, we have learned the unique risks posed to UC, and we have developed practices that attempt to identify and mitigate risks to the children while simultaneously effectuating their release from care as quickly as possible without sacrificing safety.

From the beginning of this current influx, it appears that senior leadership had made fast releases the priority of ORR's operations. To accommodate fast releases, existing ORR policies were reviewed by experts in efficiency modeling (not child-welfare experts with experience working specifically with UC) and significantly edited or erased if they were viewed as slowing down releases. This move to dismantle current sponsor vetting policies were done with the sole intent to reduce delays in releases, and they were made even despite protests from career ORR staff. On another WebEx meeting with ORR staff and white house advisors on 3/16/2021 at 10 PM Central time, the Director of ORR Policy, Toby Biswas, introduced what became known as FG #10. This new procedure, designed upon the insistence of senior

leadership, for releasing Cat 1 cases eliminated even the most basic safety procedures (i.e. assessing a child's mental health, behavioral health, social history, and the quality of the child/parent relationship for all cases). This new policy also eliminated the third-party review, which had been in place as an additional safety measure in making release decisions. Nonetheless, though, this field guidance was implemented in a week from when it was designed. The field guidance wasn't piloted nor was it reviewed by child welfare SMEs. In this WebEx meeting at 10 PM Central time, FFS-S ██████████ said that this procedure does not appear safe on the surface, and should, at a minimum, be reviewed by child welfare SMEs before being implemented. The answer received from the ORR Chief of Staff was, "Joo [the AAS] used to work at Children's Bureau." Discussion about the new procedure was then stopped. ██████████ then remarked how these procedures seemed reflective of the days when then INS managed the UC program, and Toby Biswas, the ORR Policy Director, stated that this was indeed the origin of this new policy. Apart from the child-welfare concerns with this new procedure, one can see some statutory concerns. FG#10 has regressed the UC Program back to the days when then INS managed it as part of immigration management, but which congress explicitly ordered the program to be taken away from in favor of a child-welfare focused program.

Over the past 3-4 months, Senior leadership has continued to force changes to ORR policy in the form of Field Guidance (most likely due to its rapid ability to implement procedural changes without having to go through normal/formal avenues to make policy changes). At the time of this writing, ORR policy had issued 8 more field guidance memos since that first one issued in the latter part of March 2021. And what is noteworthy is that practically all the new FG memos (perhaps apart from FG 17 and 18) have weakened ORR's ability to vet sponsors or provide levels of care to UC. However, even for the medical FG on COVID vaccines, there is definite attention paid to ensuring that vaccine receipt does not prolong release in any way. So, again, almost all the Field Guidance issued within the past 3 to 4 months has been to promote speedy releases by pruning ORR's procedures developed over the past two decades regarding the care, custody, and release of unaccompanied children. It should be emphasized that all these policies were developed without significant voice from ORR's own UC child-welfare SMEs.

Case Management Model (Contractor Stand Up and Virtual Case Management)

Case Management, especially within the EIS facilities, has become a focal point of concern for most ORR field staff. ORR field staff have seen the placement of case managers with no case management experience being tasked to carry out skilled case management duties for a specialized population. Contractors at EIS facilities were expected to hire large numbers of case managers in an extremely short period of time. Unfortunately, this appears to have been done at the expense of hiring individuals without the knowledge, skills, or abilities to serve as skilled case managers in the UC Program. And although hundreds of such individuals have been hired in the past few months, these new case managers started working cases without adequate training or supervision. At best, these newly hired case managers they have had some piecemeal training in the job and have had some minimal exposure to resources to assist them in completing their case management duties. Case management is arguably the most important job within the UC Program, as case managers are the first to start the UC unification process. They are also expected to make informed release recommendations and initiate and complete the process of a UC's release from ORR care.

In addition to the mass hiring of government contractors to staff case management at the EIS sites, senior leadership immediately began to insist that DHS/USCIS employees serve as ORR case managers.

The rationale was that since USCIS officers had some training in child interviewing techniques and processed immigration applications, they could also perform case management duties for UC. In other words, these immigration officers were viewed as being equipped to complete sponsorship applications for UC as if they were child welfare case managers. However, again, these DHS officers are not child-welfare professionals. They are immigration officers with experience in completing applications, but they have no context on how to use the information obtained for the purpose of making child-welfare informed recommendations. USCIS' officers' lack of child-welfare experience became evident to ORR field staff when reviewing UC release submissions. In some instances, children had significant history of abuse and neglect that was not taken into consideration in the release recommendations. Likewise, ORR staff reported seeing cases where sex offenders were part of the household where UC were being recommended to for release.

Apart from the fact that USCIS case managers are not child welfare professionals, the virtual case management model using USCIS officers is one that creates a highly fractionated service environment. USCIS operates a parallel case management arm for the EIS facilities that has yet to be integrated within ORR's operational control. USCIS officers operating as case managers are largely disconnected from the facilities where the children reside, and they are disconnected from the oversight and mentorship of ORR child-welfare SMEs as well. This fragmented model of case management performed by immigration officers over child-welfare professionals is inherently dangerous from a human services/child-welfare perspective. There is a long-established best practice, not being followed here, in child-welfare centered services that service providers to children and families should work in an integrated model. The fragmentation between ORR operated case management and USCIS is evident by the fact that USCIS employees maintain their own email addresses, they have their own USCIS management structure, they are not within ORR's operational control, and they even perform their own training absent ORR's SMEs. What's further troubling about this service delivery model is that it can only operate when ORR policies for sponsor vetting have been seriously diminished. USCIS virtual case management cannot work if ORR maintains its normal procedures designed for child-welfare best practices. By requiring a significantly edited child-welfare model, administered by non-child welfare professionals is very dangerous. Additionally, ORR's child-welfare professionals have no oversight, or mentorship ability, over the USCIS operational model of UC case management. Again, this troubles ORR field staff from a child-welfare perspective, and it appears to run counter to our authorizing legislation.

Professional Environment

During this time of influx, the professional environment has been an issue of concern for many ORR staff. The AAS has initiated a case staffing with FFS working in EIS facilities to review "long stayers". These calls, again, are focused on releasing children. The tone of these meetings is often confrontational and condescending. As a result, many FFS are frightened to attend the call without demonstrating fast releases, and then they go back to the EIS facilities to ensure that cases are released fast to the exclusion of anything else. In other words, the idea is that case management staff are encouraged to strive to do the absolute minimum vetting of sponsors to effectuate the quickest releases. As a result, there are safety issues that are likely being overlooked.

There is also a large concern that the leadership of many key elements of the ORR service model, the UC Program in general, is being taken over by Project Managers with some tertiary exposure to UCs, but none whose backgrounds are explicitly in a child-welfare discipline. Leaders in case management cells,

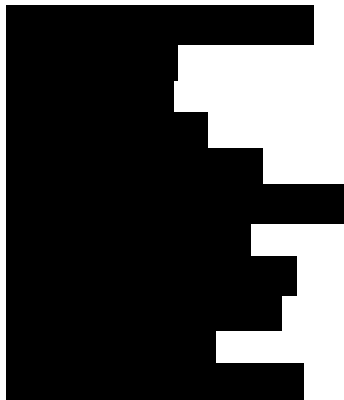
for example, do not appear to possess child-welfare expertise particular to the UC population. In many instances, tenured ORR career staff that can operate as SMEs in the field of child-welfare with unaccompanied children are overlooked when making policy or practice changes in the program. ORR UC child-welfare SMEs do not occupy any leadership positions within the incident command structure. Persons from FEMA along with logistical and efficiency consultants occupy those spots. Senior child-welfare positions within the various command cells are non-existent. In fact, ORR staff who have been invited to sit on panels for policy discussions report back that our presence is more ceremonial than practical, as decision makers prioritize production-based models over the existing child-welfare based ones. In order to restore child-welfare as the foundation of the UC program, child-welfare professionals with particular experience in working with UC should be prioritized and equipped with the ability to shape policy and practice in command structures.

Conclusion

Thank you for taking the time to read this letter of concern. Please note that this letter highlights the major points of concern that all the signatories agree upon. The points in this letter also represent many of the concerns that most ORR field staff report to us as their supervisors. As previously stated, our goal is to bring these concerns to the attention of leadership to create meaningful change by placing child welfare principles and best practices as the foundational structure when taking steps to manage this and future influxes.

At this time, a group of FFS Supervisors below are in the process of creating a white paper that we hope will offer suggestions for specifically rectifying the issues we see. However, should you wish to engage us in further discussion regarding this letter, we are open – as a group – to discussing it.

Respectfully,

A large black rectangular redaction box covering the signature area on the left side of the page.

Federal Field Specialist Supervisor
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Federal Field Specialist Supervisor
Supervisor



ADMINISTRATION FOR
CHILDREN & FAMILIES

Office of Refugee Resettlement | 330 C Street, S.W., Washington, DC 20201
www.acf.hhs.gov/programs/orr

FIELD GUIDANCE – August 23, 2023

RE: Field Guidance #24 – Sponsor Services Role Guidance for Selected Grantees

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GUIDANCE

This document provides guidance to Office of Refugee Resettlement (ORR) Unaccompanied Children Program care providers participating in the Sponsor Services Initiative, regarding the responsibilities of Case Managers and the role of the new Unification Specialist positions. Sponsor services include:

- Providing potential sponsors with information and documents needed to sponsor a child;
- Providing sponsors support throughout the document,
- Coordinating the background check and vetting process;
- Conducting sponsor vetting; and
- Making recommendations regarding the sponsor’s suitability to sponsor the child.

Where this field guidance and the UC Policy Guide or UC MAP differ, participating care providers must follow the field guidance. Care providers are encouraged to reach out to their Project Officer or Contract Officer Representative with any questions. ORR will review this field guidance within 120 days.

Care providers **not** selected for the Sponsor Services Initiative will not receive assistance from Unification Specialists at this time and continue to follow policies and procedures in the UC Policy Guide and UC MAP.

Background

ORR is working with a **limited number of care providers** to implement a *new* Sponsor Services Initiative. Under current policy, care provider case managers are responsible for most steps in the sponsor vetting process. This initiative centralizes the provision of sponsor services under one contractor to strengthen sponsor vetting practices and aims to reduce the amount of case work burden on case managers by shifting certain sponsor vetting responsibilities to the *new* Unification Specialist role. Additionally, the contractor offers in-person service if a sponsor is having difficulty with any aspect of the reunification process.

Primary Roles and Responsibilities

The Case Manager’s role is described in the Guide to Terms and [UC Policy Guide Section 2.3.2 Case Managers](#). For this initiative, the responsibilities of the Case Manager and Unification Specialist in the sponsor vetting process are as follows:

QUICK REFERENCE CHART

The Unification Specialist’s role:	The Case Manager’s role:
<ul style="list-style-type: none">• Initiate and maintain ongoing communication with the potential sponsor and sponsor household’s as appropriate;• Provide direct assistance on completing the <i>Family Reunification Packet</i> and ensure provision of supporting documentation;• Involve the sponsor in making a plan for individualized services for the child post release, as appropriate;• Provide the sponsor with detailed information about the child’s needs, including needs that	<ul style="list-style-type: none">• Coordinate the child’s assessments, individual service plans, and release from ORR custody for unaccompanied children;• Maintain case files and ensure all services for children are documented;• Forward information on potential sponsors identified by the child or parent/guardian to the Unification Specialist;• Provide the child’s family updates on their well-being and functioning in the program;

The Unification Specialist's role:	The Case Manager's role:
<p>may require accommodation, in order to fully assess the sponsor's ability to provide care and services;</p> <ul style="list-style-type: none"> • Complete a sponsor care plan, when necessary; • Discuss services that are available for the child in the sponsor's community; • Review identification and other government issued documents and use systems/technology to detect fraud and human trafficking indicators; • Ensure that information is gathered during the sponsor assessment process and any concerns are shared with the case manager, the case coordinator, and the FFS as is appropriate; • If applicable, share relevant information on the child with the sponsor in accordance with UC Policy Guide Section 2.3.2 Case Managers, and in collaboration with the child and the child's clinician in a way that best serves the child's safety and well-being; • Conduct the sponsor assessment to analyze whether the potential sponsor can safely provide for the physical and mental well-being of the child; • Make a sponsor suitability assessment recommendation for the child to the Case Manager; • Provide the Case Manager with timely updates on the child's case and maintain case documentation in real time; and • Attend weekly staffings and provide weekly status updates to the child's assigned Case Manager, Case Coordinator and ORR/FFS on the progress in achieving a safe and timely release with a sponsor as well as potential challenges that may delay a release. 	<ul style="list-style-type: none"> • Provide the Unification Specialist with timely updates on the child; • Provide weekly status updates to the child on the child's case and provision of services, preferably in person; • Incorporate calls with the potential sponsor into the Case Manager's weekly check-ins with the child as the Case Manager deems appropriate; • Keep the Unification Specialist updated regularly and in real-time about information gathered on interactions between sponsor and child; • Inform local legal service providers and attorneys of record, other local service providers, Child Advocates, post-release and home study providers, and other federal agencies, as is applicable, of the progress of a child's case, including notification that a child may not have a potential sponsor, and any final release decisions made by the FFS); • Provide home study recommendations and release recommendations to the Case Coordinator and FFS; and • Attend weekly staffings and provide weekly status updates to the child's assigned Unification Specialist, Case Coordinator and ORR/FFS on the child's well-being as well as potential challenges that may delay a release.

All information sharing between the Unification Specialist and Case Manager must protect Personal Health Information (PHI) and Personal Identifying Information (PII) as specified in UC MAP Appendix 2.1 *How to Protect PII and Create Password Protected Files*.

INSTRUCTIONS

The following instructions further differentiate the roles and responsibilities of the Case Manager from the Unification Specialist. Current Case Manager duties remain with the Case Manager if they are not included in the guidance below. The Sponsor Services Initiative requires close ongoing collaboration between the Case Manager and the Unification Specialist. The Case Manager must share with the child regular (and at least weekly) updates on their case received from the Unification Specialist, or as known.

Sponsor Service Initiative and Transfers of Children between Care Providers

If a child transfers between care providers participating in the Sponsor Services Initiative or between Case Managers within the same care provider, they retain the same Unification Specialist, who must be involved in the handoff between the previous and new Case Managers. The Unification Specialist informs the sponsor that the child has been transferred and that the Unification Specialist will remain the same, but the child will have a new Case Manager since they will be placed at a different care provider. If the child transfers to a program that is not participating in the Sponsor Services Initiative, the Unification Specialist will no longer continue working on the case, and the new Case Manager will hold all responsibility for sponsor vetting, as outlined in the UC Policy Guide and UC MAP. The Unification Specialist and Case Manager must provide a warm handoff to the new Case Manager. The Unification Specialist must inform the sponsor they will now work with another Case Manager and provide the name of the Case Manager if they have it. The Case Manager at the new program not participating in the Sponsor Services Initiative must explain their role to the child and the sponsor.

Assignment of Unification Specialists

A Unification Specialist will be assigned to each child at a selected care provider at intake, regardless of sponsor category. A Unification Specialist will also gradually be assigned to each child already at the selected care providers over the first weeks of the initiative. As soon as the Unification Specialist is assigned a case, they must upload a document titled “Primary Unification Specialist Information” to the UC Portal under “Additional Documents” with their name, phone number and e-mail address.

Sponsor Outreach and Communication

While the Case Manager remains responsible for identifying potential sponsors, the Unification Specialist is responsible for initial sponsor outreach and communications. This includes the following steps:

1. The Case Manager remains responsible for working with the child and their parents or legal guardians to identify the appropriate sponsor, as is outlined in UC MAP Section 2.2.1 Identification of Qualified Sponsors.
 - When communicating with the child and their family, the Case Manager explains the child’s case will also receive a Unification Specialist responsible for most sponsor communications and sponsor vetting who will contact them. The Case Manager shares the name and contact information of the Unification Specialist if assigned.
2. Upon identifying a potential sponsor, the Case Manager enters information on the potential sponsor into the UC Case Review tab under the “Reunification tab”. The “Name” must be added to the “Sponsor” box, and all other information should be added under the “Reunification” open text box as soon as possible but not more than **4 hours** after receiving the potential sponsor’s contact information (or first thing in the morning if received after 9 pm). This information includes the potential sponsor’s:
 - Name;
 - Relationship to the child;

- Contact information;
 - Sponsor category;
 - How the Case Manager came into the knowledge; and
 - Any potential flags or other information the Unification Specialist should be aware of.
3. The Case Manager must then immediately e-mail the Unification Specialist notifying them that a potential sponsor has been added to the portal.
 4. There may be circumstances under which the Case Manager contacts the sponsor before the Unification Specialist has been able to if, for example, the child has asked to speak to the sponsor or the sponsor is the child's parent or legal guardian. In these cases, the Case Manager explains the child's case will also receive a Unification Specialist responsible for most sponsor communications and sponsor vetting, and that the Unification Specialist will contact them. If the assigned Unification Specialist is known at the time of these communications, the Case Manager shares the name of the Unification Specialist with the sponsor.
 - If in contact with the sponsor, the Case Manager asks whether the child has any health conditions. If the potential sponsor discloses any health conditions and the Unification Specialist reviews the UC Portal file and identifies that the child may have health conditions not previously disclosed by the child, their family members, or the potential sponsor, the Case Manager contacts the program's Medical Coordinator and healthcare provider to determine the need and urgency for a health evaluation/intervention, and determine appropriate medical treatment.
 5. The Unification Specialist follows procedures set forth in UC MAP Section 2.2.2 regarding initial outreach to the sponsor. The Unification Specialist contacts the potential sponsor as soon as possible, but not more than **4 hours** after receiving the contact information of the sponsor unless after waking hours. During the first successful contact or within 24 hours of contacting the sponsor, the Unification Specialist;
 - Explains the requirements of the sponsorship process, including an overview of ORR's function, principal tasks, and participants, and ORR's connection to U.S. immigration proceedings as is described in UC MAP Section 2.2.2;
 - Informs the sponsor of the unification process and the sponsor's responsibilities. In this conversation, they emphasize the timeline for returning the packet and explain ORR's expectation for the potential sponsor;
 - Sends the Family Reunification Packet to the Potential Sponsor via a link or PDF, as well as the link to the Sponsorship Application for Family Unification if they have not yet received it. The Unification Specialist also mails a copy if preferred/requested by the sponsor;
 - When describing the potential tasks and participants, the Unification Specialist explains the role of both the Unification Specialist and Case Manager:
 - The Unification Specialist explains that the role of the Unification Specialist is specifically to work with the sponsor on their application and the vetting process and that they are not involved in caring for the child; that the Case Manager's role is to care for and communicate with the child. If it is listed in the UC Portal, the Unification Specialist may share the name of the Case Manager with the sponsor. They specify that both may contact the sponsor; and

- The Unification Specialist asks whether the child has any health conditions. If the potential sponsor discloses any health conditions and the Unification Specialist reviews the UC Portal file and identifies that the child may have health conditions not previously disclosed by the child, their family members, or the potential sponsor, the Unification Specialist immediately notifies the Case Manager, Lead Case Manager, and Program Director, who contacts the program's Medical Coordinator and healthcare provider to determine the need and urgency for a health evaluation/intervention, and determine appropriate medical treatment. If the Case Manager is out of the office or it is after hours, the Unification Specialist must also update the on-call Case Manager. The Unification Specialist must make contact with the program and/or ORR staff for immediate notification. An email or voice message does not satisfy this requirement. If the Unification Specialist has not successfully made contact within one hour, they must also contact the FFS.
 - The Unification Specialist also informs the potential sponsor that ORR, its care providers, and grantees/contractors do not collect or require fees for any services related to the release of unaccompanied children from HHS custody as is specified in [UC Policy Guide Section 5.7.1 ORR Efforts to Prevent Fraud](#), and if they determine the sponsor may have been the victim of fraud, the Unification Specialist reports the incident through a Significant Incident Report (SIR) and to local law enforcement as specified in [UC Policy Guide Section 5.7.2 Responding to Fraud Attempts](#).
6. As is detailed in UC MAP Section 2.2.2 Contacting Potential Sponsors, the Unification Specialist searches for the sponsor in the UC Portal. If the sponsor has previously sponsored, the Unification Specialist must select the existing record for the sponsor. If the sponsor has not previously sponsored a child, the Unification Specialist creates a new sponsor record within one calendar day of contacting the sponsor.
 7. If the case requires a secondary potential sponsor, the Unification Specialist works with the Case Manager and the Case Coordinator to identify other potential sponsors for concurrent planning as is specified in UC MAP Section 2.4.1 Assessment Criteria.
 8. The Unification Specialist schedules the Legal Orientation Program for Custodians Presentation following the steps outlined in UC MAP Section 2.2.5 Legal Orientation Program for Custodians.

Family Reunification Package

The Unification Specialist is responsible for coordinating and assisting with completion of the Family Reunification Package (FRP) with both the sponsor and household members as is specified in UC MAP Section 2.2.3 *The Family Reunification Application*. This includes the following steps:

1. Upon receipt of the FRP, the Unification Specialist uploads the *Family Reunification Application (FRA)* into the UC Portal if it has not automatically been uploaded through the Sponsor Application for Family Unification.
 - If the sponsor requests help from the Unification Specialist in filling out the packet, the Unification Specialist assists with completion of the FRP, unless there are safety concerns that indicate that the sponsor should file the *FRA* without assistance based on information from both the Case Manager and information they have gathered (see UC Policy Guide

[Section 2.2.3](#)) . If there are not safety concerns, the Unification Specialist can complete the *FRA* over the phone with the Sponsor or assist the sponsor with completing the *FRA* through the Sponsorship Application for Family Unification.

- If the child transfers to another care provider not participating in the Sponsor Services Initiative before the sponsor has finished the application in the Sponsorship Application for Family Unification, the Unification Specialist must notify the sponsor that the application has been paused. They then must download a copy of the PDF version of the application and upload it to the UC Portal. The new Case Manager must then send the sponsor a PDF copy of the partially filled out application so they can use it to fill out the rest of the application.
2. The Unification Specialist also monitors the Sponsorship Application for Family Unification in real-time to see if the question on whether the child has medical issues has been completed. If the *FRA* identifies that the child may have health conditions not previously disclosed by the child, their family members, or the potential sponsor, the Unification Specialist immediately notifies the Case Manager, Lead Case Manager, and Program Director, who contacts the program’s Medical Coordinator and healthcare provider to determine the need and urgency for a health evaluation/intervention, and determine appropriate medical treatment. If the Case Manager is out of the office or it is after hours, the Unification Specialist must also update the on-call Case Manager. The Unification Specialist must make contact with the program and/or ORR staff for immediate notification. An email or voice message does not satisfy this requirement. If the Unification Specialist has not successfully made contact within one hour, they must also contact the FFS.
 3. The Unification Specialist reviews the full *FRA* within **two (2) calendar days** of receiving the completed document.
 4. The Unification Specialist updates the sponsor record and conducts a search for the name(s) and addresses of household members and the adult caregiver to identify whether they have previously applied to sponsor a child. They document any previous sponsorships in the UC Portal if they are not already documented. The Unification Specialist also identifies potential flags and documents and escalates concerns using the processes specified in UC MAP Section 2.2.3. If there are existing flags or the Unification Specialist identifies an additional flag to add to UC Portal, they enter the flag and escalate it to the Federal Field Specialist as is specified in UC MAP Section 2.2.2. The Unification Specialist follows the protocols listed in UC MAP Section 5.8.2 Significant Incident Report and UC MAP 6.1 Notification of Concern to determine whether any new flags necessitate additional reporting and/or other actions.
 5. The Unification Specialist offers guidance to the sponsor on how to obtain required documentation for the Sponsor Application for Family Reunification, as is specified in UC MAP Section 2.2.4 Required Documents and Submission with the Application for Release.
 6. The Unification Specialist is responsible for collecting photo ID(s) and Authorization for Release of Information (ARI) where applicable under UC MAP Section 2.2.3 and uploading the documents into the UC Portal.

Sponsor Vetting

The Unification Specialist vets the sponsor and must remain in ongoing communication with the Case Manager about the vetting process and any flags that arise.

1. The Unification Specialist confirms the identity of potential sponsors in accordance with UC Map Section 2.2.4 Required Documents for Submission with the Application for Release, uploads documents to the UC Documents section of the UC Portal and updates the sponsor's demographic information to ensure the accurate name and date of birth are documented. The Unification Specialist completes the Proof of Identity section of the Sponsor Assessment.
2. The Unification Specialist reviews proof of identity for adult household members as specified in UC MAP Section 2.2.4 or applicable ORR Field Guidance, uploads the documents to the UC Documents section of the UC Portal, updates the household tab of the Sponsor Assessment to ensure names and dates of birth are documented, and completes the Proof of Identity for Household Members section.
3. For the adult caregiver identified in the sponsor care plan, the Unification Specialist reviews proof of identity by uploading the documents to the UC Documents section of the UC Portal, updates the Care Plan tab of the Sponsor Assessment, ensures names and dates of birth in the potential alternative adult caregiver section are accurate and completes the documents establishing the Proof of Alternative Adult Caregiver's identity section.
4. The Unification Specialist completes the proof of address process as specified in UC MAP Section 2.2.4 Required Documents and Application for Release.
5. The Unification Specialist completes the proof of sponsor-child relationship process as specified in UC MAP Section 2.2.4 Required Documents and Application for Release.
 - As part of the proof of sponsor-child relationships for Category 3 cases, the Unification Specialist and the Case Manager jointly interview the child about their relationship with the sponsor. The Unification Specialist also conducts the interviews with the child's family, child's caregiver, and sponsor's neighbors to complete this process, as is specified in UC MAP Section 2.2.4, and to inform their assessment of the sponsor.
6. For potential Category 3 sponsors who are not related to the child, do not have an existing relationship with the child or the child's family, or other may concerns are noted, as specified in UC MAP Section 2.2.4 Required Documents and Applications for Release, the responsibilities of the Unification Specialist and Case Manager are as follows:
 - The Unification Specialist and Case Manager inform the Case Coordinator and FFS as soon as possible, or at the next weekly staff meeting of the circumstances if needed.
 - The Unification Specialist must complete the Sponsor Assessment in its entirety and complete public records and sex offender registry checks before the Case Manager may facilitate contact between the potential sponsor and the child while the child is in care. The Case Manager then facilitates regular contact between the potential sponsor, the child and the child's family while the child is in care and regularly monitors contact between the potential sponsor, the child, and their family.
 - Both the Case Manager and Unification Specialist together coordinate with the FFS, case coordinator, and the child's Clinician (in cases where clinical concerns are identified with the child) to determine if it is in the child's best interest to pursue release to the potential

sponsor. This must include taking the lack of preexisting relationship and the child's and/or child's family's wishes into account when the Unification Specialist makes the Sponsor Suitability Recommendation and the Case Manager makes a recommendation for release. In addition, they together determine whether the sponsor's motivation for sponsorship is in good faith, absent of any potential trafficking concerns, and whether the sponsor demonstrates the ability to provide adequate care for the child's physical and mental well-being as is specified in UC MAP Section 2.2.4.

- Following the guidance laid out in UC MAP Section 2.2.4 Required Documents and Applications for Release, the Unification Specialist documents the relevant information received through this process in the Proof of Relationship section of the Sponsor Assessment, while the Case Manager includes any relevant information in the UC Case Review and Release Request.
7. The Unification Specialist is responsible for following procedures in the following subsections of UC MAP Section 2.2.4:
- Guidance on Category 3 Sponsors Who are Unrelated, Have No Preexisting Relationship with the UC or the UC's Family, or Otherwise Trigger Concerns
 - Guidance on Sponsors Who are the UC's Adult Spouse or Partner
 - Concerning Household Structures
 - Evidence of being a Primary Caregiver (Category 2A sponsors who are non-grandparents/non-adult siblings only)
 - Missing Documentation or Incomplete FRA
 - Reporting Fraudulent Information and/or Documents
8. The Unification Specialist undertakes all steps assigned to the Case Manager in UC MAP Section 2.5 Sponsorship Assessment, including the background check requirements in MAP Section 2.5.1. Background Check Investigations.
9. The Unification Specialist also completes enhanced sponsor vetting through the True ID and Instant ID online tool. The True ID process verifies whether a sponsor's face matches their identification documents and the Instant ID process completes identify verification, links to other reports, and assists in spotting fraud.
- The Unification Specialist sends a link to the sponsor for the True ID verification process.
 - The application walks the sponsor through uploading a picture of their ID and pictures of themselves for the application. The Unification Specialist may assist with the process if the sponsor has questions.
 - The Unification Specialist receives a notification that the True ID report is ready and downloads the report. If the report indicates the ID as "yellow" (requiring further verification) or "red" (failing to match), the Unification Specialist reviews the photo and ID in the LexisNexis Portal and determines whether they agree with the designation and whether they should flag the sponsor for not having a matching ID. They may also determine the sponsor should take a new picture or whether they believe the ID matched.
 - The Unification Specialist then uploads the True ID report into UC Portal documents page.
 - The Unification Specialist enters required biological information on the potential sponsor into the Instant ID sponsor check.
- The Unification Specialist downloads the Instant ID report and uploads the report to the documents page.

10. The Unification Specialist determines whether there are any concerns about the sponsor or child that should be escalated.
 - If the Unification Specialist determines during the assessment that a sponsor or address must be flagged, the Unification Specialist adds a flag in UC Portal as is specified in UC MAP Section 2.4.1.
 - If, during the vetting process, the Unification Specialist learns information that must be reported as a SIR in accordance with UC MAP Section 5.8 Reporting Emergencies, Significant Incidents, and Program-Level Events, the Unification Specialist checks the UC Portal to see whether the incident has already been reported and, if not, follows reporting protocols as are specified in UC MAP Section 5.8. The Unification Specialist must copy the Case Manager on any SIR reports for their awareness.
 - If a SIR exists in the UC Portal but the Unification Specialist has additional information on that incident, they create an addendum SIR.
 - If, during the vetting process, the Unification Specialist becomes concerned that information the child has shared regarding their age may be untruthful, such as using false documents or misrepresenting their age or identity, they report the concern and any evidence to the Case Manager to further investigate concerns with the child following applicable procedures in UC MAP Section 1.6.2 Instructions for Age Determination.

11. Throughout the sponsor vetting and assessment process, the Unification Specialist maintains regular communication with the Case Manager and provides the Case Manager with any updates as soon as possible and no later than the same day new information is learned.

Sponsor Assessment and Sponsor Suitability Recommendation

The Unification Specialist must complete the sponsor assessment and provide the Case Manager a Sponsor Suitability Recommendation that the Case Manager can use to inform the release recommendation.

1. The Unification Specialist follows all steps specified in UC MAP Section 2.4.1 Assessment Criteria.
 - The Unification Specialist interviews the potential sponsor based on the Sponsor Assessment Interviewing Guidance, as is specified in UC MAP Section 2.4.1 Assessment Criteria.
 - The Unification Specialist updates the Sponsor Assessment as new information and documents are received throughout the process.
 - Once all information on the sponsor is received, the Unification Specialist fills out the Sponsor Assessment, including filling out the case manager tab and completing the certification tab.
 - If the sponsor self-discloses criminal history or background checks reveal criminal history or a safety risk, the Unification Specialist elevates the circumstance, as soon as possible, to the case coordinator and FFS and includes the Case Manager on all such communications.

2. If the content of the background check or other information in the sponsor assessment indicates that the sponsor may be potentially unsuitable for release, the Unification Specialist works with the Case Manager and the Case Coordinator to identify other potential sponsors for concurrent planning as is specified in UC MAP Section 2.4.1.

- The Case Manager speaks to the child and their parents and family members to identify additional potential sponsors and shares the additional potential sponsor with the Unification Specialist.
3. Once the Unification Specialist has finalized the sponsor assessment, they review the information from the sponsor assessment to make a Sponsor Suitability Recommendation to the Case Manager. This recommendation includes whether they recommend approving the sponsor for this child, any potential outstanding risks that should be mitigated, including the basis for the recommendation, in accordance with UC MAP Section 2.7 Recommendations and Decisions on Release. The Unification Specialist must also include their recommendation for post-release services in the Sponsor Suitability Recommendation. The Unification Specialist then submits the Sponsor Suitability Recommendation of the UC Portal under Case Manager Assessment.
 - If the Unification Specialist receives additional information after they complete the Sponsor Assessment and Sponsor Suitability Recommendation, they must update the child’s case file and notify the Case Manager.

Home Study Recommendations

Both the Unification Specialist and Case Manager are responsible for identifying circumstances under which a home study is required as specified in UC Policy Guide Section 2.4.2 Home Study Requirement. If the Unification Specialist identifies the need for a home study, they must escalate that need to the Case Manager as quickly as possible and no later than one calendar day after identifying the need.

1. The Unification Specialist identifies whether:
 - The child’s sponsor clearly presents a risk of abuse, maltreatment, exploitation, or trafficking, to the child based on all available objective evidence.
 - The potential sponsor is seeking to sponsor multiple children; or
 - The potential sponsor has previously sponsored or sought to sponsor a child and is seeking to sponsor additional children.
2. The Case Manager identifies whether any of the following scenarios apply to the child:
 - The child is a victim of a severe form of trafficking in persons;
 - The child is a special needs child with a disability as defined by section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102);
 - The child has been a victim of physical or sexual abuse under circumstances that indicate that the child’s health or welfare has been significantly harmed or threatened; or
 - The child is 12 years or under and going to a non-relative sponsor.
3. As is specified in [UC Policy Guide Section 2.4.2 Home Study Requirement](#), in circumstances in which a home study is not required by the TVPRA or ORR policy, the Unification Specialist Case Manager and Case Coordinator together may recommend that a home study be conducted if they agree that the home study is likely to provide additional information required to determine the sponsor’s ability to care for the health, safety and well-being of the child.
4. Once the Unification Specialist identifies the need for a home study, they inform the Case Manager immediately. The Case Manager must then consult with the Case Coordinator. If the

Case Coordinator agrees a home study is necessary, the Case Manager must submit the Home Study recommendation for review by the FFS.

5. The Case Manager is responsible for updating the *Release Request* to include the home study case referral. If the Case Coordinator and FFS approve the home study, the Case Manager then fills out the Home Study tab.
6. The Unification Specialist informs the potential sponsor whenever a home study is to be conducted, explains the scope and purpose of the study, and answers the potential sponsor's questions about the process as specified in [UC Policy Guide Section 2.4.2](#).

Release Request

1. The Case Manager remains responsible for filling out and submitting the *Release Request* to the FFS within one calendar day of the completion of the Sponsor Suitability Recommendation as is specified in UC MAP Section 2.7 Recommendations and Decisions on Release. They use the findings from the Sponsor Assessment, the Sponsor Suitability Recommendation, any other information shared by the Unification Specialist to submit the *Release Request*.
 - As part of filling out the *Release Request*, the Case Manager is responsible for recommending post-release services when the Unification Specialist recommends it in the Sponsor Suitability Recommendation and / or Case Manager deems it appropriate. Sponsor Suitability Recommendation.
2. When the release request is submitted, the Case Manager remains responsible for emailing notices of pending release to the ICE Field Office Juvenile Coordinator (FOJC) and the legal services provider or attorney of record using the email template in the UC MAP Section 2.7.1 Approve Release Decisions, and for generating the Discharge Notification Form in the UC Portal, as is specified in UC MAP Section 2.7.1.

Post-Decision-Making Steps

1. If a Category 1, 2A, or 2B sponsor is denied, the Case Manager remains responsible for notifying the child of the denial, and schedules additional counseling as necessary in accordance with UC MAP Section 2.7.7 Notification of Denial.
2. As is specified in UC MAP Section 2.7.7 Notification of Denial, if a Category 3 Sponsor is denied, the Unification Specialist verbally informs the Category 3 sponsor of the denial and includes the Case Manager in the conversation if feasible and the Unification Specialist thinks their inclusion would be beneficial.
 - In these cases, the Case Manager remains responsible for notifying parties as are specified in UC MAP Section 2.7.4 Deny Release Request. If the Case Manager needs additional information on the reason for the denial, they can ask the Unification Specialist to provide that information.
3. The Case Manager prepares a safety plan, as needed, to address needs the child may have after being released, as specified in [UC Policy Guide Section 2.7.6 Issues Related to Recommendations and Decisions](#). The Case Manager drafts the plan with input from the Unification Specialist and in conjunction with the Case Coordinator.

4. If a release is approved with a PRS referral, the Case Manager makes the referral to a PRS provider as is specified in UC MAP Section 2.7.2 Approve Release with Post-Release Services.
5. In the event a child is aging out of care, the Case Manager remains responsible for post-18 planning as is specified in [Field Guidance 9](#). The Unification Specialist assists the Case Manager by providing a Sponsor Suitability Recommendation to help the Case Manager determine whether to attempt to discharge the youth to the potential sponsor, so long as there are no specific concerns as specified in [Field Guidance 9](#).
 - The Case Manager continues to be responsible for all tasks assigned to the case manager in UC MAP Section 2.8 *Release from ORR Custody*.

In Reference to Other Field Guidances

In cases where other active Field Guidances temporarily alter or replace guidance in the UC Policy Guide or UC MAP, Case Managers and Unification Specialists in the Sponsor Services Initiative must reference the below instructions:

- [Field Guidance 10](#): Case managers must update the *Release Request* to note which cases are eligible for exemption under the *Release Request*. In cases where DNA collection is necessary, the Case Manager remains responsible for DNA collection from the child. The Unification Specialist is responsible for all other steps currently assigned to the Case Manager in Field Guidance 10. The Unification Specialist must still complete the Sponsor Suitability Recommendation in these cases. Since the Case Manager Assessment tab is not currently available in UC Portal for expedited cases, the Unification Specialist instead uploads their recommendation to UC Portal under the documents section. They then notify the Case Manager that the Sponsor Assessment and Sponsor Suitability Recommendation are complete.
- [Field Guidance 11](#): Case managers must update the *Release Request* to note which Category 2 cases are eligible for exemption under the *Release Request*. Unification Specialists must continue to check names in the ORR database as is specified under (2) in the instructions.
- [Field Guidance 15](#): The responsibilities assigned to the Case Manager in Field Guidance 15 are delineated as follows:
 - Unification Specialists must continue to follow ORR Policy Section 2.2.4 Required Documentation for Submission with the Application for Release for a non-sibling, closely related child.
 - In the event non-sibling, closely related children are in separate facilities, the Unification Specialists and Case Managers must together make every effort to coordinate sponsor assessments. This is the case whether or not both facilities participate in the Sponsor Services Initiative.
 - In cases where fingerprints would be waived for one child but not the other, the Case Manager and Unification Specialist must together work with the Case Coordinator to make a recommendation to the FFS whether to separate the cases for the purposes of processing.
 - Case Managers remain responsible for documenting the waiver of fingerprint requirements in all children in the family units' *Release Request* documents.



Hogan Lovells US LLP
Columbia Square
555 Thirteenth Street, NW
Washington, DC 20004
T [REDACTED]
F [REDACTED]
www.hoganlovells.com

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June 19, 2024

VIA ELECTRONIC TRANSMISSION

The Honorable Bill Cassidy, M.D.
Ranking Member
Senate Committee on Health, Education, Labor and Pensions
428 Senate Dirksen Office Building
Washington, DC 20510

RE: May 16, 2024 Letter from the United States Senate Committee on Health, Education, Labor, and Pensions

Dear Senator Cassidy:

This letter comprises The Providencia Group’s (“TPG”) response to your letter dated May 16, 2024. TPG reiterates its commitment to cooperating with your inquiry, and this letter responds to your requests.

TPG’s Mission in Support of Unaccompanied Children

TPG shares your passion and concern for the wellbeing of vulnerable unaccompanied migrant children and appreciates the opportunity to address your questions and concerns contained in your letter dated May 16, 2024.

TPG’s mission is to deliver human service solutions that improve the lives of vulnerable populations impacted by global environmental, social, and economic factors. TPG accomplishes this by combining child welfare and other human services experts with a team of technologists and program managers to address large-scale humanitarian and human services challenges. Together, this team works to address needs, identify gaps, and realize efficiencies on priority humanitarian initiatives aimed at optimizing outcomes for the populations being served.

Since 2021, TPG has partnered with ORR on some of its most mission-critical programs serving the unaccompanied child population. In doing so, TPG has a deep understanding of and empathy for the traumas, stresses, and challenges unaccompanied children face. Without fail, every action taken and recommendation provided by TPG in service of ORR’s mission is centered on the principles of child welfare, child safety, and trauma-informed care, targeted toward this specific population.

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We and TPG appreciate the opportunity to clarify how TPG supports ORR in realizing the full potential of the Unaccompanied Children (UC) Program.

TPG Is Part of the Solution to Enhance UC Safety

The two TPG contracts in support of ORR cited in the May 16, 2024 letter are explicitly aimed at enhancing the capacity and performance of case management and sponsor vetting services to ensure UC safety and wellbeing.

Under the August 2021 contract, TPG augmented shelter case management teams with highly qualified and ORR-experienced case managers, in addition to providing training and technical assistance services to contractor case management teams and federal volunteers from numerous government agencies assigned to support the unprecedented influx of unaccompanied minors. These services were explicitly aimed at augmenting existing case management teams to ensure thorough vetting of sponsors and comprehensive case management services during the UC surge that began in 2021.

In total for Fiscal Year (FY) 2021, TPG provided case management services for approximately 7.8% of UC cases. The balance of over 92% of UC cases and associated sponsor vetting was conducted by shelter operators and/or other stakeholder groups. This is similarly true for FY22 and FY23 where TPG supported approximately 13.3% and 9.4% of UC cases, respectively.

ORR's Sponsor Services contract, awarded to TPG in September 2022, is intended to serve as a long-term solution for enhanced UC safety via centralized sponsor vetting. Per the Sponsor Services statement of objectives:

While it is ORR's intent to develop a new system that increases program efficiency and moves cases expeditiously through the reunification process; ORR anticipates the benefits of centralization will acutely increase the program's confidence in its decision-making, ensuring all releases are safe and in the best interest of children, and in alignment of the mandates of the TVPRA and other relevant legislation. A streamlined, efficient process and consistent application of ORR approved policies and procedures are anticipated goals of this initiative.

Services began on the Sponsor Services contract in late 2023 as a small-scale pilot to allow for the refinement, validation, and optimization of centralized sponsor vetting procedures in coordination with shelter case management teams and other stakeholders involved in the sponsor vetting and approval process. Based on the pilot program results, ORR has recently begun expanding program operations.

Under both contracts referenced above, TPG is not aware of any instances in which a sponsor vetted by TPG and approved for release by ORR was ultimately shown to be unsuitable following release.

TPG's Role in the Sponsor Vetting and Approval Process

As further detailed below in the response to specific questions, TPG performs a set of ORR-defined sponsor vetting steps within the broader overall sponsor approval process. The below excerpt is from the Sponsor Services statement of objectives:

ORR's systematic reunification process includes a variety of checks and balances, and purposefully redundant review procedures (i.e., case coordinator reviews) to

The Honorable Bill Cassidy, M.D.

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ensure each case is reviewed and assessed by individuals who have the child's best interest in mind, prior to their release from care.

TPG Unification Specialists perform sponsor vetting functions, but do not approve sponsors or make UC release decisions.

TPG Was Not Involved in Cited Instances of Deficient Sponsor Vetting

The letter states that TPG is, in part, responsible for “significant gaps in the sponsor vetting process.” We respectfully point out that this statement is not correct.

Specifically, the letter cites a report from the HHS Office of the Inspector General (OIG) wherein 342 case files for children released to sponsors between March and April 2021 were reviewed and deficiencies were identified in the sponsor screening process. Of these cases, nearly two-thirds were cases where children were being sheltered in ORR permanent licensed shelters. TPG did not begin augmenting case management services at permanent licensed shelters until January 2022—and thus was not involved in screening the sponsors in the cited case files.

The OIG report further cites one Emergency Intake Shelter (EIS), which is the Fort Bliss EIS. TPG has never provided case management or sponsor vetting services for children housed at the Fort Bliss EIS—and thus again TPG was not responsible for the deficiencies identified in the OIG report.

Inaccuracies regarding TPG and TPG Personnel

We respectfully point out that the May 16, 2024 letter contains a number of inaccuracies pertaining to TPG and TPG personnel. For example, the letter states that Ms. Campos is serving as the Vice President of MVM, Inc., but that is not correct. (In the response to Request 3, we discuss Ms. Campos’ directly relevant and highly impressive experience.) Rather than focusing on correcting statements in the letter, TPG has asked us to discuss the important topics that are specifically related to UC safety and well-being.

TPG’s Experience and Ability to Care for Unaccompanied Children Prior to ORR’s Contract Award in August 2021

Below, TPG responds to each request posed on a question-by-question basis.

Request 1. Prior to contract award, what organizational experience did TPG have in providing sponsor vetting services?

TPG’s contract award in August 2021 was a direct result of TPG’s prior successful delivery of case management and sponsor vetting services for unaccompanied minors at ORR’s Dallas and Pecos EIS, as well as prior successful case management training and technical assistance services.

Request 2. Prior to contract award, what experience and/or qualifications did TPG representatives, employees, officers, or subcontractors have in providing sponsor vetting services?

Prior to contract award, TPG’s team was comprised of individuals with extensive child welfare/safety and case management and sponsor vetting experience, as detailed in the table below.

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Experience & Qualifications of TPG Personnel	
<p>ORR Case Management & Sponsor Vetting Experience</p>	<ul style="list-style-type: none"> • The former head of contracted training and technical assistance services for ORR, responsible for training case managers on sponsor vetting procedures • Former program directors working on ORR unaccompanied minor programs at ORR permanent licensed shelter, secure, and staff secure levels of care • Former case managers; lead case managers; senior lead case managers; and case management managers with extensive ORR case management and sponsor vetting experience • Former ORR case coordinators and auditors for ORR programs
<p>Additional Child Welfare, Child Safety, Refugee Programs & Experience</p>	<ul style="list-style-type: none"> • Licensed family therapists and clinical counselors with experience working with migrant children and expertise in trauma-informed care approaches, child welfare best practices, and positive behavioral intervention • Former Child Protective Services (CPS) investigators and domestic violence officers • Former Family Reunification Team leaders and case workers with experience interviewing and processing refugees and managing cases from the U.N. High Commissioner for Refugees (UNHCR)—from security and health checks to DHS adjudication • Former liaisons to Resettlement Support Centers • Former trainers of stakeholders on the U.S. Department of State (DoS) Worldwide Refugee Admissions Processing System (WRAPS) including DoS Bureau of Population, Refugees, and Migration (PRM) leaders and case processors • Former DoS representatives to external stakeholders such as DHS U.S. Citizenship & Immigration Services (USCIS), UNHCR, and the International Organization for Migration (IOM)

Request 3. Prior to contract award, what experience did you have in providing sponsor vetting services and/or child welfare services?

Ms. Campos began her career at the U.S. Mission to the United Nations (USUN). Following her work at the United Nations, Ms. Campos founded a company specializing in technical, analytical, and linguistic support to federal agencies engaged in targeting and dismantling transnational criminal organizations engaged in illicit transborder activities, including human trafficking, human smuggling, narcotics smuggling and trafficking, document fraud, other public safety-related crimes, and social challenges related to the safety and welfare of children.

For more than two decades, Ms. Campos and her teams directly assisted government law enforcement and human services agencies engaged in the investigation of transnational criminal organizations, with focus areas related to:

- Identification of indicators of human trafficking, including patterns and trends
- Identification of human trafficking networks and individuals engaged in human trafficking that ultimately led to federal arrests and convictions
- Proactive identification of potential victims of human trafficking
- Training initiatives directly related to human trafficking and fraud
- Targeting of transnational drug trafficking organizations involved with drug distribution, money laundering, human smuggling and trafficking, and fraudulent identities, that ultimately led to arrests
- Identification of drug-endangered children, including abuse and harmful living conditions

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- Drug abuse and overdose detection and prevention training, including a community outreach program focused on educating the public on opioid overdose awareness, training to law enforcement, public entities, and at-risk children

Although Ms. Campos serves in an executive capacity at TPG and does not directly manage programs or conduct sponsor vetting, her experience and expertise in understanding the tactics, techniques, and procedures (TTP) of individuals and criminal organizations engaged in human trafficking and child endangerment informs TPG's unaccompanied minor safety and fraud prevention programs. Further, Ms. Campos brings highly relevant and extensive experience in large-scale program management of human-centered, mission-critical programs for federal government agencies and a passion for ensuring the safety and wellbeing of UC.

Finally, preceding contract award, Ms. Campos served in an executive leadership role at TPG overseeing TPG's successful case management and sponsor vetting work at the ORR Dallas and Pecos EIS.

TPG's Sponsor Vetting Services Following the Contract Award in August 2021

Below, TPG responds to each question posed on a question-by-question basis, as requested.

Request 4. TPG refers to case managers as "unification specialists" or "case specialists". Please produce the following information:

Request 4a. Current number of TPG-employed unification specialists and their geographic locations. For each unification specialist, please also identify which ORR facility(s) they work with.

The current number of Unification Specialists is 589. Unification Specialists provide services nationwide and primarily work remotely.

TPG has requested clarification from the government on confidentiality obligations surrounding the release of data requests such as the ORR facilities with which TPG Unification Specialists work, and is currently awaiting a reply. At this time, we respectfully refer you to ORR for this information.

Request 4b. Current number of TPG-employed case specialists and their geographic locations. For each case specialist, please also identify which ORR facility(s) they work with.

The current number of Case Specialists is 62. Case Specialists perform administrative tasks and primarily work remotely. Case Specialists are not assigned to specific ORR facilities.

Request 4c. Current number of vacancies of TPG unification specialists and case specialists.

For the work currently being performed under the Sponsor Services contract, TPG does not have Unification Specialist or Case Specialist vacancies. However, the Sponsor Services program is expanding to additional ORR care provider facilities and TPG is actively hiring in accordance with program expansion.

Request 4d. Ratio of unification specialists to unaccompanied minors.

The Unification Specialist labor category is specific to the ORR Sponsor Services contract (#140D0422C0037), which specifies a maximum Unification Specialists to UC ratio of 1:20.

Request 4e. Ratio of case specialists to unaccompanied minors.

The Sponsor Services statement of objectives does not specify a Case Specialist to UC ratio.

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Request 5. What level of education, previous history of locating and vetting sponsors for children, and/or social work certification or experience must “unification specialists” or “case specialists” have to work for TPG on its contracts with ORR?

Per ORR, minimum qualifications for Unification Specialists include:

- Bilingual (English/Spanish)
- Bachelor’s degree in social work, psychology, sociology, or other relevant behavioral science
- Clean criminal background check
- Child Abuse/Neglect (CA/N) Report or child protective services check with no adverse findings
- U.S. citizenship or permanent residency
- Experience with:
 - Learning new systems and software
 - Microsoft Office Suite
 - Video conferencing technology
 - Instant messaging/voice apps

TPG prioritizes hiring individuals who exceed these minimum qualifications in terms of both education and experience working with unaccompanied minors.

Request 6. What training does TPG provide to “unification specialists” or “case specialists” before they perform work under TPG’s contracts with ORR? Please provide all documentation related to this training with your response.

TPG meets and exceeds all contract training requirements and trains unification staff in accordance with applicable ORR policies and procedures, to include ORR Unaccompanied Children Program Policy Guide Section 4.3.6: Staff Training. Training modules delivered include:

- Cultural Competence
- Child Development
- Child Welfare Best Practices
- Understanding Behavior Management
- Behavioral Health Considerations
- Trauma Informed Care
- ORR History and Legal Foundations
- UC Placement and Services
- ORR Policy, Procedures, and Operational Guidance
- Prevention of Sexual Abuse and IFR
- Human Trafficking/TVPR
- Home Studies

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- Post Release Services
- Introduction to UC Portal
- Reporting Child-Level and Program-Level Events
- Field Guidance #24
- Navigating Case Management Tasks
- Intakes Assessment
- Risk Assessment
- UC Assessment
- Sponsor Vetting
- ORR Background Check Requirements
- Sponsor Assessment
- Cat III/Cat III Unrelated
- Safety Planning

TPG has requested clarification from the government on confidentiality obligations pertaining to data requests such as training documentation, and is currently awaiting a reply. At this time, we respectfully refer you to ORR for this information.

Request 7. How do TPG “unification specialists” or “case specialists” identify, process, and vet potential sponsors? Please explain.

TPG follows all ORR policies and procedures outlined in ORR Unaccompanied Children Program Policy Guide: Section 2, the ORR UC Manual of Procedures (UC MAP): Section 2, and ORR Field Guidance #24 to identify, process, and vet potential sponsors. Please refer to **Appendices 1-5** for the detailed policies and procedures.

Request 8. How do “unification specialists” or “case specialists” communicate reunification updates to the unaccompanied minor?

The primary focus of the ORR Sponsor Services contract is sponsor vetting. In this capacity, TPG staff do not communicate directly with unaccompanied minors. ORR care provider case management teams are responsible for communicating reunification updates to UC.

In the event a TPG Unification Specialist is providing full case management support, the Unification Specialist conducts weekly virtual meetings with the unaccompanied minor, in addition to ad hoc communications in accordance with the specific circumstances of each case.

Request 9. What criteria do “unification specialists” or “case specialists” use to screen potential sponsors? Please produce the relevant TPG and ORR policies and procedures.

Please see **Appendices 3** and **4** for detailed information on criteria utilized by TPG to screen potential sponsors.

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Request 10. How does TPG conduct oversight of “unification specialists” or “case specialists” to ensure that they are following TPG and ORR sponsor vetting criteria?

TPG utilizes multiple methods to conduct oversight of unification staff to ensure they are following ORR sponsor vetting criteria, including:

1. **Daily oversight of Unification Specialists** by Lead Unification Specialists, who meet all education and experience requirements of a Unification Specialist plus require 2-3 years of supervisory experience. Leads serve as their immediate supervisor; review/audit cases to ensure they are in alignment with ORR policies and procedures for a safe and efficient reunification; and frequently and consistently interact with each assigned Unification Specialist throughout their shift to provide ORR policy guidance, identify cases that should be escalated to an ORR Federal Field Specialist (FFS), and provide other forms of assistance, as needed.
2. **Independent safety and compliance oversight** conducted by the TPG Sponsor Services Case Review team, which utilizes a risk-based assessment in daily checks for compliance against the requirements for each case category as well as ensuring clarity and completeness of information. These safety and compliance reviews are conducted prior to completion of the sponsor vetting process.

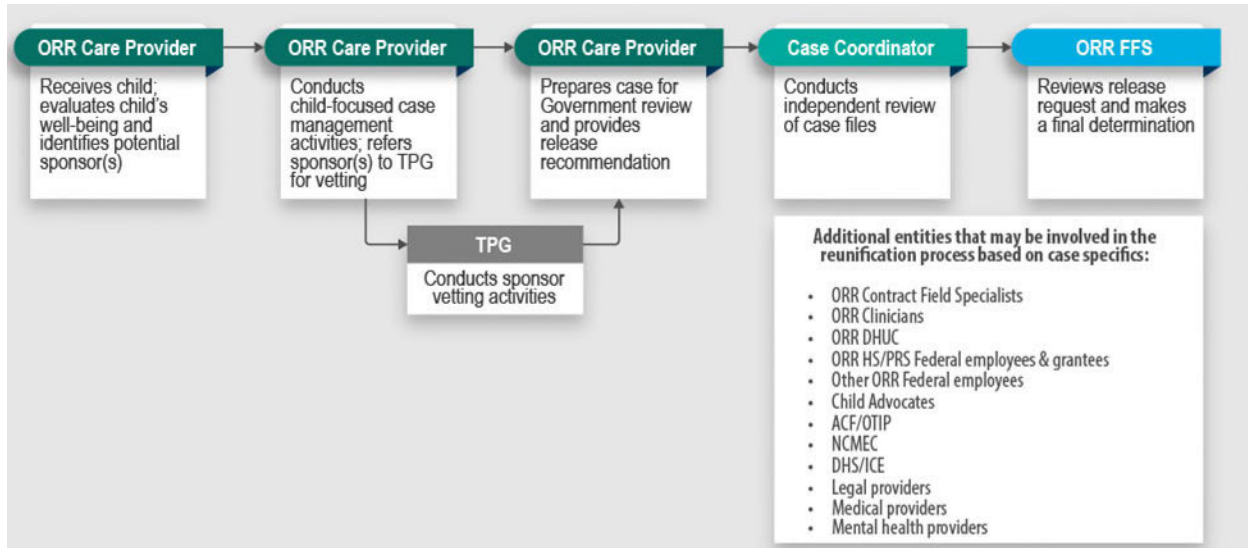
Request 11. Do TPG “unification specialists” or “case specialists” coordinate with ORR field supervisors when identifying and vetting sponsors? If not, why not? If yes, please produce the names and titles of all federal, state, and government officials.

ORR’s sponsor assessment and release decision process requires coordination among many government and non-governmental entities, as detailed in the ORR Sponsor Services statement of objectives: *ORR’s systematic reunification process includes a variety of checks and balances, and purposefully redundant review procedures (i.e. case coordinator reviews) to ensure each case is reviewed and assessed by individuals who have the child’s best interest in mind, prior to their release from care.* These entities include care provider case management staff; nongovernmental third-party reviewers (Case Coordinators); ORR staff (e.g., ORR FFS); independent, third-party Child Advocates; and other federal agencies and stakeholders, where applicable.

The primary purpose of the Sponsor Services contract is comprehensive, centralized sponsor vetting. In this capacity TPG staff are focused on sponsor vetting activities in accordance with ORR policies and procedures guidance, resulting in a sponsor recommendation of suitable or unsuitable based on ORR’s defined guidelines. UC care provider case management staff then consider TPG’s sponsor suitability recommendation when they provide a release recommendation to the Case Coordinator and ORR FSS.

Throughout this process multiple rounds of review with Unification Specialists, Case Managers, Case Coordinators, and ORR FFS are conducted, with final release decisions made by an ORR FFS.

The graphic below provides a visual representation of the overall reunification process at a high level, and following the graphic is additional information regarding entities involved in the reunification process.



- **Case Managers** are ORR care provider staff that coordinate assessments of unaccompanied children, individual service plans, and efforts to release unaccompanied children from ORR custody. Case Managers also ensure all services for children and youth are documented and maintain case files for unaccompanied children. TPG Unification Specialists coordinate closely with care provider Case Managers in the course of sponsor vetting activities.
- **Case Coordinators** are non-governmental contractor field staff assigned to one or more care providers primarily to review unaccompanied minor cases and provide transfer and release recommendations to ORR staff. The Case Coordinator is responsible for integrating all areas of assessment from the Unification Specialist, Case Manager, Child Advocates, where applicable, and other stakeholders into a release plan that will provide for the unaccompanied child’s physical and mental well-being. Case Coordinators also:
 - Provide timely review and assessment of potential sponsors and unaccompanied children to make recommendations for release to ORR;
 - Assist ORR in ensuring that children are placed in the least restrictive setting while receiving all appropriate services;
 - Meet with individual unaccompanied children and care provider staff at designated ORR-funded care provider sites;
 - Provide targeted child welfare-based assistance to care provider staff, as directed by ORR staff;
 - Make recommendations for home study and post-release services for at-risk children;
 - Make placement recommendations for children who require more specialized levels of care, such as long-term foster care and residential treatment centers;
 - Participate in collaborative meetings with local stakeholders; and

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- Participate in staffing of cases with care providers and designated ORR staff.
- **ORR Federal Field Specialists** serve as the official ORR representative in the field tasked with oversight of unaccompanied minor cases; provide critical policy and procedural guidance to stakeholders involved in the care, custody, and release of unaccompanied minors; serve as final decision maker on family unification cases; and elevate complex cases for further ORR input as needed. In addition, ORR/FFS have authority to oversee care providers to ensure all services are properly provided and implemented and serve as a local liaison to community stakeholders, including other federal agencies, local legal service providers, communities, Child Advocates, etc. ORR FFS also provide guidance, direction, and technical assistance to care providers.
- **Child Advocates** are third parties that may be appointed by ORR to make independent recommendations regarding the best interests of a child. Their recommendations are based on information that is obtained from the child and other sources (e.g., the child’s parents, potential sponsors, government agencies, and other stakeholders). Child Advocates formally submit their recommendations to ORR and/or the immigration court in the form of Best Interest Determinations (BIDs), and ORR considers BIDs when making decisions regarding the care, placement, and release of unaccompanied children.

TPG has requested clarification from the government on confidentiality obligations pertaining to data requests such as the names and titles of federal, state, and government officials, and is currently awaiting a reply. At this time, we respectfully refer you to ORR for this information.

Request 12. As of today, how many unaccompanied minors are TPG “unification specialists” and “case specialists” working with to identify and vet a potential sponsor?

TPG has approximately 1,600 active cases of the approximately 7,500 children in ORR care.

Request 12a. For 2023?

In FY2023, TPG unification staff supported 11,193 cases of the 118,938 unaccompanied minors referred by DHS to ORR care.

Request 12b. For 2022?

In FY2022, TPG unification staff supported 17,144 cases of the 128,904 unaccompanied minors referred by DHS to ORR care.

Request 12c. For 2021?

In FY2021, TPG unification staff supported 9,554 cases of the 122,731 unaccompanied minors referred by DHS to ORR care.

Request 13. On average, how long do TPG “unification specialists” or “case specialists” work with each unaccompanied minor before placement with a suitable sponsor?

As noted previously, the primary focus of the ORR Sponsor Services contract is sponsor vetting, with responsibility for working directly with unaccompanied minors being retained by shelter operators. In the event a TPG Unification Specialist is providing full case management support, TPG follows ORR guidance for timeframes, which states that unless there are unexpected delays

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(e.g., a case that requires completion of a home study, etc.), ORR expects the case management process to be completed within the following timeframes:

- Category 1 & 2A cases: 10 calendar days
- Category 2B cases: 14 calendar days
- Category 3 cases: 21 calendar days

Request 14. What is a “significant incident”?

Per ORR Unaccompanied Children Program Policy Guide Section 5.8.2, significant incidents are
1) situations that may immediately affect the safety and well-being of an unaccompanied child or
2) observations that may affect how a care provider can best meet a child’s needs while in care.

Significant incidents include, but are not limited to:

- Abuse or neglect of an unaccompanied child by an adult while in (ORR) care
- Sexual harassment or inappropriate sexual behavior
- Staff code of conduct and boundary violations
- External threats to children, such as:
 - Outside actors perpetrating actual or potential fraud schemes on children or their sponsors
 - Human trafficking concerns or risks
 - Threats to a child while in ORR care related to crime or organized crime
- Incidents involving law enforcement on-site at the care provider
- Outside actors perpetrating potential fraud schemes on children or their sponsors
- Incidents of intentional document or information fraud, such as:
 - An unaccompanied child, or an adult acting as an unaccompanied child, who misrepresents their identity or age
 - An adult who misrepresents their biological or familial relationship to an unaccompanied child
 - A sponsor or potential sponsor who misrepresents their identity or identity documentation
 - A sponsor or potential sponsor who misrepresents the whereabouts or welfare of other children, including former unaccompanied children in the household
 - A sponsor or potential sponsor who misrepresents information submitted in connection with a sponsor application, sponsor assessment, and/or supporting documentation
 - A sponsor or potential sponsor who incorrectly reports an address, current work status, or intended care plans of a child
- Healthcare errors
- Requests for termination of pregnancy

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- Runaway attempts
- Mental health concerns
- Use of behavioral safety measures, such as restraints

Request 15. How do TPG “unification specialists” or “case specialists” report “significant incidents” to ORR?

Please see **Appendix 6** for detailed information regarding ORR reporting procedures followed by TPG staff for reporting significant incidents to ORR.

Request 16. As of today, how many “significant incidents” have occurred? When answering this question, please also describe the nature of these incidences.

- a. For 2023?***
- b. For 2022?***
- c. For 2021?***

All information pertaining to significant incidents is maintained in ORR’s UC Portal. TPG does not separately track this information. We respectfully refer you to ORR for information contained within government systems.

Request 17. How do TPG “unification specialists” or “case specialists” interface with ORR’s case management system?

ORR’s case management system, the UC Portal, is the official system of record for the ORR UC Program. TPG staff timely update each case file with required case notes, activities, and documentation in accordance with ORR policies and procedures.

Request 18. How do “unification specialists” work with social service agencies? Please provide the name and address of these social service agencies.

In the sponsor vetting process TPG has limited interaction with social service agencies. TPG Unification Specialists may refer a sponsor to community resources on a case-by-case basis, and typically do not work directly with these resources beyond facilitating the referral.

Request 19. Once placed with a sponsor, how do TPG “unification specialists” or “case specialists” confirm that unaccompanied children are receiving all required post-release services?

Ensuring UC are receiving any required post-release services once placed with a sponsor is beyond the scope of TPG’s contracts with ORR. This responsibility lies with the awarded vendors of ORR grants related to post-release services.

The only communication Unification Specialists may have with sponsors and unaccompanied minors post-reunification is via the 30-day Safety & Wellbeing (SWB) follow-up call, which is only conducted by TPG staff in the event they are providing full case management support. As noted previously, the primary focus of the ORR Sponsor Services contract is sponsor vetting; as such, responsibility for conducting SWB calls is typically retained by shelter case management staff.

In the limited instances when TPG provides case management support, SWB calls are conducted wherein TPG unification staff ask questions to ensure the well-being of the unaccompanied minor, to include inquiring about post-release services.

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Additional information regarding ORR policies regarding SWB calls is included in **Appendix 1** (see Section 2.8.4) and post-release services in **Appendices 7-8**.

Documents

TPG responds to each documentation request below and in the Appendices as noted.

Request 20. Copies of TPG’s August 2021 contract to provide ORR with sponsor assessment and verification services.

TPG has compiled and is submitting to HHS all contract documentation believed to be responsive to your request, with a request that any feedback or guidance regarding any confidentiality/privacy concerns be provided to TPG by June 28, 2024. TPG anticipates providing the requested contract documentation in a follow-up production shortly thereafter.

Request 21. Copies of TPG’s September 2022 contract to provide ORR with sponsor services.

TPG has compiled and is submitting to DOI (the procuring agency on behalf of ORR) all contract documentation believed to be responsive to your request, with a request that any feedback or guidance regarding any confidentiality/privacy concerns be provided to TPG by June 28, 2024. TPG anticipates providing the requested contract documentation in a follow-up production shortly thereafter.

Request 22. Copies of TPG and ORR’s policies and procedures for case files and case management.

Please see **Appendices 9-10** for ORR policies and procedures TPG follows for case files and case management.

Request 23. Copies of TPG and ORR’s policies for unaccompanied child family and sponsor assessments.

Please see **Appendix 4** for detailed information on ORR policies followed by TPG for sponsor assessments.

Request 24. Copies of TPG and ORR’s policies for identifying, processing, and vetting potential sponsors.

Please see **Appendices 1-5** for detailed information on ORR policies followed by TPG for identifying, processing, and vetting potential sponsors.

Request 25. Copies of TPG and ORR’s policies for reporting “significant incident.”

Please see **Appendix 6** for detailed information on ORR policies followed by TPG for reporting significant incidents.

Request 26. Copies of all communications between ORR Headquarters, ORR Field Officers, and TPG unification specialists when a “significant incident” was identified.

All documentation pertaining to significant incidents is maintained in ORR’s system of record and must be obtained directly from ORR.

27. Copies of TPG and ORR’s policies for maintaining its case management portal.

TPG follows ORR-defined procedures for maintaining the UC Portal, as detailed throughout the ORR UC Manual of Procedures (UC MAP).

The Honorable Bill Cassidy, M.D.

HIGHLY CONFIDENTIAL

Request 28. Copies of TPG and ORR's training requirements for employees, including "unification specialists" and "case specialists," to work under TPG's contracts with ORR.

Please see TPG's response to Question #4 for training requirements for unification staff.

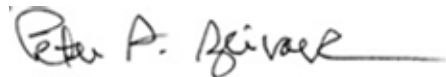
* * * * *

Please note that submission of this information does not waive, nor is it intended to waive, any rights, privileges, or immunities of TPG with respect to this matter, including any applicable attorney-client, work product, or other privilege or immunity. TPG expressly reserves any applicable privileges and immunities to which it is entitled under applicable law.

The responses in this letter include confidential business information and sensitive details regarding TPG internal business practices, and should therefore be kept confidential. The documents TPG is producing with this letter have been bates-labeled for ease of review and reference. Because of the sensitive nature of this information, in the event that you or another member of the Committee intends, during its inquiry into this matter, to disclose any TPG information contained in this letter in any public forum or to a third party who does not expressly agree to maintain the confidentiality of the information, TPG requests that it be given one week advance notice in order to permit it to address the issue.

We and TPG appreciate the opportunity to address your questions and concerns contained in your letter dated May 16, 2024. If you have any questions regarding the contents of this letter, please do not hesitate to contact me at [REDACTED].

Sincerely,



Peter Spivack
Partner

[REDACTED]

cc: The Honorable Bernie Sanders
Chairman, Senate Committee on Health, Education, Labor and Pensions



ADMINISTRATION FOR
CHILDREN & FAMILIES

Office of Refugee Resettlement | 330 C Street, S.W., Washington, DC 20201
www.acf.hhs.gov/programs/orr

FIELD GUIDANCE – March 22, 2021

RE: ORR Field Guidance #10, Expedited Release for Eligible Category 1 Cases

GUIDANCE

The Office of Refugee Resettlement (ORR) prioritizes the placement of unaccompanied children (UC) with parents and legal guardians available to provide custody in the United States. To that end, ORR is instituting a revised policy of Expedited Release for Eligible Category 1 Cases. Under this revised policy, certain children will be released to their parents or legal guardians using specialized procedures that modify standard release requirements under ORR Policy Guide, section 2 and accompanying instruments. Due to the novel nature of this policy, and in recognition of operational flexibilities that may require additional follow up, these instructions may be further modified by ORR.

Expedited Release

As a preliminary step, a child may only be released to their parental or legal guardian sponsor under processes for Expedited Release for Eligible Category 1 Cases if the following three conditions for Expedited Release for Eligible Category 1 Cases are met:

- If the child is screened and determined to not be especially vulnerable;
- If the child is not be otherwise subject to a mandatory TVPRA home study; and
- If there are no other red flags present in the case, including red flags relating to abuse or neglect.

In the event any of these conditions apply, the case will follow standard sponsor assessment and release procedures, including completion of the Initial Medical Exam (IME).

Once the basic conditions listed above are met, care providers can release a Category 1 case provided the following steps are taken (further details on these processes are provided in the “INSTRUCTIONS” section below):

- (1) Completion of a Modified *UC Assessment* for Expedited Release Cases
- (2) Completion of Interviews with the Child and the Parent
- (3) Completion of a Modified *Family Reunification Application*
- (4) Establishment of Proof of Relationship and Identity

(5) Completion of Sponsor Background Check (no household member checks) with a valid *Authorization for Release of Information*.

(6) Completion of a Modified *Sponsor Assessment*

After completion of these requirements the Case Manager makes a release recommendation that is transmitted directly to the ORR Federal Field Specialist. No third-party Case Coordinator review of the case is required for Expedited Release for Eligible Category 1 Cases.

Transfer of Custody

After completion of the requirements above, and so long as no concerns relating to abuse or neglect exist, the child may be released directly to the sponsor's care.

In cases where Expedited Release for Eligible Category 1 Cases is appropriate, ORR authorizes care providers to pay for the sponsor's travel to the ORR care provider facility to pick up their child and complete paperwork at the facility (if allowed). ORR also authorizes care providers to pay other transport fees for return travel or allow for the child's transport to the sponsor's location following traditional transfer of physical custody policies under ORR Policy Guide 2.8.2, including ORR paying for such travel (including for escorts). Travel arrangements should be made as soon as it appears that the child's release is viable.

INSTRUCTIONS

The following section provides the care providers with instructions regarding the steps listed above that must be followed any time the Expedited Release for Eligible Category 1 Cases process is used.

In all Expedited Release for Eligible Category 1 Cases, the care provider is responsible for the following:

(1) Completion of a Modified *UC Assessment* for Expedited Release Cases

(a) Care provider staff completes a modified *UC Assessment* for Category 1 cases. If the case is later determined to require completion of a standard release, the care provider will make efforts to update the standard *UC Assessment* for the child.

(b) The Case Manager will upload the modified *UC Assessment* into the ORR database.

(2) Completion of Interviews with the Child and the Parent

The Case Manager interviews the child and parent separately to determine if there are any concerns related to trafficking or abuse. See ORR Policy Guide 2.2.1 and UC MAP 2.2.1.

(3) Completion of a Modified *Family Reunification Application*

(a) ORR plans to create a modified *Family Reunification Application* in the near future. Until a new form is created Case Managers working on the sponsors behalf will fill out the

standard *Family Reunification Application* (FRP-3 or FRP-3S), questions 1-11, and 15. The responses to the application questions are made during the sponsor interview.

- (b) The Case Manager will read the contents of the *Sponsor Care Agreement* to the sponsor and ensure the sponsor agrees to those conditions of release.
 - (c) The Case Manager will read the attestation regarding perjury to the sponsor on page 7 of the *Family Reunification Application*. Additionally, the Case Manager will attest in the Release Request that they had the interview with the sponsor and obtained the sponsor's attestation.
 - (d) The Case Manager will upload the application into the ORR database.
 - (e) The Case Manager will then mail the *Family Reunification Packet* documents to the sponsor after the child's release, including the partially completed *Family Reunification Application* completed on the sponsor's behalf. Any discrepancies can be reconciled after the release. See ORR Policy Guide 2.2.3
 - (f) Importantly, Know Your Rights (KYRs) are not a requirement for release, but if a child has not received a KYR, release information may be shared with a Legal Service Provider (LSP) to facilitate legal services after the child's release.
- (4) Establishment of Proof of Relationship and Identity
- (a) The care provider will establish proof of the child's identity.
 - (b) The care provider will establish proof of the sponsor's identity and relationship to the child. This will be accomplished using supporting documentation such as birth certificates for the child and the sponsor, or other documents used to verify the sponsor's identity and prove the parent-child relationship (or legal adoption). Copies or photos of documents are allowed, including those taken on phones and texted or emailed to the care provider.
 - (c) **ALTERNATE PROCESS:** *DNA Collection and Results*

Alternatively, and where available, sponsors and children can prove biological parentage through DNA. Use of DNA is only used for purposes of establishing biological relationships for purposes of sponsorship and is not submitted to law enforcement personnel or run against law enforcement databases.

Submission of DNA by the parent is voluntary. Competent unaccompanied children aged 14 or over must voluntarily consent to DNA submissions. ORR will presume consent for children under the age of 14 for purposes of DNA submissions to establish relationship. In any event, ORR will provide advanced notice to a child's attorney of record that a DNA test will be conducted.

ORR will ensure that DNA results are destroyed within 15 business days following confirmation of the results by ORR or ORR contractors or grantees. Following confirmation of results, ORR will share results with the potential sponsor and may share results with the child after making a determination that sharing the results is in the child's best interest.

References to results of DNA tests are maintained in the ORR database but are considered confidential information and may only be disclosed as required by law.

DNA may be collected at a care provider site using rapid test results or through the use of an external laboratory.

(5) Completion of Sponsor Background Check using *Authorization for Release of Information*.

(a) The Case Manager will conduct a sponsor background check according to the following requirements:

(i) A parental sponsor undergoes a public records check following standard procedures. Please mail or have the sponsor fill out and submit any authorization forms (*Authorization for Release of Information*) required by the public records check vendor. The care provider may accept a photograph of a signed form for purposes of the public records check. Additionally, for purposes of Expedited Release for Eligible Category 1 Cases, no other background checks are required for other household members (alternate care givers need not be identified).

(ii) If the results of the sponsor's public records check come back with derogatory information that may lead to a denial of release under ORR Policy Guide 2.7.4, the case is no longer eligible for Expedited Release for Eligible Category 1 Cases and instead follows standard procedures. Please note only case review results that may lead to denial under section 2.7.4 are cases that are no longer eligible for release (e.g. DUIs are not an example of criminal history that would lead to a denial of sponsorship to a parent).

(6) Completion of a Modified *Sponsor Assessment*

The Case Manager completes a modified *Sponsor Assessment* and uploads the results to the ORR Database.

Recommendation and Decision Making

In all cases involving Expedited Release for Eligible Category 1 Cases, the Case Manager makes a release recommendation using only the information described in the preceding sections following procedures for straight release, without sending the case for a third party review by a Case Coordinator. The recommendation is then sent directly to the ORR Federal Field Specialist who makes a final release decision.



ADMINISTRATION FOR
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Office of Refugee Resettlement | 330 C Street, S.W., Washington, DC 20201
www.acf.hhs.gov/programs/orr

FIELD GUIDANCE – March 31, 2021

RE: ORR Field Guidance #11, Temporary Waivers of Background Check Requirements for Category 2 Adult Household Members and Adult Caregivers

GUIDANCE

Effective immediately, background check requirements (as well as requirements for obtaining identification) for adult household members and alternate adult caregivers identified in a sponsor care plan are not required as a condition of release for any Category 2 case, unless:

- the child is especially vulnerable;
- the child is subject to a mandatory TVPRA home study; or
- there are red flags present in the case, including red flags relating to abuse or neglect.

If a child falls under one of the excluded cases listed above, please continue to perform background checks according to ORR Policy Guide, section 2.5.1.

ORR continues to require that sponsors identify adults in the household and an alternate adult caregiver as part of the application and assessment process.

Waivers of background check requirements for this group of cases will be reevaluated within 60 days.

INSTRUCTIONS

- (1) Case managers update the *Release Request* to note which Category 2 cases are eligible for the exemption.
- (2) Case managers continue to check adult household members or adult caregiver names in the ORR Database that are reported in the *Family Reunification Application* and/or during the sponsor assessment to determine whether those individuals sponsored, or had previously attempted to sponsor, an unaccompanied child.

If you have any questions regarding this waiver, please contact your Federal Field Specialist.



April 23, 2024

The Honorable Bill Cassidy, M.D.
Ranking Member
Committee on Health, Education, Labor, and Pensions
U.S. Senate
Washington, D.C. 20510

Dear Ranking Member Cassidy:

Thank you for your March 5, 2024, letter regarding the U.S. Department of Health and Human Services (HHS) Office of Refugee Resettlement's (ORR) Unaccompanied Children (UC) Program. I am pleased to respond on behalf of the Deputy Assistant Secretary for Humanitarian Services and Director for ORR.

ORR is dedicated to ensuring the safety and well-being of unaccompanied children in its care from the time they enter ORR's custody following referral from the U.S. Department of Homeland Security (DHS) or other federal entity until they are appropriately and safely released to a vetted sponsor. As an element of this effort, ORR assesses whether a potential sponsor is capable of providing for a child's physical and mental well-being. In particular, ORR complies with the requirements of the Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA) which requires, among other things, that sponsor suitability assessments include verification of the sponsor's identity and relationship to the child and that the sponsor has not engaged in any activity that would indicate a potential risk to the child.

ORR's process for the safe and timely release of a child from federal custody includes several steps, including requiring each potential sponsor undergo a background check prior to ORR placing a child in the sponsor's care. Per ORR policy, a public records check and sex offender registry check is required for all potential sponsors in all categories. ORR also requires Federal Bureau of Investigation (FBI) fingerprinting for certain immediate relatives who were not previously the child's primary care giver and non-relative sponsors. ORR may also require FBI fingerprinting for parents, legal guardians, immediate relatives who previously cared for the child, and non-sponsor adult household members and adult caregivers identified in a sponsor care plan in certain cases, such as when the public records check reveals possible disqualifying factors; where there is a documented risk to the safety of the unaccompanied child; the child is especially vulnerable; and/or the case is being referred for a home study. The ORR Federal Field Specialist evaluates the fingerprint check results in conjunction with the results of the public records check, sex offender registry check, and any self-disclosed criminal history to determine how the sponsor's history impacts the sponsor's ability to care for the unaccompanied child's mental and physical well-being.

In addition, under the TVPRA, ORR must conduct home studies for unaccompanied children who are under 12 years old; have been victims of severe forms of human trafficking; have a disability; have been a victim of abuse; or have a proposed sponsor who clearly presents a risk of abuse, maltreatment, exploitation, or trafficking to the child based on all available objective evidence.. ORR also requires a home study before releasing any child to a potential sponsor, regardless of their relationship to the child, who is seeking to sponsor multiple children, or who has previously sponsored or sought to sponsor a child and is seeking to sponsor additional children. ORR's policies allow for home studies in additional circumstances, such as when additional information is needed to determine that the sponsor is able to care for the health, safety, and well-being of the child. Additional details are available in ORR's UC Program Policy Guide Section 2: Safe and Timely Release from ORR Care.

ORR continuously reviews its vetting policies and procedures for ways to improve its processes to promote the safety and well-being of children and to be more efficient and effective. For instance, on June 2, 2023, HHS released the results of its audit of the vetting process for potential sponsors who have previously sponsored an unaccompanied child, to ensure all necessary safeguards are in place without unnecessarily keeping children in government-funded, congregate care settings. In October 2023, ORR awarded a contract to an outside entity to conduct future in-depth reviews of random samples of case files by sponsor category for all children released from ORR care from January 2021–December 2022. The external review is anticipated to be completed in the summer of 2024. Also, on June 2, 2023, HHS announced additional efforts to protect the safety and well-being of unaccompanied children, including a new ORR program and accountability team, now termed the Integrity and Accountability team, which will further enhance ORR's work to assess and address potential exploitation risks faced by unaccompanied children.

Moreover, on February 13, 2024, ORR published policy and procedure revisions that enhance its sponsor vetting requirements. Among other enhancements, these revisions require parents and legal guardians (Category 1) sponsors to provide proof of address documentation (already a requirement for all other sponsors) and also requires, at minimum, sex offender registry checks for all adult household members and adult caregivers, including in Category 1 cases. Further, the revisions require, at minimum, proof of identity and criminal history public records background checks for all adult household members and adult caregivers, with a narrow exception for certain Category 1 cases such as where there are no safety concerns. These recent revisions strengthen and expand home study policies and guidance to include mandatory home studies for potential sponsors of more than two children, regardless of the potential sponsor's relationship to the children. The February 2024 policy revisions supersede Field Guidance 10, 11, and 15.

While ORR's custodial responsibilities end when a child is discharged from ORR care, ORR has policies in place to promote unaccompanied children's well-being after they have been released. Every child receives information on how to contact ORR's National Call Center (ORRNCC) and every child and their sponsor receives Safety and Well-being calls after a child's release from ORR care to determine if the child is still residing with their sponsor, is enrolled or attending school, is aware of any upcoming immigration court dates, and is safe. Children and sponsors are not required to answer these calls, and there are many reasons why someone may choose not to answer the phone or not wish to speak with government officials. Further, there may be children

who have not answered a phone call, but for whom ORR has provided referrals for post-release services (PRS) or legal services, or who have called the ORRNCC and spoken to a case manager.

PRS include referral and case management services that are voluntary for children and sponsors and are offered by a network of ORR-funded non-profit providers across the United States. Expanded PRS, which went into effect on January 1, 2024, consists of three levels of services. “Level 1 Services” consist of Safety and Well-being calls, which are in-person or virtual check-ins conducted at 7, 14, and 30 days following discharge from ORR care. “Level 2 Services” include six months of supportive services, including ongoing assessments, safety plans, and referrals to community-based programs. Finally, “Level 3 Services,” or “Intensive PRS,” include ORR intervention with case managers conducting initial in-home assessments within 7 days of referral followed by weekly in-person contact for the first 45 to 60 days to transition to monthly or continue as necessary depending on the needs of the child.

Regardless of whether they involve unaccompanied children discharged from ORR care, child labor violations are unacceptable. ORR and HHS take allegations of such violations very seriously, which is why ORR works to stay connected with sponsors and children and provides them with several ways to access community resources and report concerns such as child labor, including through PRS, multiple Safety and Well-being calls made to the sponsor and child, and ORRNCC—information about which is provided in the Sponsor Care Agreement that every sponsor acknowledges as part of the discharge process. In addition, HHS is working closely in partnership with the U.S. Department of Labor (DOL) to support federal efforts to protect children against labor exploitation. While HHS and DOL have worked together previously, the Interagency Taskforce to Combat Child Labor Exploitation, announced in February 2023 and led by DOL, is working to identify and implement interagency actions that can improve enforcement in this area, such as enhanced information sharing related to child labor. In April 2023, HHS and DOL developed and distributed new materials and trainings on addressing child labor, sex and labor trafficking, and child exploitation to provide information to children and sponsors about child labor laws in the United States.

When ORR receives a report of suspected labor exploitation or trafficking involving an unaccompanied child, ORR implements a range of actions as appropriate to the situation to both respond to the allegation and provide additional safeguards for other unaccompanied children if applicable. These actions can include immediately halting discharges to specific locations (utilizing street information) or individual sponsors; mandating home studies and/or supervisory reviews prior to case approval, which may already be required in certain cases; conducting welfare phone calls and/or in-person visits; and flagging for the state’s child welfare agency, local law enforcement, Office on Trafficking In Persons (OTIP), and other relevant entities for certain locations and a geographically appropriate radius around those locations.

While many labor violations do not involve trafficking, all trafficking reports are provided to DHS and OTIP. Specifically, ORR requires care providers to notify stakeholders like DHS and OTIP of all suspected trafficking or exploitation concerns within 24 hours. ORR and OTIP also work closely with DOL, which can flag particular trends or cases. Further the ORRNCC notifies local law enforcement and child welfare agencies—the entities with the authority to determine whether to remove the child from their current home.

The Honorable Bill Cassidy, M.D.
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Thank you for your concern and shared commitment for the safety and well-being of unaccompanied children. If you or your staff have questions, please feel free to contact the Office of the Assistant Secretary for Legislation at (202) 690-7627.

Sincerely,

Melanie Anne Egorin

Melanie Anne Egorin, PhD
Assistant Secretary for Legislation

MEMORANDUM OF AGREEMENT
AMONG
THE OFFICE OF REFUGEE RESETTLEMENT
OF THE U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
AND
U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT AND
U.S. CUSTOMS AND BORDER PROTECTION
OF THE U.S. DEPARTMENT OF HOMELAND SECURITY
REGARDING
CONSULTATION AND INFORMATION SHARING
IN UNACCOMPANIED ALIEN CHILDREN MATTERS

I. Parties

The Parties to this Memorandum of Agreement (MOA) are the Office of Refugee Resettlement (ORR) in the Administration for Children and Families of the U.S. Department of Health and Human Services (HHS), and U.S. Immigration and Customs Enforcement (ICE) and U.S. Customs and Border Protection (CBP) of the U.S. Department of Homeland Security (DHS) (collectively “the Parties”).

II. Purpose

The purpose of this MOA is to set forth the expectations of the Parties and implement processes for the Parties to share information about unaccompanied alien children (UACs) at the time of referral from ICE or CBP to ORR; while in the care and custody of ORR, including in the vetting of potential sponsors and adult members of potential sponsors’ households; and upon release from ORR care and custody. This MOA sets forth a process by which DHS will provide HHS with information necessary to conduct suitability assessments for sponsors from appropriate federal, state, and local law enforcement and immigration databases, as required by law. Such information includes information to which HHS would otherwise not have access and without which suitability assessments are incomplete. The Parties recognize such information-sharing as a top priority requiring special attention to ensure that the transfer, placement, and release of UACs are safe for the UACs and the communities into which they are released.

This MOA does not address all necessary coordination between the Parties, nor is that the intent of this document. It is not a substitute for, nor does it supersede or revise, the Parties’ responsibilities under the Memorandum of Agreement between the Department of Homeland Security and the Department of Health and Human Services Regarding Unaccompanied Alien Children, executed on February 22, 2016, which established a framework for interagency coordination.

III. Authorities

This MOA is authorized under, and entered into consistent with, the following provisions of law:

- A. Homeland Security Act of 2002, Pub. L. No. 107-296, §§ 102(b), 462, 116 Stat. 2135, 2142, 2202 (codified at 6 U.S.C. §§ 112(b), 279);
- B. William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, Pub. L. No. 110-457, § 235, 122 Stat. 5044, 5077-79 (codified in principal part at 8 U.S.C. § 1232);
- C. Privacy Act of 1974, as amended, 5 U.S.C. § 552a;
- D. Immigration and Nationality Act of 1952, as amended, §§ 103(a), 287 (codified at 8 U.S.C. §§ 1103(a), 1357); and
- E. Tariff Act of 1930, as amended, § 589 (codified at 19 U.S.C. § 1589a).

IV. HHS and DHS Responsibilities Upon Initial Referral

A. Initial Referral and Transfer

1. At the time of initial referral, the DHS component (ICE or CBP) referring the UAC to HHS (specifically, ORR) will electronically transfer the following information about the UAC, to the extent such information is known and can be gathered in an operationally reasonable manner, to ORR through the UAC Portal or by some other appropriate method:
 - a. Basic biographical data (e.g., name, date of birth, country of birth, potential sponsor information);
 - b. Situational factors (e.g., health, pregnancy, travel companions);
 - c. Human trafficking indicators; and
 - d. Known criminal or behavioral issues, including arrests, criminal charges and convictions, immigration history, gang affiliation or suspected gang affiliation, and violence or behavioral concerns.
2. To ensure ORR has available information and supporting documentation to make an informed placement decision, the apprehending DHS component (ICE or CBP) will normally include in the Transfer Packet:
 - a. Copies of all identity documents;
 - b. DHS Form I-213, Record of Deportable/Inadmissible Alien;
 - c. DHS Form I-216, Record of Persons and Property Transferred;
 - d. DHS Form I-217, Information for Travel Document or Passport;

- e. DHS Form I-770, Notice of Rights and Request for Disposition;
 - f. DHS Form I-862, Notice to Appear or other charging document;
 - g. CBP Form 93, Unaccompanied Alien Child Screening Addendum (trafficking information), if conducted;
 - h. Other applicable DHS, ICE, or CBP forms, if applicable, such as DHS Form I-200, Warrant for Arrest of Alien; and
 - i. Copies of any publicly available federal, state, or local criminal records in the possession of the apprehending DHS component (ICE or CBP) at the time of transfer and appropriate available documentation describing any gang, immigration, criminal, or other activity that may affect placement.
3. As expeditiously as possible, but no later than 24 hours after receiving notification from ICE or CBP of a UAC needing placement at an ORR facility, ORR will send a notification email notifying both ICE and CBP of the placement location. At a minimum, the message will include:
- a. Identifying information of the UAC at issue;
 - b. Facility name and location; and
 - c. Facility point of contact (name and telephone number).

B. ORR Care

1. While UAC are in ORR care, ORR will notify ICE or CBP of the following situations, as expeditiously as possible, but no later than 48 hours after the occurrence:
- a. Unauthorized absences. The ORR-funded care provider will contact the ICE Enforcement and Removal Operations (ERO) Field Office Juvenile Coordinator (FOJC) by telephone and provide notice by email.
 - b. Arrest of a UAC in ORR custody. The ORR-funded care provider will contact the FOJC by telephone and provide notice by email.
 - c. Death of a UAC. ORR headquarters will immediately notify, by telephone, ICE ERO.
 - d. Alleged or suspected fraud, human smuggling, human trafficking, drug trafficking, weapons trafficking, or gang-related activity. ORR will notify the ICE Homeland Security Investigations Tip Line by email and, for human trafficking specifically (either by or of a UAC), ORR will also email the ICE Human Trafficking Help Desk.
 - e. Abuse of a UAC in ICE or CBP custody. If ORR becomes aware of allegations of abuse of a UAC while he or she was in ICE or CBP custody, ORR will notify the appropriate DHS component (ICE or CBP) as required under ORR policy.
 - f. Violence by a UAC while in ORR care. ORR will notify the FOJC of incidents of physical violence or assault by a UAC in its care, including incidents between a UAC and facility staff.

- g. Change in level of care. ORR will provide notice by email to the FOJC of any step up/step down to or from secure care for the UAC.
- 2. ORR will provide to the FOJC copies of all age-determination findings concluding that an individual is 18 years of age or over, as soon as possible from the time of such determination.
- 3. If ICE or CBP becomes aware of any criminal information (e.g., information regarding gang affiliation) that it did not have at the time of initial referral and transfer, ICE or CBP will notify ORR as expeditiously as practicable after becoming aware of the information (using their best efforts to provide such notification within 48 hours), and provide supporting documentation, to aid in ORR's consideration of whether transfer of the UAC may be necessary.
- 4. To the extent permitted by law, and consistent with policy, DHS will report to ORR the results of any investigations (including investigations commenced following ORR's notification under Section IV(B)(1) of this MOA) they conduct that would be relevant to ORR's determinations concerning UAC care and placement. Such information will be provided as expeditiously as possible, and normally within 96 hours of such information becoming available.

V. HHS and DHS Responsibilities Prior to ORR Release of a UAC to a Sponsor

A. HHS's Responsibilities

- 1. Pursuant to 8 U.S.C. § 1232(c)(3)(A), HHS must make a determination that a proposed sponsor is capable of providing for the child's physical and mental well-being. Such determination includes verification of the proposed sponsor's identity and relationship, as well as a finding that the proposed sponsor has not engaged in any activity that would indicate a potential risk to the child. In all placement determinations, HHS must ensure, among other things, that the UAC is likely to appear for all hearings or proceedings in which they are involved, is protected from smugglers and traffickers, and is placed in a setting where the UAC will not pose a danger to himself or others. 6 U.S.C. § 279(b)(2). In order to fulfill its statutory duty under 8 U.S.C. § 1232(c)(3)(A) and to ensure that all proposed placements meet the standards set forth in 6 U.S.C. § 279, ORR will take the following steps:
 - a. Prior to any release of a UAC from ORR care and custody to any sponsor, ORR will request from ICE information about all potential sponsors and adult members of potential sponsors' households, in order to aid HHS in determining the suitability of a potential sponsor. Such information includes the citizenship, immigration status, criminal history, and immigration history (to the extent consistent with the Privacy Act of 1974). ORR will advise the potential sponsor that this process is a required step in the UAC placement process.

- B.** ORR will provide ICE with the name, date of birth, address, fingerprints (in a format and transmitted as prescribed by ICE from time to time), and any available identification documents or biographic information regarding the potential sponsor and all adult members of the potential sponsor's household. ICE will then provide ORR with the summary criminal and immigration history of the potential sponsor and all adult members of the potential sponsor's household to the extent available to ICE, consistent with the applicable confidentiality provisions of the Immigration and Nationality Act (INA). ORR will use the criminal and immigration history information provided by ICE in ORR's individualized determination of sponsorship eligibility.
1. ICE will ascertain only criminal and immigration history information. ORR will remain responsible for searching various databases including public records, Sex Offender Registry, National (FBI) Criminal History, Child Abuse and Neglect, State Criminal History Repository, and local police records for all potential sponsors.

C. DHS's Responsibilities

1. Upon notice from an ORR-funded care provider that a potential sponsor or adult member of a potential sponsors' household requires screening for criminal and immigration histories and that ORR has received proper authorization from the potential sponsor or adult household members, ICE will conduct the initial screening. At a minimum, the review will include:
 - a. A biographic criminal check of the national databases;
 - b. A biographic check for wants and warrants; and
 - c. An immigration status check of the immigration databases.
2. ICE will run the fingerprints of the potential sponsor and/or adult household member and review the response received for any criminal activity.
3. ICE will provide the relevant criminal and immigration history information (consistent with the applicable confidentiality provisions of the INA) on the potential sponsor and adult household members within 72 hours, excluding weekends and holidays, after ORR requests the information and provides ICE with the necessary background information on the potential sponsor or adult member of the potential sponsors' household.

VI. Severability

Nothing in this Agreement is intended to conflict with current law or regulation or the directives of DHS, CBP, ICE, HHS, or ORR. If a term of this MOA is inconsistent with such authority, then that term shall be invalid, but the remaining terms and conditions of this agreement shall remain in full force and effect.

VII. Disputes

Disagreements between the Parties arising under or related to this MOA will be resolved by consultation. Attempts to resolve disputes will occur first at the lowest level possible. Any issues left unresolved after due consultation may be raised to the appropriate levels in the Parties, or if necessary, DHS and HHS.

VIII. Funding

Each Party intends to bear its own costs in relation to this MOA. Expenditures are subject to the Parties' budgetary resources and availability of funds pursuant to applicable laws and regulations. The Parties expressly acknowledge that this MOA in no way implies that funding is to be made available for such expenditures and does not obligate the Parties to expend any funds. Nothing in this MOA is intended to or shall be construed to require the obligation, appropriation, or expenditure of any money from the U.S. Treasury in violation of the Antideficiency Act, 31 U.S.C. §§ 1341-1519.


IX. No Private Rights

This MOA is an agreement between the Parties and is not intended to, does not, and should not be construed to create any right or benefit, substantive or procedural, enforceable at law or in equity by any party in any administrative, civil, or criminal matter, against the United States, or any of its agencies, officers, or employees. This MOA does not and is not intended to place any limitations on the otherwise lawful enforcement or litigative prerogatives of the Parties.

X. Effective Date, Modification, and Termination


This MOA will take effect thirty (30) days after signature by the Parties and will remain in effect until revised or revoked in writing by mutual agreement of the Parties, or terminated without cause by any Party upon thirty (30) days advance notice in writing of intent to terminate.

Approved by:



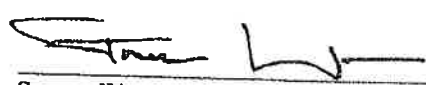
Kevin K. McAleenan
Commissioner
U.S. Customs and Border Protection
U.S. Department of Homeland Security

04/13/18
Date



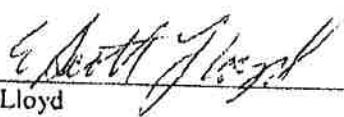
Thomas D. Homan
Deputy Director and Senior Official Performing the Duties of the Director
U.S. Immigration and Customs Enforcement
U.S. Department of Homeland Security

APR 13 2018
Date



Steven Wagner
Acting Assistant Secretary for Children and Families
U.S. Department of Health and Human Services

04-13-18
Date



Scott Lloyd
Director
Office of Refugee Resettlement
Administration for Children and Families
U.S. Department of Health and Human Services

4/13/18
Date

MEMORANDUM OF AGREEMENT (MOA)
AMONG
THE OFFICE OF REFUGEE RESETTLEMENT
OF THE U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
AND
U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT AND
U.S. CUSTOMS AND BORDER PROTECTION
OF THE U.S. DEPARTMENT OF HOMELAND SECURITY
REGARDING
CONSULTATION AND INFORMATION SHARING IN MATTERS RELATING TO
UNACCOMPANIED CHILDREN

I. Parties

The Parties to this Memorandum of Agreement (MOA) are the Office of Refugee Resettlement (ORR) in the Administration for Children and Families of the U.S. Department of Health and Human Services (HHS), and U.S. Immigration and Customs Enforcement (ICE) and U.S. Customs and Border Protection (CBP) of the U.S. Department of Homeland Security (DHS) (collectively “the Parties”).

II. Purpose

The sharing of immigration-related information among federal agencies is expressly provided for by various federal statutes. *See* 8 U.S.C. § 1232(c)(3)(C); 6 U.S.C. § 279(b)(2). In fact, the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA) requires that DHS “provide [to HHS] information necessary to conduct suitability assessments from appropriate Federal, State, and local law enforcement *and immigration databases.*” 8 U.S.C. § 1232(c)(3)(C) (emphasis added). ORR and DHS each require certain information from the other in order to implement their respective responsibilities under the TVPRA.

The instant agreement is not subject to the notice-and-comment requirements of the Administrative Procedure Act (APA) because it imposes no new requirements on the public. The APA specifically exempts from its rulemaking procedures interpretive rules, general statements of policy, and rules of agency organization, procedure, or practice. 5 U.S.C. § 553(b)(3)(A).

III. Authorities

This MOA is authorized under, and entered into consistent with, the following provisions of law:

- A. Homeland Security Act of 2002, Pub. L. No. 107-296, §§ 102(b), 462, 116 Stat. 2135, 2142, 2202 (codified at 6 U.S.C. §§ 112(b), 279);
- B. William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, Pub. L. No. 110-457, § 235, 122 Stat. 5044, 5077-79 (codified in principal part at 8 U.S.C. §

- 1232);
- C. Privacy Act of 1974, as amended, 5 U.S.C. § 552a;
- D. Immigration and Nationality Act of 1952, as amended, §§ 103(a), 287 (codified at 8 U.S.C. §§ 1103(a), 1357); and
- E. Tariff Act of 1930, as amended, § 589 (codified at 19 U.S.C. § 1589a).

IV. Termination

The April 13, 2018 MOA among the Parties regarding consultation and information sharing in matters relating to unaccompanied children (defined as “unaccompanied alien children,” or “UAC” by the applicable authorities and referred to as “unaccompanied children” or “UC” for the remainder of this MOA) is terminated as of the effective date of this MOA. This MOA does not revise, supersede, or terminate the Parties’ responsibilities under the February 22, 2016 MOA between DHS and HHS regarding unaccompanied children, which established a framework for interagency coordination.

V. HHS and DHS Responsibilities

A. Initial Referral and Transfer

1. At the time of initial referral, the DHS component (ICE or CBP) referring an unaccompanied child (UC) to HHS (specifically, ORR) will electronically transfer the following information about the UC, to the extent such information is known and can be gathered in an operationally reasonable manner, to ORR through the “UAC” Portal or by some other appropriate method:
 - a. Basic biographical data (e.g., name, date of birth, country of birth, potential sponsor information);
 - b. Situational factors (e.g., health, pregnancy, travel companions);
 - c. Human trafficking indicators; and
 - d. Known criminal or behavioral issues, including arrests, criminal charges and convictions, immigration history, criminal gang affiliation or suspected criminal gang affiliation, and violence or behavioral concerns.
2. To ensure ORR has available information and supporting documentation to make an informed placement decision, the apprehending DHS component (ICE or CBP) will normally include in the Transfer Packet, to the extent that such information is available and practicable to provide:
 - a. Copies of all identity documents;
 - b. DHS Form I-213, Record of Deportable/Inadmissible Alien;
 - c. DHS Form I-216, Record of Persons and Property Transferred;
 - d. DHS Form I-217, Information for Travel Document or Passport;
 - e. DHS Form 1-770, Notice of Rights and Request for Disposition;
 - f. DHS Form 1-862, Notice to Appear or other charging document;
 - g. CBP Form 93, Unaccompanied Alien Child Screening Addendum (trafficking

- information), if conducted;
- h. Other DHS, ICE, or CBP forms, if applicable, such as DHS Form 1-200, Warrant for Arrest of Alien; and
 - i. Copies of any publicly available federal, state, or local criminal records in the possession of the apprehending DHS component (ICE or CBP) at the time of transfer and appropriate available documentation describing any criminal gang, immigration, criminal, or other activity that may affect placement.
3. As expeditiously as possible, but no later than 24 hours after receiving notification from ICE or CBP of a UC needing placement at an ORR facility, ORR will send notification to ICE and/or CBP of the placement location. At a minimum, the message will include:
- a. Identifying information of the UC
 - b. ORR care provider name and address; and
 - c. ORR care provider point of contact (name and telephone number).

B. ORR Care

1. While UC are in ORR care, ORR will notify ICE or CBP of the following situations, as expeditiously as possible, but no later than 48 hours after the occurrence:
 - a. Absconding. The ORR-funded care provider will contact the ICE Enforcement and Removal Operations (ERO) Field Office Juvenile Coordinator (FOJC) by telephone and provide notice by email that a UC has absconded and not returned to the ORR care provider.
 - b. Arrest of a UC in ORR custody. The ORR-funded care provider will contact the FOJC by telephone and provide notice by email.
 - c. Death of a UC. ORR headquarters will immediately notify, by telephone, ICE ERO.
 - d. Allegation that a child is a victim of human smuggling or human trafficking. ORR will notify Homeland Security Investigations, as appropriate.
 - e. Allegations that a child is a perpetrator of a crime that ORR determines would make the child a danger to the community will be reported to DHS where required by Federal or state law, and where disclosure of the information does not waive any applicable privilege or confidentiality requirement under Federal or state law.
 - f. Allegation of abuse of a UC in ICE or CBP custody. If ORR becomes aware of allegations of abuse of a UC while he or she was in ICE or CBP custody, ORR will notify the appropriate DHS component (ICE or CBP) as required under ORR policy.
 - g. ORR will report physical assaults perpetrated by a UC on another person occurring at the care provider if such information is used in a determination that the UC is dangerous.
 - h. Change in level of care. ORR will provide notice by email to the FOJC of any step up/step down to or from secure care for the UC.

2. ORR will provide to the FOJC copies of all age-determination findings concluding that an individual is 18 years of age or over as soon as possible from the time of such determination.
3. If ICE or CBP becomes aware of any criminal information (e.g., information regarding criminal gang affiliation) that it did not have at the time of initial referral and transfer, ICE or CBP will notify ORR as expeditiously as practicable after becoming aware of the information (using their best efforts to provide such notification within 48 hours), and provide supporting documentation to aid in ORR's consideration of whether transfer of the UC may be necessary.
4. To the extent permitted by law, and consistent with policy, DHS will report to ORR the results of any investigations it conducts that would be relevant to ORR's determinations concerning UC care and placement. Such information will be provided as expeditiously as possible, and normally within 96 hours of such information becoming available.

VI. Severability

Nothing in this Agreement is intended to conflict with current law or regulation or the directives of DHS, CBP, ICE, HHS, or ORR. If a term of this MOA is determined to be inconsistent with such authority, then that term shall be invalid, but the remaining terms and conditions of this agreement shall remain in full force and effect.

VII. Funding

Each Party intends to bear its own costs in relation to this MOA. Expenditures are subject to the Parties' budgetary resources and availability of funds pursuant to applicable laws and regulations. The parties expressly acknowledge that this MOA in no way implies that funding is to be made available for such expenditures and does not obligate the Parties to expend any funds. Nothing in this MOA is intended to or shall be construed to require the obligation, appropriation, or expenditure of any money from the U.S. Treasury in violation of the Antideficiency Act, 31 U.S.C. §§ 1341-1519.

VIII. No Private Rights

This MOA is not intended to, does not, and should not be construed to create any right or benefit, substantive or procedural, enforceable at law or in equity by any party in any administrative, civil, or criminal matter, against the United States, or any of its agencies, officers, or employees. This MOA does not and is not intended to place any limitations on the otherwise lawful enforcement or litigation prerogatives of the Parties.

IX. Effective Date, Modification, and Termination

This MOA will take effect immediately upon execution by all signatories and will remain in effect until revised or revoked in writing by mutual agreement or terminated without cause by any Party upon five (5) days advance notice in writing.

**Signatures for U.S. Customs and Border Protection, U.S. Immigration and Customs Enforcement, of the Department of Homeland Security and the Office of Refugee Resettlement of the Department of Health and Human Services
Memorandum of Agreement Regarding Consultation and Information Sharing in Matters Relating to Unaccompanied Children**



Troy Miller
Senior Official Performing the Duties of the Commissioner
U.S. Customs and Border Protection

Date

3/10/21

Tae Johnson
Acting Director
U.S. Immigration and Customs Enforcement

Date

Jooyeun Chang
Acting Assistant Secretary
Administration for Children and Families
U.S. Department of Health and Human Services

Date


Cindy Huang
Director, Office of Refugee Resettlement
U.S. Department of Health and Human Services

Date

**Signatures for U.S. Customs and Border Protection, U.S. Immigration and Customs Enforcement, of the Department of Homeland Security and the Office of Refugee Resettlement of the Department of Health and Human Services
Memorandum of Agreement Regarding Consultation and Information Sharing in Matters Relating to Unaccompanied Children**

Troy Miller
Senior Official Performing the Duties of the Commissioner
U.S. Customs and Border Protection

Date



Pae Johnson
Acting Director
U.S. Immigration and Customs Enforcement

3/11/21
Date

Jooyeun Chang
Acting Assistant Secretary
Administration for Children and Families
U.S. Department of Health and Human Services

Date

Cindy Huang
Director, Office of Refugee Resettlement
U.S. Department of Health and Human Services

Date


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Date

Tae Johnson
Acting Director
U.S. Immigration and Customs Enforcement


Date



Jooyeun Chang
Acting Assistant Secretary
Administration for Children and Families
U.S. Department of Health and Human Services

03.11.2021

Date



Cindy Huang
Director, Office of Refugee Resettlement
U.S. Department of Health and Human Services

03.11.2021

Date

AIHA Doc. No. 21031235. (Posted 3/16/21)



Sponsor Care Agreement

You have applied to the Office of Refugee Resettlement (ORR) to sponsor an unaccompanied child in the care and custody of the Federal Government pursuant to 6 U.S.C. §279 and 8 U.S.C. §1232. If your sponsorship application is approved, you will receive an ORR Verification of Release form and enter into a custodial arrangement with the Federal Government in which you agree to comply with the following provisions while the child is in your care:

- Provide for the physical and mental well-being of the child, including but not limited to, food, shelter, clothing, education, medical care and other services as needed.
- Enroll the child in school and ensure their attendance, following the requirements of the state in which you live, and otherwise support their academic success. For example, the child may benefit from supplemental classes or services, such as English as a Second Language (ESL), tutoring, or summer school.
- If you are not the child's parent or legal guardian, make best efforts to establish legal guardianship with your local court within a reasonable time.
- Attend a legal orientation program provided under the Department of Justice/Executive Office for Immigration Review (EOIR)'s Legal Orientation Program for Custodians (Sponsors), if available where you reside. Please see the Legal Orientation Program for Custodians Overview flyer that was provided to you as part of the Family Reunification Packet for further information.
- Depending on where the child's immigration case is pending, notify the local Immigration Court or the Board of Immigration Appeals within five (5) days of any change of address or phone number of the child, by using DOJ's Alien's Change of Address form (Form EOIR- 33). In addition, if necessary, file a Change of Venue motion on the child's behalf. The Change of Venue motion must contain information specified by the Immigration Court. Please note that a Change of Venue motion may require the assistance of an attorney. For guidance on the "motion to change venue," see the Immigration Court Practice Manual at <https://www.justice.gov/eoir/reference-materials/ic>. For immigration case information, please contact EOIR's immigration case information system at 1-800-898-7180. Visit EOIR's website for additional information at <http://www.justice.gov/eoir/formslist.htm>. If you need further assistance, please call or text the ORR National Call Center at 1-800-203-7001 or email information@ORRNCC.com.

Sponsor Care Agreement

Office of Refugee Resettlement

- Notify the Department of Homeland Security (DHS)/U.S. Citizenship and Immigration Services) within ten (10) days of any change of address, by filing DHS's Alien's Change of Address Card (AR-11) or electronically, at <https://www.uscis.gov/sites/default/files/document/forms/ar-11.pdf>. If you need assistance, please call or text the ORR National Call Center at 1-800-203-7001 or email information@ORRNCC.com.
- Notify ORR immediately if the child permanently leaves your custody and provide updated contact information for the child by calling or texting the ORR National Call Center at 1-800-203-7001 or emailing information@ORRNCC.com.
- Notify ORR within 30 days of any change of address and provide updated contact information by calling or texting the ORR National Call Center at 1-800-203-7001 or emailing information@ORRNCC.com. You must continue to notify ORR of any change of address for a period of three (3) years after the child is released into your custody or while you are receiving post-release services, whichever come later. However, if the child if the child turns 18, their immigration case is resolved, or they permanently leave your custody before three (3) years, you do not need to continue notifying ORR of address changes.
- Ensure the child's presence at all future proceedings before the DHS/Immigration and Customs Enforcement (ICE) and the DOJ/EOIR. For immigration case information, contact EOIR's case information system at 1-800-898-7180.
- Ensure the child reports to ICE for removal from the United States if an immigration judge issues a removal order or voluntary departure order. The child is assigned to a Deportation Officer for removal proceedings.
- Notify the U.S. Department of Labor, Wage and Hour Division if you or the child are being forced to work against your will, to repay a debt, or in unsafe conditions by calling 1-866-4-USWAGE (1-866-487-9243) or visiting <https://webapps.dol.gov/contactwhd>.
- Notify local law enforcement or your state or local Child Protective Services if the child has been or is at risk of being subjected to abuse, abandonment, neglect, or maltreatment or if you learn that the child has been threatened, has been sexually or physically abused or assaulted, or has disappeared. Notice should be given as soon as it becomes practicable or no later than 24 hours after the event or after becoming aware of the risk or threat.
- Notify the National Center for Missing and Exploited Children at 1-800-843-5678 and the ORR National Call Center at 1-800-203-7001 or information@ORRNCC.com if the child disappears, has been kidnapped, or runs away. Notice should be given as soon as it becomes practicable or no later than 24 hours after learning of the child's disappearance.
- Notify ICE if the child is contacted in any way by an individual(s) believed to represent a smuggling syndicate, organized crime, or a human trafficking organization. Provide notification as soon as possible or no later than 24 hours after becoming aware of this information. You can contact ICE at 1-866-341-2423.

Sponsor Care Agreement

Office of Refugee Resettlement

- In the case of an emergency (serious illness, destruction of home, etc.), you may temporarily transfer physical custody of the child to another person who will comply with the terms of this Sponsor Care Agreement.
- If you are not the child's parent or legal guardian, in the event you are no longer able and willing to care for the child and are unable to temporarily transfer physical custody to an alternative caregiver, and the child meets the definition of an unaccompanied child, you must immediately notify the ORR National Call Center at 1-800-203-7001 or information@ORRNCC.com.
- The release of the above-named child from the Office of Refugee Resettlement to your care does not grant the child any legal immigration status and the child must present themselves for immigration court proceedings.

**ARTICLES OF ORGANIZATION
OF
THE PROVIDENCIA GROUP, LLC**

The undersigned, desiring to form a limited liability company under the provisions of Chapter 12 of Title 13.1 of the Code, hereby set forth the following:

Article I. Name. The name of the Limited Liability Company (the “Company”) is **“THE PROVIDENCIA GROUP, LLC.”**

Article II. Registered Office and Agent. The post office address of the initial registered office of the Company is located within the County of Fairfax at 3190 Fairview Park Drive, Suite 800, Falls Church, Virginia 22042. The initial registered agent is Resagent, Inc., whose business address is the same as the post office address of the initial registered office, and which is a foreign stock corporation authorized to transact business in Virginia.

Article III. Principal Office. The principal office of the Company is located at 901 NE Loop 410, Suite 500W, San Antonio, Texas 78209.

Article IV. Written Operating Agreement. Any operating agreement entered into by the member or members of the Company, and any amendments or restatements thereof, shall be in writing. No oral agreement among any of the members or managers of the Company shall be deemed or construed to constitute any portion of, or otherwise affect the interpretation of, any written operating agreement of the Company, as amended and in existence from time to time.

Article V. Pursuant to Section 13.1-1021.1(c) of the Virginia Limited Liability Company Act, no member of the Company shall be an agent of the Company solely by virtue of being a member, and no member shall have authority to act for the Company solely by virtue of being a member.

Dated: June 16, 2020

Richa Fortuna

Richa Fortuna, Organizer

**COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION**

AT RICHMOND, JUNE 22, 2020

The State Corporation Commission has found the accompanying articles of organization submitted on behalf of

THE PROVIDENCIA GROUP, LLC


to comply with the requirements of law, and confirms payment of all required fees. Therefore, it is ORDERED that this

CERTIFICATE OF ORGANIZATION

be issued and admitted to record with the articles of organization in the Office of the Clerk of the Commission, effective June 22, 2020.

The limited liability company is granted the authority conferred on it by law in accordance with the articles of organization, subject to the conditions and restrictions imposed by law.

STATE CORPORATION COMMISSION

By 

Mark C. Christie
Commissioner

Stock Corporation - Annual Report

Entity Information	
Entity Name:	KG&P STRATEGIES, INC. Entity Type: Stock Corporation
Entity ID:	11124627 Formation Date: 10/21/2020
Jurisdiction:	Virginia
Status:	Active
Total Shares:	5000
Registered Agent Information	
RA Type:	Entity RA Qualification: BUSINESS ENTITY THAT IS AUTHORIZED TO TRANSACT BUSINESS IN VIRGINIA
Name:	RESAGENT, INC. Registered Office 3190 Fairview Park Dr Ste 800, Falls Church, VA, 22042 - 4558, USA
Locality:	FAIRFAX COUNTY

Principal Office Address	
Address:	Kevin Marquez, 19775 Belmont Executive Plz Ste 400, Ashburn, VA, 20147 - 7607, USA

Principal Information			
<input type="checkbox"/> No Officers: If the corporation does not have officers because an organizational meeting has not been held.			
<input type="checkbox"/> No Directors: If the corporation does not have directors because (i) initial directors were not named in the articles of incorporation and an organizational meeting of the corporation has not been held or (ii) the board of directors has been eliminated by a written agreement signed by all of the shareholders, or by the adoption of provision in the articles of incorporation or bylaws that was approved by all of the shareholders.			
Title	Director	Name	Address
President, Chief Executive Officer, Secretary, Treasurer	Yes	Kevin Marquez	44620 Guilford Dr Ste 150, Ashburn, VA, 20147 - 6063, USA
Chief Executive Officer	Yes	Kevin Marquez	19775 Belmont Executive Plz Ste 400, Ashburn, VA, 20147, USA

Signature Information		
Date Signed: 08/28/2024		
<input checked="" type="checkbox"/> I affirm that the information contained in this report is accurate and complete as of the date of this filing and that the person signing is authorized to sign the annual report.		
Printed Name	Signature	Title
Kevin Marquez	Kevin Marquez	President

**ARTICLES OF AMENDMENT
TO THE ARTICLES OF ORGANIZATION OF
THE PROVIDENCIA GROUP, LLC**

Pursuant to § 13.1-1014 of the Code of Virginia, the undersigned, on behalf of the limited liability company set forth below, states as follows:

1. **Name of Limited Liability Company.** The name of the limited liability company is The Providencia Group, LLC

2. **Text of Amendment.** The text of the amendment adopted, which shall be inserted as Article VI of the Articles of Organization, is as follows:

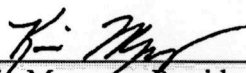
“Article VI. The Company shall be manager-managed.”

3. **Adoption by the Members.** The sole member of the Company approved and adopted the amendment by written consent effective October 23, 2020, in accordance with the provisions of Chapter 12 of Section 13.1 of the Code of Virginia.

These Articles of Amendment are executed as of this 28th day of October, 2020.

THE PROVIDENCIA GROUP, LLC,
a Virginia limited liability company

By: KG&P Strategies, Inc., its Sole Member



Kevin Marquez, President

**COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION**

AT RICHMOND, NOVEMBER 2, 2020

The State Corporation Commission has found the accompanying articles of amendment submitted on behalf of

THE PROVIDENCIA GROUP, LLC

to comply with the requirements of law, and confirms payment of all required fees. Therefore, it is ORDERED that this

CERTIFICATE OF AMENDMENT

be issued and admitted to record with the articles of amendment in the Office of the Clerk of the Commission, effective November 2, 2020.

STATE CORPORATION COMMISSION

By 

Jehmal T. Hudson
Commissioner

Limited Liability Company - Statement of Change of Registered Office and/or Registered Agent

Entity Information		
Entity Name:	THE PROVIDENCIA GROUP, LLC	Entity Type: Limited Liability Company
Entity ID:	11067760	Formation Date: 06/22/2020
Status:	Pending Inactive	

Previous Registered Agent Information	
RA Type: Entity	Locality: FAIRFAX COUNTY
RA Qualification:	
Name: RESAGENT, INC.	
The company's registered office address, including the street and number, if any, which is identical to the business office of the registered agent, is:	
Registered Office Address:	3190 Fairview Park Dr Ste 800, Falls Church, VA, 22042 - 4558, USA
Registered Agent Information	
RA Type: Entity	Locality: RICHMOND CITY
RA Qualification: N/A	
Name: CORPORATION SERVICE COMPANY	
The company's registered office address, including the street and number, if any, which is identical to the business office of the registered agent, is:	
Registered Office Address:	100 Shockoe Slip Fl 2, Richmond, VA, 23219 - 4100, USA

Signature Information		
Date Signed: 08/03/2023		
Executed in the name of the limited liability company by:		
The person signing this statement affirms that after the foregoing change or changes are made, the company will be in compliance with the requirements of § 13.1-1015 of the Code of Virginia, as the case may be.		
Printed Name	Signature	Title
Kevin Marquez	Kevin Marquez	MANAGER

Stock Corporation - Annual Report

Entity Information			
Entity Name:	M V M, INC.	Entity Type:	Stock Corporation
Entity ID:	F0360174	Formation Date:	01/07/1980
Jurisdiction:	CA		
Status:	Pending Inactive		
Total Shares:	150000		
Registered Agent Information			
RA Type:	Individual	RA Qualification:	Officer of the Corporation
Name:	KEVIN MARQUEZ	Registered Office Address:	44620 GUILFORD DR STE 150, ASHBURN, VA, 20147 - 0000, USA
Locality:	LOUDOUN COUNTY		
Principal Office Address			
Address: 44620 Guilford Dr Ste 150, Ashburn, VA, 20147 - 6063, USA			
Principal Information			
<input type="checkbox"/> No Officers: If the corporation does not have officers because an organizational meeting has not been held.			
<input type="checkbox"/> No Directors: If the corporation does not have directors because (i) initial directors were not named in the articles of incorporation and an organizational meeting of the corporation has not been held or (ii) the board of directors has been eliminated by a written agreement signed by all of the shareholders, or by the adoption of provision in the articles of incorporation or bylaws that was approved by all of the shareholders.			
Title	Director	Name	Address
President, Secretary, Treasurer	Yes	KEVIN P. MARQUEZ	44620 Guilford Dr Ste 150, Ashburn, VA, 20147 - 6063, USA
Vice President	No	MARIA CAMPOS	44620 Guilford Dr Ste 150, Ashburn, VA, 20147 - 6063, USA
Signature Information			
Date Signed: 03/02/2023			
Printed Name	Signature	Title	
KEVIN P. MARQUEZ	KEVIN P. MARQUEZ	PRESIDENT	

Stock Corporation - Annual Report

Entity Information			
Entity Name:	M V M, INC.	Entity Type:	Stock Corporation
Entity ID:	F0360174	Formation Date:	01/07/1980
Jurisdiction:	CA		
Status:	Pending Inactive		
Total Shares:	150000		
Registered Agent Information			
RA Type:	Individual	RA Qualification:	Officer of the Corporation
Name:	KEVIN MARQUEZ	Registered Office Address:	44620 GUILFORD DR STE 150, ASHBURN, VA, 20147 - 0000, USA
Locality:	LOUDOUN COUNTY		
Principal Office Address			
Address: 44620 Guilford Dr Ste 150, Ashburn, VA, 20147 - 6063, USA			
Principal Information			
<input type="checkbox"/> No Officers: If the corporation does not have officers because an organizational meeting has not been held.			
<input type="checkbox"/> No Directors: If the corporation does not have directors because (i) initial directors were not named in the articles of incorporation and an organizational meeting of the corporation has not been held or (ii) the board of directors has been eliminated by a written agreement signed by all of the shareholders, or by the adoption of provision in the articles of incorporation or bylaws that was approved by all of the shareholders.			
Title	Director	Name	Address
President, Secretary, Treasurer	Yes	KEVIN P. MARQUEZ	44620 Guilford Dr Ste 150, Ashburn, VA, 20147 - 6063, USA
Vice President	No	MARIA CAMPOS	44620 Guilford Dr Ste 150, Ashburn, VA, 20147 - 6063, USA
Signature Information			
Date Signed: 03/12/2024			
Printed Name	Signature	Title	
KEVIN P. MARQUEZ	KEVIN P. MARQUEZ	PRESIDENT	

U.S. Senate Committee on Health, Education, Labor, and Pensions
Hearing entitled, “Nomination of Julie Su to serve as Secretary of Labor”
April 20, 2023

Senator Bill Cassidy (R-LA)

1. Ms. Su, in your opinion, what is the proper policy role for the Secretary of Labor in matters of labor-management relations?

Collective bargaining is a private process between the parties to labor-management negotiations. I believe the role of the Secretary of Labor is to be in touch with the parties to major negotiations and to offer support and encouragement to both parties to work to reach an agreement. The Secretary of Labor cannot be “hands on” in every negotiation but can offer support and encouragement in major negotiations of importance to the national economy. The Federal Mediation and Conciliation Service (FMCS) is the federal agency established by Congress to support parties in negotiations, and FMCS is involved in far more negotiations than the Secretary of Labor.

2. Ms. Su, can you give the committee your assurances that you will be impartial in regulating and protecting workers who prefer not to affiliate with a union?

Yes. Federal law gives workers the right to form and join unions and the right to refrain from forming or joining unions. I respect and will follow the law.

3. Can you give an example of when you acted as a neutral arbiter during your time as Deputy Secretary of Labor?

I worked side by side with Secretary Walsh in the 20-hour bargaining session that resulted in tentative agreements for the three freight rail unions that had not yet reached agreement with the freight railroads. I acted as a neutral arbiter, trying to help the parties find common ground and reach agreement. We were successful in reaching tentative agreements that were approved by the railroads and by freight rail union leadership. However, two of the agreements were later voted down by the union’s membership. Eight of the twelve rail unions reached agreements that were ratified by members.

4. The position of Deputy Secretary of Labor is not specifically defined. Its role and duties are up to the Secretary of Labor to describe. Can you tell the committee what role you played as Deputy Secretary?

I served as the chief operating officer of the Department and worked hand in hand with Secretary Walsh to lead a resurgence in workforce training, avert a national rail shutdown, and pursue other DOL accomplishments over the last two years.

5. Do you plan to accept Representative Virginia Foxx’s invitation to testify before the House Education and the Workforce Committee on Wednesday May 17, 2023?
6. If not, why not?

U.S. Senate Committee on Health, Education, Labor, and Pensions
Hearing entitled, “Nomination of Julie Su to serve as Secretary of Labor”
April 20, 2023

Senator Bill Cassidy (R-LA) - Addendum

These questions were received on April 24, 2023 with a deadline of April 25, 2023 via a letter from Senator Cassidy. Although they were not submitted in time with the rest of the QFR questions we received from the Committee, we have included the questions and our responses here in order to provide a response by the April 25, 2023 deadline.

1. What do you believe DOL’s role is in preventing child labor violations?
2. When did you become aware that migrant children were being exploited to work in hazardous conditions?
3. As Deputy Secretary, what steps have you taken over the last two years to notify the White House and HHS of the child labor law violations DOL has discovered?
4. Do you agree with the White House’s assertion that they “had not known of the increase in child labor” until The New York Times published their investigation in February 2023? If not, what steps did you, Marty Walsh, and the DOL at large take to alert the White House of the increase in child labor violations?
5. If confirmed as Secretary of Labor, what actions will you take to improve DOL’s communication with HHS, the White House, and other relevant federal agencies in order to ensure that reports of child labor law violations are not ignored or missed in the future?
6. As part of its recently announced interagency task force, please explain how DOL will address child labor violations. In addition, please provide:
 - An overview of the types of data DOL will collect and use to prevent the exploitation of child labor.
 - Will this initiative require the collection of any data that DOL does not already collect? If so, what types of data does DOL not collect?
 - How will this data be used to address child labor violations?
 - Will DOL commit to making public foreign-born work injuries for children and adults? If not, why not?
7. What steps are you taking to increase DOL’s enforcement activities around violations of child labor law? Please describe in detail.

As we have reported in our numerous Congressional briefings and letters on this issue, the Department takes these violations seriously and is committed to using all tools at its disposal to prevent illegal child labor and hold employers accountable for violations. The Department is charged with enforcing the child labor protections in the Fair Labor Standards Act (FLSA) and, through its Wage and Hour Division (WHD), vigorously investigates all child labor complaints it receives. In addition, every WHD investigation under the FLSA includes a check for compliance with child labor laws.

U.S. Senate Committee on Health, Education, Labor, and Pensions
Hearing entitled, “Nomination of Julie Su to serve as Secretary of Labor”

April 20, 2023

Since 2018, the Department has seen a 69 percent increase in children being illegally employed by companies.¹ We currently have over 600 child labor investigations underway and continue to field complaints and initiate investigations. In the last fiscal year, the Department found 835 companies it investigated had employed children in violation of labor laws. As your letter notes, we also recently announced the resolution of one of the largest child labor cases in the Department’s history against Packers Sanitation Services, Inc. LTD.

On February 27, 2023, the Department and HHS announced a range of initiatives to strengthen enforcement and coordination in cases of exploitative child labor.² The Department is working in partnership with HHS and other federal agencies to further combat illegal child labor. These include:

- ***Interagency Taskforce to Combat Child Labor Exploitation:*** *This taskforce, which is led by the Department, is working to identify and implement interagency actions that can improve enforcement in this area, such as enhanced information sharing related to child labor enforcement. As part of this effort, the Department and HHS entered into a Memorandum of Agreement on inter-agency data sharing to enhance and maximize the well-being of children and the enforcement of federal child labor laws on March 23, 2023.³*
- ***National Strategic Enforcement Initiative on Child Labor:*** *As part of the initiative, the Department’s Wage and Hour Division will use data-driven, worker-focused strategies to initiate investigations where child-labor violations are most likely to occur but where we are least likely to receive complaints. The Department will also use all available enforcement tools, including penalties and injunctions, and will stop the movement of goods made with child labor where appropriate.*
- ***Hold all Employers Accountable:*** *The Department will hold all employers accountable to ensure child labor is removed from supply chains. This will include applying further scrutiny to companies doing business with employers using illegal child labor to increase corporate accountability for systemic abuses of child labor laws.*

The Department recognizes that enforcement is just one aspect of the solution to the problem of child labor exploitation. Immigrant children are uniquely vulnerable to exploitation, and the Department is using available tools to address these vulnerabilities, including robust enforcement of anti-retaliation protections, coordination with community-based groups, and connecting exploited children and workers with avenues to report violations without fear of removal. The Department is also working closely with other agencies to develop tailored strategies to protect exploited children. Those discussions include information-sharing and enhanced outreach and education to migrant children and sponsors about restrictions on child labor and their rights under federal law.

Congress could also take steps to improve child labor law enforcement. Options include raising the maximum civil monetary penalties for child labor violations and increasing funding for the Department’s enforcement agencies. We welcome additional consultation on legislative action and are available to work with you and your staffs on technical assistance for proposals.



June 2, 2023

The Honorable Bill Cassidy, M.D.
Ranking Member
Senate Committee on Health, Education, Labor, and Pensions
Washington, DC 20510

Dear Senator Cassidy:

Thank you for your April 24, 2023 letter regarding the alarming increase in child labor violations under the Fair Labor Standards Act. Your letter was forwarded to the Office of Congressional and Intergovernmental Affairs for a response. As you are aware, your questions were responded to previously in the April 25, 2023 response to questions for the record following the April 20, 2023 confirmation hearing for Acting Secretary Su. This letter constitutes our reply to your subsequent request for further information.

The Department of Labor (Department), through the Wage and Hour Division (WHD), is responsible for administering the Fair Labor Standards Act (FLSA), the federal law concerning wages, hours of work, and child labor. The child labor provisions of the FLSA were enacted to ensure that when children work, the work is safe and does not jeopardize their health, well-being, or education. Preventing and addressing illegal child labor is a top priority for the Department, and we closely monitor trends in violations and make such data publicly available.¹

While positive and safe work experiences can allow young people to develop skills, earn money, and learn what it means to be part of the labor force, the Department is responsible for ensuring that children are not employed in violation of the law. Specifically, employers are required to comply with restrictions on the hours children under 16 can work and to ensure that no children work in hazardous occupations. WHD investigates every complaint it receives raising allegations of unlawful child labor, and WHD looks for illegal child labor in every investigation it conducts under the FLSA. In 2022, the Department found more children employed in hazardous occupations than any other year in the last decade.

The Department has also taken significant recent actions to address child labor exploitation. In February, the Department announced the resolution of one of the largest child labor cases in the Department's history, against Packers Sanitation Services, Inc. LTD. Last year, the Department obtained a federal court order to stop an Alabama manufacturer of Hyundai and Kia parts from employing 13-, 14-, and 15-year-olds and prevent the company from delivering goods produced in violation of child labor laws. Currently, WHD has over 500 open child labor investigations.

Furthering this work, the Department has announced a nationwide strategic initiative on child labor. WHD will use data-driven, worker-focused strategies to initiate investigations where child labor violations are most likely to occur. In conjunction with the Office of the Solicitor, WHD

¹ Wage and Hour Division by the Numbers 2022: Child Labor Violations FY2013-2022, U.S. Department of Labor, <https://www.dol.gov/agencies/whd/data/charts/child-labor>.

will use all available enforcement tools, including penalties, injunctions, stopping the movement of goods made with child labor, and criminal referrals, where warranted.

Protecting vulnerable workers, including immigrant workers, is a key part of the Department's mission and its work to address illegal child labor. Under the law, workers are entitled to the protections of the FLSA's child labor provisions regardless of their immigration status or country of origin. The Department continues to use its available tools to address the vulnerabilities of immigrant children including through robust enforcement of anti-retaliation protections, engagement with community-based groups, and initiatives to connect exploited children and workers with avenues to report violations.

The Department also continues to work closely with other federal agencies to develop strategies to protect children from exploitation. These strategies include information-sharing and enhanced outreach and education to migrant children and sponsors about restrictions on child labor and their rights under federal law. In March 2023, WHD entered into a memorandum of agreement (MOA) with the U.S. Department of Health and Human Services' (HHS) Administration for Children and Families (ACF) for inter-agency data sharing. This MOA also provides for training in identifying issues that may arise under each agency's authority. The Department believes that this partnership will increase coordination in combatting illegal child labor.

Specifically, the MOA between WHD and ACF seeks to maximize the division's enforcement of the child labor protections of the FLSA, enhance WHD and ACF's ability to protect children from exploitation, and connect individuals to needed benefits and services. The MOA includes unprecedented steps for greater collaboration between the two agencies to prevent and address illegal child labor, including by helping identify geographies and employers where children are likely being exploited, aiding investigations by providing information to help identify circumstances where children are unlawfully employed, and facilitating coordination to ensure that victims or potential victims of child labor trafficking have access to critical services.

Finally, the Department believes that providing outreach and training is an important step in the prevention of child labor violations. The Department also believes that highlighting best practices in employing young people in age-appropriate and safe workplaces can increase compliance with the law. The Department has expanded its efforts to educate employers, young workers, parents, teachers, and other stakeholders about on-the-job safety through its Youth Rules! engagement program and numerous outreach events each year.

Through these efforts, the Department has remained in close contact with the White House and other federal partners to ensure a coordinated, unified, and effective approach to preventing and addressing illegal child labor.

If you would like to discuss this further or have any other questions, please contact the Department's Office of Congressional and Intergovernmental Affairs at (202) 693-4600.

Sincerely,

A handwritten signature in black ink, appearing to read "Liz Watson". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Liz Watson
Assistant Secretary



November 20, 2023

The Honorable Bill Cassidy, M.D.
Ranking Member
Senate Committee on Health, Education, Labor, and Pensions
Washington, DC 20510

Dear Senator Cassidy:

Thank you for your October 19, 2023 letter regarding the Department of Labor's (the Department) enforcement efforts and coordination with other federal agencies to combat exploitative child labor. The Department appreciates your continued interest in this critical issue. Your letter was forwarded to the Office of Congressional and Intergovernmental Affairs for a response.

The Department's Wage and Hour Division (WHD) is committed to ensuring that young people have employment opportunities that are safe, age-appropriate, and do not jeopardize their health, well-being, or education and to enforcing the prohibitions on unlawful child labor in the Fair Labor Standards Act (FLSA). WHD engages in outreach and education to ensure compliance with these standards and conducts investigations and enforcement actions to hold employers accountable for violations of the law. Through its investigations, WHD identified the alarming increase in child labor violations and earlier this year launched a national strategic enforcement initiative to combat unlawful child labor. WHD investigates every complaint, tip, and referral it receives raising allegations of unlawful child labor, and WHD looks for child labor violations in every investigation it conducts under the FLSA.

In Fiscal Year 2023 (FY23), the Department found 955 companies that it investigated had employed nearly 5,800 children in violation of federal child labor laws. The Department also found 502 children employed in violations of hazardous orders in FY23, and the Department assessed more than \$8 million in civil money penalties against employers who employed children in violation of the law. Currently, the Department has more than 800 active child labor investigations nationwide. While the Department's enforcement data is not statistically representative of broader industry or geographic trends, the increase in child labor violations is a direct result of our increased emphasis on identifying child labor cases and bringing enforcement actions when we find companies violating the law.

In addition to our enforcement efforts, the Department promotes active partnership on child labor law enforcement between our divisions, and we work closely with other agencies to develop strategies to protect children from labor exploitation. The Department and the Department of Health and Human Services' (HHS) Memorandum of Agreement (MOA) formalized an ongoing partnership between the agencies and outlined procedures the agencies follow as we work together to deepen information-sharing, coordination, cross-training of staff, and public education efforts. Leadership and staff from the WHD and HHS' Administration for Children and Families (ACF) meet regularly to advance implementation of the MOA and information-sharing. WHD and ACF are also providing joint training and education to each agency's staff to

facilitate a greater understanding of the laws the agencies administer or enforce relating to child labor exploitation, child labor trafficking, or services for children, so that staff know how to make appropriate referrals where needed. DOL's WHD has hosted trainings for over 1,500 HHS staff and mission support contractors and grantees, and ORR has hosted trainings for over 250 DOL staff regarding the Unaccompanied Children program. The Department is pursuing multiple outreach and education initiatives, independently and in partnership with other federal agencies, to reach key stakeholders and populations. In our work on the Department-led Interagency Taskforce to Combat Child Labor Exploitation, the Department and the Task Force have engaged with agencies across federal, state, and local governments, resulting in new collaborative initiatives to prevent and address illegal child labor. Further information on the Department's enforcement and compliance efforts is available in the written testimony Solicitor of Labor Seema Nanda provided to the U.S. Senate Committee on the Judiciary on October 25, 2023.

The Department is committed to continuing its whole of government approach to combatting child labor and will continue to work closely with our interagency partners to leave no stone unturned and to root out exploitative child labor. We all must do our part to protect children, and we recognize the important role that Congress must play.

If you have any other questions, please contact the Department's Office of Congressional and Intergovernmental Affairs at (202) 693-4600.

Sincerely,

A handwritten signature in black ink, appearing to read "Liz Watson", with a long horizontal flourish extending to the right.

Liz Watson
Assistant Secretary



May 3, 2024

The Honorable Bill Cassidy, M.D.
Ranking Member
Senate Committee on Health, Education, Labor, and Pensions
Washington, DC 20510

Dear Senator Cassidy:

Thank you for your March 5, 2024 letter regarding the Department of Labor's (the Department) enforcement efforts and coordination with other federal agencies to combat exploitative child labor. The Department appreciates your continued interest in this critical issue. Your letter was forwarded to the Office of Congressional and Intergovernmental Affairs for a response.

The federal child labor provisions of the Fair Labor Standards Act of 1938 (FLSA) were enacted to ensure that when young people work, the work is safe and does not jeopardize their health, well-being, or educational opportunities. The Department shares your concern regarding the alarming increase in child labor violations and is fully committed to preventing and addressing child labor exploitation. As the challenge of child labor exploitation – including of migrant children – increases nationwide, the Department has taken significant actions to investigate child labor violations and hold companies accountable. The Department is committed to continuing its whole of government approach to combatting this problem, and we will continue to work closely with our interagency partners to root out exploitative child labor.

The Department's Wage and Hour Division (WHD) investigates every child labor complaint, tip, and referral, and it ensures compliance with child labor protections in all of its FLSA investigations. The Department launched a National Strategic Enforcement Initiative on Child Labor in response to the increases it saw in its investigations in exploitative child labor, including through the resolution of one of the largest child labor cases in its history against Packers Sanitation Services in February 2023. As part of this initiative, WHD uses data-driven strategies to initiate investigations where child-labor violations are most likely to occur. In Fiscal Year 2023, the Department found 955 companies that it investigated had employed nearly 5,800 children in violation of labor laws. Through these investigations, the Department found more than 500 children employed in hazardous jobs and assessed more than \$8 million in civil money penalties against employers who employed children in violation of the law. Today, the Department has more than 800 open child labor cases nationwide while it continues to field complaints and initiate investigations to protect children across the country.

The Department is leveraging its existing enforcement tools to combat this problem. Penalties are being levied in combination with other tools, including consent judgments and enhanced compliance agreements. The Department believes these tools will assist it in holding employers accountable for violations. The President has also asked Congress to increase penalties beyond the current \$15,629 fine applicable to all child labor violations that do not cause a child's serious

injury or death, which isn't high enough to be a deterrent for major profitable companies. The Department is using the FLSA's "hot goods" provision, where appropriate, to stop the movement of goods made with child labor, seeking injunctions when necessary to immediately stop exploitative practices, taking prompt legal action when we discover that an employer is retaliating against employees for asserting their rights or cooperating with the Department, and identifying ways to ensure compliance up and down supply chains.

Examples of recent enforcement actions by WHD include:

- The Department obtained [a federal consent judgment](#) in March following a WHD investigation of Tuff Torq, a manufacturer of outdoor power equipment components for major companies including John Deere, Toro and Yamaha. The investigation found multiple children employed in dangerous jobs, including operating power-driven hoisting apparatus. The consent judgment requires Tuff Torq to stop employing children illegally, to follow federal child labor laws in the future, includes a \$296,951 civil money penalty, and the employer must also set aside \$900,000 as disgorgement of 30 days' profits related to its use of child labor. The proceeds paid by Tuff Torq will be used for the benefit of the children employed illegally.
- In February, the Department sought and the court granted a preliminary injunction against Fayette Janitorial Service LLC – operating as Fayette Industrial – to stop the Tennessee-based company from illegally employing children while the department continued its investigations of the company's labor practices. WHD investigators discovered Fayette employed children on overnight shifts at a Perdue Farms plant in Accomac, Virginia and at Seaboard Triumph Foods LLC in Sioux City, Iowa. Children were employed to clean dangerous kill floor equipment such as head splitters, jaw pullers, meat bandsaws, and neck clippers. At least one 14-year-old at the Virginia facility suffered severe injuries while employed by Fayette. The investigation remains ongoing.
- In a case against Florence Hardwoods, the Department [obtained a federal consent order and judgment](#) in September 2023 against the sawmill operator following the death of a 16-year old boy. The action followed an investigation launched by WHD after the teenager suffered severe injuries at Florence Hardwoods on June 29, 2023, he died two days later. The investigation uncovered injuries to three other children, ages 15 to 16, and illegal employment of nine children, aged 14 to 17, in hazardous occupations. The investigation also led the Department to invoke the "hot goods" provision of the FLSA and alert the sawmill's customers that they possessed goods subject to that provision.
- In October 2023, the Department [assessed \\$140,164 in civil monetary penalties](#) against Monogram Snacks LLC, a national food manufacturer, for employing at least 11 children as young as 15 years old – nine of whom operated hazardous meat packing and processing machinery – at its meatpacking and food processing facility in Minnesota. The Department also secured an injunction against the company in July 2023 to prevent it

from shipping its snack foods pursuant to the “hot goods” provision of the FLSA.

This impactful strategic enforcement comes even as WHD continues to operate following almost a decade of near flat-funding from 2010 to 2019. Between 2010 and 2019, the Wage and Hour Division lost 15 percent of its full-time employees funded by its annual appropriation because it was nearly flat-funded during this period. And the Office of the Solicitor has essentially been flat-funded in its annual appropriation when compared to FY 2010, resulting in the loss of more than 100 staff from the peak, a 17 percent decline, as costs have increased. With modest funding increases over the last few years, American Rescue Plan funding for COVID-related investigations, and a strong focus on hiring during the Biden-Harris Administration, the Department has begun to increase its staffing levels. But it still has not received adequate resources to allow the Department to meaningfully rebuild its staff and enforcement capacity. The laws enforced by WHD protect more than 165 million American workers in more than 11 million workplaces, yet over the last decade WHD enforcement capacity has decreased from more than 1,000 on-board investigators to roughly 700 investigators – one of the lowest levels in fifty years. The President’s budget request for FY2025 seeks programmatic increases of \$7.5 million and 50 full-time employees to meet the increased demands of combatting exploitative child labor. In addition, the budget has requested an additional \$3.8 million for 19 staff in the Office of the Solicitor of Labor (SOL) for legal services to combat exploitative child labor, ensuring that WHD’s work has the teeth of legal enforcement. These resources would allow WHD and SOL to maintain progress in rebuilding enforcement staff responsible for carrying out mission-critical, evidence-based strategies.

The Department of Labor also recognizes the need for a whole-of-government approach in combating unlawful child labor through the Department-led Interagency Task Force to Combat Child Labor Exploitation (Task Force) and beyond. The Task Force participants include the Departments of Agriculture, Commerce, Education, Health and Human Services, Homeland Security, Justice, and State, all of which are taking concrete steps to improve cross-training, outreach, education, and health outcomes of children who could be subject to illegal child labor. As a part of these efforts, the Department of Labor and HHS signed a Memorandum of Agreement in March 2023, which formalized an ongoing partnership between the agencies and outlined procedures the agencies will follow as they work together to deepen information-sharing, coordination, cross-training of staff, and public education efforts.

For example, the departments of Labor and Justice are partnering through the Legal Orientation Program for Custodians of Unaccompanied Children to educate custodians of unaccompanied children about federal child labor laws and protections. The departments have trained their service providers and are connecting them with WHD district offices nationwide to ensure ongoing communication. The departments have also partnered to ensure that the Department of Justice’s Office of Victims of Crime grantee service providers for victims of crime have greater awareness about exploitative child labor, information on how to report suspected child labor violations, and resources to share with their clients and communities. Given the importance of promoting understanding of labor law for youth-specific audiences, the departments of Labor and Health and Human Services are developing shareable, easily accessible “Know Your Rights”

videos in multiple languages. The Department of Education is also sharing information through newsletters, websites, and social media, ensuring that education stakeholders have greater understanding about the issue and can further inform young people and families about their rights.

In addition to its enforcement actions, the Department provides education, outreach, and compliance assistance to ensure that children, families, communities, and employers fully understand federal child labor laws. WHD's program called [YouthRules!](#) is shared throughout the country to highlight the ways in which children can be lawfully employed. Through the YouthRules! initiative, the Department and its partners promote positive and safe work experiences that help prepare young workers in the 21st century workforce through resources, videos, presentations, and community engagement. Since 2021, WHD has conducted over 4,000 outreach and education events for employers and other stakeholders on child labor.

To assist employers in complying with child labor laws, the Department has worked directly with employers to help them ensure compliance in working conditions for young workers, including by developing a list of [best practices](#), [resources](#), and [trainings](#) for employers to help keep young workers safe. WHD continues to provide compliance assistance directly to employers nationwide through proactive outreach, presentations, and in response to requests. While some businesses may increase their reliance on staffing agencies and subcontracting, employers remain responsible to exercise due diligence to ensure that they are in compliance with child labor laws. The Department will continue to work with industry leadership and employers to provide compliance assistance and call on companies to ensure child labor is removed from supply chains.

We all must do our part to protect children, particularly those from communities most vulnerable to exploitation. The Department will continue to prioritize its enforcement efforts in this area and strengthen its work with interagency partners. We also recognize the important role that Congress must play in these issues and hope that you will consider the President's request for increased civil monetary penalties and increased funding to combat this problem.

If you have any other questions, please contact the Department's Office of Congressional and Intergovernmental Affairs at (202) 693-4600.

Sincerely,



Liz Watson
Assistant Secretary

February 5, 2024

VIA ELECTRONIC TRANSMISSION

Senator Bill Cassidy
Ranking Member
U.S. Senate Committee on Health,
Education, Labor and Pensions
Washington, DC 20510-6300



412 Georgia Avenue, Suite 300
Chattanooga, Tennessee 37403

p [REDACTED]
f [REDACTED]

Dear Senator Cassidy,

I write in response to your letter dated January 22, 2024 to QSI, Inc. (“QSI” or the “Company”) seeking information about QSI’s hiring practices and steps taken to ensure that the Company is not employing underage workers in dangerous or hazardous situations.

QSI welcomes the opportunity to inform you and the HELP Committee about our culture of longstanding compliance and the policies and procedures we have in place to prevent the employment of underage workers. As detailed below, we evaluate and strengthen our policies and procedures in this area on an ongoing basis.

QSI has longstanding compliance policies and practices to prevent the employment of underage workers. The Company’s compliance programs were heightened in response to the alarming, published reports of an underage worker crisis that emerged in late 2022. Specifically, the Company:

- Enhanced the multi-tiered internal hiring process that evaluates work eligibility and age of each applicant for employment that has been followed for many years;
- Developed and implemented artificial intelligence tools to aid in making accurate determinations of the ages of workers; and
- Implemented a robust audit program that includes frequent and reoccurring audits, including self-audits, independent third-party audits, and customer supply chain audits.

These enhancements were well underway long before the U.S. Department of Labor (“DOL”) opened the current audit in the fall of 2023. We are cooperating fully with DOL’s evaluation of our workforce and stand ready to provide the Senate HELP Committee with the information it needs to fully understand the compliance challenges that QSI and other employers in our industry face. It is our aim to be part of the solution to this crisis.

Please find QSI’s responses to your questions below. Supporting documentation is included through the secure link sent to you via email. Each document provided through the link is referenced below, where responsive.

Questions and QSI's Responses

Question 1

Question No. 1: Has QSI amended any of its policies and procedures since January 1, 2022 to ensure all employees are of legal age and/or eligible to work in the particular job they are hired into? If so, what amendments were made?

QSI's Response: Yes, QSI has amended its policies and procedures substantially since January 1, 2022 to ensure all employees are of legal age and/or eligible to work in the job they are hired into. These changes in policies and procedures are part of QSI's ongoing commitment to compliance, and continued efforts that were commenced well before 2022, as detailed below.

By way of background, QSI has a longstanding prohibition on the employment of anyone under the age of 18, *i.e.*, workers must be "18+." The Company instituted an 18+ policy in 2007 to simplify compliance with the restrictions on underage workers under the Fair Labor Standards Act ("FLSA"). At that time the 18+ policy was enforced based on visual inspection of the applicant and on a review of each applicant's files and related records. In 2018, QSI began using Workday, a human resources information system ("HRIS"), to enhance its existing practices. This new system allowed QSI to put guardrails in place throughout the application process to prevent individuals from moving forward in the hiring process unless they indicated on their application that they were over 18 years of age. Over time, QSI refined its Workday application process and put additional automated constraints in place to prevent applicants who failed to demonstrate that they were 18 or more years of age from even being considered for employment.

In the summer and fall of 2022, QSI became increasingly concerned by news reports of underage worker violations in many workplaces, including the protein production and manufacturing industries.¹ According to those news reports, some workers who documented that they were 18+ years of age in demonstrating their eligibility to work, and who then were confirmed to be eligible to work using the Department of Homeland Security's E-Verify process, ultimately were found to be minors, notwithstanding the Federal government's verification of their identification documents. Based on these reports, we concluded that additional precautions were warranted to guard against underage individuals using false documentation to seek employment with QSI. These proprietary programs developed by QSI include Common Sense Audits, Protect the Enterprise Audits, and the artificial intelligence ("AI") driven Age Approximation Platform.

Over the past fourteen months we have instituted a multi-pronged approach to preventing unlawful underage labor that includes the following:

- Strengthening existing policies including increasing the minimum age of employment to 21+;

¹ See *e.g.*, Kaori Gurley, Lauren, "Dozens of Youths Illegally Employed to Clean Meat Plants, Labor Dept. Says, *The Washington Post* (Nov. 11, 2022), <https://www.washingtonpost.com/business/2022/11/10/youth-workers-meat-packing/>.

- Stepping up compliance training for management and staff;
- Hiring of additional compliance staff;
- Implementation of the AI driven Age Approximation Platform, which allows QSI to upload a photograph to receive an autonomous estimate of worker's age;
- Implementation of robust comprehensive self-directed audits;
- External auditing of our workforce; and,
- Participating in audits instituted by our customers.

A timeline of the enhanced youth employment compliance procedures that QSI has implemented over the years is included as an Appendix to this letter, for your reference. As evidenced in the Appendix, QSI's recent efforts have focused on enhancing its longstanding multi-year compliance programs.

As our efforts clearly demonstrate, QSI has no interest in employing underage workers – that would violate our Company's policies and the law. At QSI we believe it is not enough simply to change a policy without efforts supporting its implementation. These efforts are ongoing and based on the best practices available. QSI has voluntarily undertaken these changes and is continuing to make extensive enhancements to its policies and procedures to verify the ages of our workers, largely without assistance from DOL or based on any imposed requirements. Indeed, we sought guidance from DOL to ensure that QSI is fully addressing these matters and following best practices. Unfortunately, to date, DOL has not provided clear relevant guidance for employers seeking to prevent the unlawful employment of minors in their workforce through false documentation.² QSI utilizes E-Verify and one of the key learnings for QSI is that the Company cannot assume that the age information included in the documents verified by E-Verify is accurate. Therefore, additional steps must be undertaken to avoid hiring underage workers in violation of the Company's policy of 21+ (which the Company implemented in early 2023 as detailed below) and the governing legal standards.

Below we provide the details of the extensive good faith compliance efforts that QSI has voluntarily undertaken.

Stronger Policies. In February of 2023, QSI decided to strengthen its 18+ hiring policy to require all new hires to be 21 years of age or older (*i.e.*, workers must be 21+) and we began working towards implementation of the new policy. By May 2023, the new 21+ policy was implemented. This change specifically was designed to further reduce the likelihood of an underage employee working for QSI. "Hard stops" were implemented in the Workday system to automatically prevent anyone under 21 years of age from being processed for hire. To further support the changes in the new hiring restrictions, training was provided to all QSI recruiters

² For example, DOL has published Supply Chain Steps (<https://www.dol.gov/agencies/ilab/comply-chain>), that provide eight recommended steps for compliance – 1. Engage Stakeholders, 2. Assess Risks and Impacts, 3. Develop a Code of Conduct, 4. Communicate and Train Across a Supply Chain, 5. Monitor Compliance, 6. Remediate Violations, 7. Independent Review, and 8. Report Performance and Engagement. *QSI meets and exceeds each of these steps.* However, *DOL fails to provide any recommendations for addressing the central problem* – how to identify and to avoid relying on documentation falsely stating a worker's age that the Federal government has approved using through the E-Verify process.

through an instructional video that explained the new 21+ policy, and how the new policy would affect the Workday system.

QSI also fully and effectively communicated the new 21+ policy to the entire workforce. The specific communications included: (1) explaining the policy through multiple in-person meetings with senior management and weekly compliance phone calls with hiring managers; (2) posters in English and Spanish placed at all work sites stating the 21+ requirement and providing a number to report suspected violations; (3) postings on QSI's intranet in English, Spanish, and Mayan languages used during recruiting and onboarding that stated the policy; (4) a November 6, 2023 message to all employees through the Workday system; and (5) through QSI's job postings. Indeed, no efforts were spared to publicize the 21+ policy. For example, QSI representatives travelled in June of 2023 to the Academy de Mayan Languages de Guatemala, in Guatemala City, Guatemala to obtain the Mayan language policy translations.³

To provide additional information and evidence of our policy efforts, we are including the below documentation to supplement the written response. File names appear in italics.

- *Ex. 1 - 21+ Age Requirement Video.mp4* (Video demonstrating how applicants are flagged and cannot move forward in the hiring process without a DOB making them 21+).
- *Ex. 2 - 21+ Hiring Policy Posters* (Posters in English and Spanish placed at every QSI location explaining the 21+ hiring policy and providing a tip line for suspected violations.).
- *Ex. 3 - 21+ Policy in Multiple Languages on Intranet* (Screen shot showing the portion of QSI's intranet that states the company's "21-Year-Old Age Requirement" in English and Spanish and providing links to audio statements of the policy in 22 Mayan languages.).
- Sample Audio Recordings Explaining the 21+ Policy in Mayan Languages:
 - *Ex. 4 - Itza' Language 21+ Policy Audio Recording*
 - *Ex. 5 - K'iche Language 21+ Policy Audio Recording*
 - *Ex. 6 - Q'eqchi' Language 21+ Policy Audio Recording*
- *Ex. 7 - Photo of QSI at Academy of Mayan Languages in Guatemala City*
- *Ex. 8 - QSI Sanitation Team Member Position Requirements* (Sample QSI Job Description stating that all applicants must be 21+ to apply.).
- *Ex. 9 - QSI Job Requirements Showing 21+ Age Requirement* – (Sample of QSI's job requirements for a Sanitation Team Member position showing that applicants must complete a pre-screening questionnaire that asks if the individual is over 21. Candidates who answer "no" are automatically dispositioned as not qualified.).

³ This effort is extraordinary in that Mayan language translation has overwhelmed U.S. immigration courts according to a *New York Times* article on March 19, 2019 titled "Anyone speak K'iche or Mam? Immigration courts overwhelmed by indigenous languages. Medina, Jennifer, "Anyone speak K'iche or Mam? Immigration courts overwhelmed by indigenous languages." *The New York Times* (March 19, 2019), <https://www.nytimes.com/2019/03/19/us/translators-border-wall-immigration.html>.

Compliance Training. Since January of 2022, QSI has implemented numerous additional training courses for staff to combat unlawful employment of underage workers.

Actions Taken Prior to January 2022. QSI has an ongoing commitment to training its managers, supervisors, and other exempt employees on underage worker restrictions and other dictates under the FLSA that predates January of 2022. In 2017, QSI expanded its FLSA retraining in a video in both English and Spanish for its managers, supervisors, management trainees, and any new hiring personnel during onboarding. The video covers FLSA compliance related to youth employment, including the prohibition on the employment of minors in most positions in the protein production industry. The videos are housed on QSI's learning management system, Brainstorm, where trainings are available to managers, supervisors, and administrative staff on a 24/7 basis. Below are the training videos and written materials that supported the training prior to January 2022:

- *Ex. 10 - FLSA Training Video - English* (FLSA training video in English shown to managers, supervisors, management trainees, and any new hiring personnel during onboarding and made available to them 24/7 on Brainstorm. The discussion of youth employment restrictions begins at 16:02.).
- *Ex. 11 - FLSA Training Video – Spanish* (FLSA training video in Spanish shown to managers, supervisors, management trainees, and any new hiring personnel during onboarding and made available to them 24/7 on Brainstorm. The discussion of youth employment restrictions begins at 13:16.).
- *Ex. 12 - Connect the Dots Presentation* (This presentation provides information about how to identify false identification documents.).

Actions Taken After January 2022. Following the reports of underage labor violations, QSI determined it would conduct additional FLSA retrainings and expand the extensive FLSA training already provided to its hiring managers to include additional guidance documents. To supplement existing training materials, QSI added available guidance documents and training materials from DOL's website to ensure that the company was following DOL's most up to date guidance and best practices for combating unlawful underage labor.

On May 4, 2023, Dante Rogers, QSI's Head of Legal Affairs, conducted the first enhanced retraining for QSI's hiring managers on the FLSA and youth employment, QSI's 21+ Policy, and identifying false identification documents. Mr. Rogers will conduct this retraining for hiring managers on an annual basis. In addition, QSI will continue to provide FLSA training in a video format on Brainstorm for its managers, supervisors, and administrative staff in both English and Spanish.

The training included materials QSI prepared and content from DOL's website.

- *Ex. 13 – Child Labor Training Record* (Email detailing the May 4, 2023 FLSA training conducted by Mr. Rogers.).
- *Ex. 14 - FLSA Youth Employment PowerPoint* (DOL Wage and Hour Division ("WHD") PowerPoint Presentation on Youth Employment Under the FLSA. QSI included its branding on the first slide, but the content is from DOL.).

- *Ex. 15 - Child Labor 2023 PowerPoint – English* (DOL WHD PowerPoint Presentation in English explaining youth employment restrictions.).
- *Ex. 16 - Child Labor 2023 PowerPoint – Spanish* (DOL WHD PowerPoint Presentation in Spanish explaining youth employment restrictions.).
- *Ex. 17 - Youth Employment Guide for Non-Agricultural Workers* (DOL WHD FLSA fact sheet explaining work restrictions for minors.).
- *Ex. 18 - Child Labor Provisions for Nonagricultural Occupations under the Fair Labor Standards Act* (DOL WHD publication explaining youth employment restrictions in detail.).
- *Ex. 19 - Child Labor Flyer* (Explains restrictions on work for various age groups under 18.).
- Know Your Rights Videos (DOL WHD presentations available at [Know Your Rights Videos | U.S. Department of Labor \(dol.gov\) that outline employee FLSA rights and restrictions.](#))
- *Ex. 20 - Youth Rules Brochure* (DOL WHD publication explaining youth employment restrictions.).

As an additional step to ensure compliance, QSI retained an expert outside consultant, [Guidepost](#), to provide training specifically relating to hiring documentation issues, including identifying fraudulent documentation. QSI contracted with Guidepost to provide trainings on September 15, 2023, prior to DOL’s initiation of audit. Guidepost provided a training to QSI’s hiring and HR personnel on October 27, 2023, that included:

- General I-9 training;
- Identify the fraud risk levels of various types of I-9 documentation;
- How to escalate things internally for suspected identity fraud;
- Evaluation of Federal identification documents, as well as questionable state documents;
- Changes in social security cards;
- Review of fraud indicators on IDs;
- Provision of ongoing information regarding identification issues over time.

The following documents provide additional information related to the Guidepost training:

- *Ex. 21 - Guidepost Expertise* (Details services offered by Guidepost and Guidepost’s past client work.)
- *Ex. 22 - Guidepost Training Document* (Summarizes topics covered in Guidepost training).

Hiring of Additional Compliance Staff. Over the course of 2023, QSI added two compliance staff members – a Corporate Compliance Specialist and a Field Auditor – and a third additional position has been approved. These individuals are responsible for reviewing new hire documentation and confirming that the appropriate new hire information has been provided, including acceptable identification documentation to establish age eligibility and compliance with QSI’s 21+ hiring policy.

Age Approximation Platform. As part of the ongoing efforts to confirm the age of its employees and compliance with the 21+ policy, in late November 2023, QSI built a platform that allows the Company to access a large facial recognition library stored in AWS. The library uses a large, pre-trained model of facial data to provide an approximate age and an age range based on a photo. QSI tested the Age Approximation Platform (the “Platform”) with the employee photos in Workday to ensure efficacy and then added the Platform to the procedures that the compliance team uses to confirm the age of employees. QSI undertook this extraordinary step of creating new technology to remove the subjective element of auditing (*i.e.* requiring an employee or applicant to provide additional documentation of age because he or she “looks young.”).

The Platform was deployed beginning in January 2024 and is rapidly being utilized by both the field and the Corporate Compliance Team (located at QSI’s headquarters in Chattanooga) to analyze and confirm the age of all QSI employees and new hires. Results from the Platform show a green or yellow designation. Any result with a lower age range of 25 or younger will show yellow, which results in additional review and assessment of the individual’s age. All other results will show green. Yellow results are further reviewed by the Corporate Compliance Team and any uncertainty will result in the employee being asked to provide additional proof of age.

The following exhibits demonstrate the Age Approximation Platform:

- *Ex. 23 - QSI Age Approximation Platform Demo Video* (Provides a demonstration of how to use the age verification platform.).
- *Ex. 24 - Age Approximation Platform Demo Email* (Explains new age verification platform to hiring managers and provides a demo video for the product.).
- *Ex. 25 - Age Approximation Platform Result Example 1* (Shows a sample Age Approximation Report for a QSI employee where the results are marked yellow because the bottom end of the estimated age range is below 25. This individual is flagged for further review. The Platform correctly estimated the employee’s age as 21.).
- *Ex. 26 - Age Approximation Platform Result Example 2* (Shows a sample Age Approximation Report for a QSI employee where the results are marked green because the employee was correctly judged to be 47 years of age.).

Internal Auditing. Since January of 2022, QSI has begun two new forms of regular internal auditing of FLSA compliance to prevent unlawful employment of underage workers in violation of the Company’s 21+ policy. These new audits are called “Common Sense Audits” and “Protect the Enterprise Audits.”

Common Sense Audits. QSI began conducting Common Sense Audits on November 7, 2022. During a “Common Sense Audit” individuals not directly assigned to the location being audited conduct checks to review compliance with the identification/age verification procedures and/or badge checks at the location under review. These audits are random and unannounced to ensure the audit process cannot be circumvented. QSI purposefully arranges for these checks to be conducted by management from another plant to ensure that there are fresh eyes reviewing the

documentation and evaluating employees at the review location, so as to avoid favoritism and to be certain that managers are not circumventing company hiring rules and procedures.

In the event that the relevant documentation reviewed raises uncertainties as to whether the documents are authentic and/or whether they are sufficient to demonstrate that the employee satisfies age eligibility requirements, the employee is afforded an opportunity to provide further documentation to substantiate his or her identification and/or age. Some employees who have been requested to provide additional documentation do so; some do not return and are voluntarily separated. QSI does not know why those employees do not return. What we do know is that any employee who could not provide documentation of age eligibility was separated from employment. Managers found to have violated policy are terminated.

Protect the Enterprise Audits. As an additional safeguard and to bolster the existing processes in place to ensure compliance with the age eligibility requirements for workers, QSI added what it refers to as “Protect the Enterprise Audits” beginning in September 2023. These audits are also random and unannounced and instituted to verify employees are 21+ and eligible to work. Protect the Enterprise Audits involve periodically reviewing employees coming into a facility. Pictures of the employees are taken and uploaded into Workday. The new pictures are compared to the original hiring documents/pictures in Workday for confirmation that (a) the person reporting to work is the same person as originally hired, and (b) that the employee both does not appear to be underage and has documentation on file sufficient to establish that fact. These audits at a specific plant are designed to occur on multiple occasions to ensure that those employees who may be absent do not escape review. To make certain that employees do not evade evaluation during later audits, if an employee is absent two times when pictures are taken, the employee is terminated.⁴

External Auditing. In addition to QSI’s self-auditing of its workforce and practices, since January of 2022, QSI has engaged multiple outside auditors to conduct evaluations of its compliance with the FLSA’s youth employment restrictions.

Customer Auditing. As part of its customer supply chain auditing, QSI is subjected to an audit of its compliance, including restrictions relating to youth employment, on an almost weekly basis. For example, 51 unannounced customer audits took place in 2023. Of those audits, 37 were conducted by independent third parties and 18 were conducted by QSI at the customer’s direction. To date, 100% of the audits have resulted in no findings of unlawful youth employment.

QSI Initiated External Audits. QSI also voluntarily engaged outside auditors to evaluate its compliance with youth employment restrictions prior to January of 2022. In 2015 and 2019, QSI proactively engaged auditors to evaluate the Company’s fair wages, working hours, and youth employment restrictions. QSI continues to supplement its own monitoring and self-auditing efforts through third party independent audits.

In September of 2023, QSI retained an expert outside consultant, [Guidepost](#), to conduct independent audits of sample identification documentation to identify those likely to be fraudulent (in addition to the training Guidepost conducted for staff on identifying false documentation).

⁴ Without an approved leave of absence.

QSI is currently in discussions with other third-party auditors to expand its third-party auditing footprint. In October of 2023, QSI engaged the [Centre for Child Rights and Business](#), a third-party auditor focused on child labor. Following some preparatory research, the Centre for Child Rights and Business assessments are undertaken by two expert assessors during a two-day plant visit. The standard assessment is conducted through walkthrough/direct observation, interviews with managers and workers, focus groups, an analysis of assessment results and the development of recommendations. QSI also is in active discussions with additional third-party auditors to provide audits of all its worksites. The selected third-party auditors will conduct one audit every other week until all facilities are evaluated.

Question 1(a)

Question 1(a): In addition to answering [Question No. 1], please produce the following documents: A copy of all QSI document retention policies for maintaining and preserving employee records in place since January 1, 2022.

QSI's Response: QSI first implemented its current comprehensive document retention policy on March 3, 2015 to ensure compliance with federal and state laws and regulations and to eliminate accidental or innocent destruction of records. The document retention policy is fully integrated into Workday, where records are automatically preserved for the periods required by law. A copy of QSI's document retention policy is included with the production under the following file name:

- *Ex. 27 - QSI Document Retention and Destruction Policy 3.18.15* (QSI's document retention policy. Includes an appendix detailing the length of time QSI will retain each record as required by law.).

Question 1(b)

Question 1(b): If all QSI locations do not follow the same document retention policies, please explain why.

QSI's Response: Consistent with QSI's corporate wide approach to compliance there is one document retention policy (provided in response to Question 1(a) above) that applies to all locations.

Question 2

Question 2: Does QSI offer trainings for its managers relating to its compliance with child labor law provisions of the Fair Labor Standards Act (FLSA)? If so, how have those training materials changed since January 1, 2022, if at all?

QSI's Response: As discussed in the response to Question 1 above, beginning in 2017 QSI provided video trainings to managers and supervisors on compliance with the underage worker provisions of the FLSA during their onboarding. The training materials were also made available to those individuals on a 24/7 basis through Brainstorm. Beginning in 2023, QSI enhanced its FLSA compliance training program. Training will now be provided to Hiring Managers on an annual basis (in addition to during onboarding) and the materials provided to Hiring Managers include DOL guidance documents outlining the most up to date procedures and practices for prevention of unlawful employment of minors.

Question 2(A)

Question 2(a): In addition to answering [Question 2], please produce a copy of QSI's training materials for all managers that relate to compliance with child labor law provisions of the FLSA.

QSI's Response: As discussed in the response to Question 1, QSI provides training materials to new managers and supervisors at the time of hire and on an as needed basis through Brainstorm. Moreover, QSI will now provide additional materials to Hiring Managers on an annual basis. The training materials provided include QSI's own explanations of the youth employment restrictions and the most up-to-date guidance and best practices from the Department of Labor.

Please see the following training materials for managers, which are also being provided in response to Question 1:

- *Ex. 10 - FLSA Training Video - English* (FLSA training video in English shown to managers, supervisors, management trainees, and any new hiring personnel during onboarding and made available to them 24/7 on Brainstorm. The discussion of youth employment restrictions begins at 16:02.).
- *Ex. 11 - FLSA Training Video - Spanish* (FLSA training video in Spanish shown to managers, supervisors, management trainees, and any new hiring personnel during onboarding and made available to them 24/7 on Brainstorm. The discussion of youth employment restrictions begins at 13:16.).
- *Ex. 12 - Connect the Dots Presentation* (This presentation provides information about how to identify false identification documentation.).
- *Ex. 13 - Child Labor Training Record* (Email detailing the May 4, 2023 FLSA training conducted by Mr. Rogers.).
- *Ex. 14 - FLSA Youth Employment PowerPoint* (DOL Wage and Hour Division ("WHD") PowerPoint Presentation on Youth Employment Under the FLSA. QSI included its branding on the first slide, but the content is from DOL.).
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- *Ex. 17 - Youth Employment Guide for Non-Agricultural Workers* (DOL WHD FLSA fact sheet explaining work restrictions for minors.).

- *Ex. 18 - Child Labor Provisions for Nonagricultural Occupations under the Fair Labor Standards Act* (DOL WHD publication explaining youth employment restrictions in detail.).
- *Ex. 19 - Child Labor Flyer* (Dol WHD flyer explaining restrictions on work for various age groups under 18.).
- Know Your Rights Videos (DOL WHD presentations available at [Know Your Rights Videos | U.S. Department of Labor \(dol.gov\)](https://www.dol.gov/eis/whd/yourrights) that outline employee FLSA rights and restrictions.).
- *Ex. 20 - Youth Rules Brochure* (DOL WHD publication explaining youth employment restrictions.).

Question 3

Question 3: What steps does QSI take to ensure that, in the event it hires minors to work at any of its locations or facilities, those minors do not work in prohibited and/or hazardous locations or perform prohibited and/or hazardous tasks that would violate federal labor law?

QSI's Response: QSI had a longstanding policy that prohibited the employment of anyone under 18 years of age. That policy was revised in 2023 to prohibit the employment of anyone under 21 years of age. This policy change was instituted in May of 2023 to reduce the likelihood of an underage employee working for QSI. Put differently, QSI's policies consistently have been designed to not hire workers who are under 18. For additional information on how QSI ensures it does not employ anyone under 21, please see QSI's responses to Question Nos. 1 and 2 above.

Question 3(a)

Question 3(a): In addition to answering this question, please produce a copy of all QSI policies that relate to hiring and/or employing minors at any QSI location or facility.

QSI's Response: Because QSI does not hire anyone under 21 years of age, the company does not have policies that relate to the hiring and/or employment of minors. Indeed, all the company's policies are focused on *not hiring minors*.

Question 3(b)

Question 3(b): If all QSI locations do not follow the same policies and procedures for hiring and/or employing minors, please explain why.

QSI's Response: QSI does not hire anyone under 21 years of age. For this reason, QSI has no policies and procedures for hiring and/or employing minors applicable to any or all of its work locations.

Questions 4, 4(a)-(c)

Questions 4, 4(a)-(c): Has QSI taken any adverse employment actions against current or former managers since July 1, 2022 related to violations of the child labor provisions of the FLSA? If so, please provide the following information: a. The location(s) where the management personnel was employed; b. The nature of the violation and adverse action taken; and c. The date QSI took the adverse employment action.

QSI's Response: QSI has not taken an adverse action against any employee or manager related to violations of underage child labor provisions. To date there are no confirmed allegations of underage worker violations in QSI's workforce. However, managers that violate policies are subject to discipline, up to and including termination. Any manager found to have violated QSI's policies and the FLSA's restrictions on underage workers would be subject to termination.

Question 5

Question 5: What policies, procedures, and/or other system(s) does QSI use to confirm the eligibility of their employees to work in the United States?

QSI's Response: QSI fully complies with all regulatory requirements for verifying the eligibility of our employees to work in the United States. As described below, QSI utilizes the best available compliance tools to ascertain the identity of everyone we employ and all new hires are subjected to numerous layers of human and technological review, including a final audit for work eligibility by the Corporate Compliance Team.

The first line of defense against employment of unauthorized workers is through QSI's recruiters in the field. Recruiters who work at QSI's sites around the country interview prospective employees, inform them of the I-9 process, and collect the I-9 form and accompanying documentation. The recruiters assess the identification documents for facial validity and ensure that the documents are reasonably related to the person in front of them and states the person is 21 years or older.

During this process recruiters leverage the "Connect-the-Dots" training (referenced above) to detect identity fraud as well as the Guidepost training from September of 2023 relating to hiring documentation issues. The field hiring team has been implementing and using the information from the Guidepost training since October 27, 2023 and QSI has noted improvements, enhanced screening, and greater implementation relating to the suggested methodologies.

As part of the recruiting and onboarding process in Workday, individuals will flow through the pre-employment screening and application process (described above). As the applicant passes the prescreening standards, they can then be offered a position and proceed to the new hire and onboarding processes. The onboarding process in Workday is integrated with the E-Verify System. When the I-9 process is completed, the Workday software extracts data directly from the completed I-9 and transmits the information directly to E-Verify through web service access. Due to the rules and required fields in the Workday system, we are able to ensure the I-9 & E-Verify

processes are completed more accurately and submitted. The Workday system is able to provide a more accurate submission than manual entry of the forms. The interface between Workday and E-Verify automates and manages the cases independent of the operations management team, who have no role in the process. The secure connection between Workday and E-Verify prevents misuse. Once E-Verify runs the applicant's information through its system, results are transmitted back to Workday through the interface and stored in the employee file in Workday.

The Corporate Compliance Team at our headquarters in Chattanooga audits the case status of each new hire. This audit process ensures accuracy and compliance with our hiring practices and confirms the eligibility of new hires to work lawfully within the United States. Recent additions to the compliance team have bolstered these efforts. Each new hire is individually reviewed by the compliance team to ensure the individual's hiring process and onboarding was completed satisfactorily and the individual is authorized to work in the United States. The Corporate Compliance Team's audit of each new hire is a multi-step process that includes the following:

- At the time of hire, all new hires are photographed for their work profile photo.
- The profile photos are reviewed by the Corporate Compliance Team and compared to the ID documents provided by the individual to ensure they appear to reasonably relate to the person's demographics and that all pictures show the same individual.
- Any missing documents or profile photos are flagged by the Corporate Compliance Team and a staffer is assigned to follow up on those issues.
- Profile photos of new hires are run through the Age Approximation Platform (discussed above) to validate the estimated age reasonably relates to the age on the person's stated demographics.
- The I-9 forms are audited by the Corporate Compliance Team to ensure they are accurate and filled out completely.
- The Corporate Compliance Team audits the results of the E-Verify process to ensure the new hire is either determined to be employment authorized or has successfully completed the Tentative Nonconfirmation process, whereby flagged applicants are given ten days to provide valid documentation.
- Any soon to expire work authorization documents are flagged and tracked (*e.g.*, EADs) to ensure an updated document is provided before the expiration date.
- The compliance process is iterative - weekly calls are scheduled with the hiring team to ensure corrections are made timely, new processes or requirements are communicated promptly, and collaboration between the HR field staff and the Corporate Compliance Team occurs to ensure the best outcome possible.

QSI's screening and hiring procedures in the field have resulted in the rejection and/or the requirement of further diligence relating to prospective candidates, often before the candidate ever makes his/her way into the QSI's HRIS system. The secondary employment authorization check provided by the Corporate Compliance Team in Chattanooga has further enhanced the strength of our process. Since October 2023, QSI has denied 400 people employment due to failure to clear the two-step process.

Please note, all workers at QSI are regular employees of the Company and are subject to this comprehensive review. QSI does not use staffing companies or temporary labor.

We are including the below documentation with our submission to provide additional information and evidence of our worker verification efforts.

- *Ex. 28 - Weekly Inspiring Compliance Teams Meeting Invite* (A sample meeting invite for the Corporate Compliance Team and HR field staff's weekly meeting is attached.).

Question 5(a)

Question 5(a): If QSI uses E-Verify and/or other web-based systems, does QSI ensure that management personnel do not misuse these systems or engage in unreported employment? If so, how?

QSI's Response: As detailed in the response to Question 5 above, QSI utilizes multiple levels of compliance review and screening to ensure systems are not misused and that there is no unreported employment.

First, QSI's HR compliance is independent from its operations team. QSI's internal reporting structure prevents operations personnel from influencing the hiring and compliance policies and practices. Simply stated, the managers in the field have no involvement in determining worker eligibility. Although site managers are involved in the recruiting or selection process, they are not involved in the hiring and onboarding process, including the use of E-Verify and the Company's other web-based systems involved in the work eligibility process.

Second, E-Verify is integrated into the Workday system. This means the I-9 information uploaded to Workday is automatically submitted to E-Verify with results automatically being returned. Only a limited number of Corporate Compliance Team members have access to the E-Verify results, and managers in the field have no access whatsoever.

Third, QSI employees must be entered into Workday to receive wages. Workday will not permit an individual to be paid in cash "under the table" because all payments to employees must be linked to the recorded time punches of an employee in the Workday system and further, payments to employees are electronically processed and dispersed. This system integration ensures no misuse of the systems or any unreported employment. Finally, QSI has made it clear to management personnel that a violation of these policies and procedures can and will result in discipline, up to and including termination.

All workers at a QSI location are subject to the above vetting process because QSI does not utilize third party staffing companies or temporary labor to supplement its workforce. This eliminates any potential risk that a staffing company providing QSI with workers could subvert work eligibility requirements and youth employment restrictions.

Conclusion

Preventing the unlawful employment of minors is one of the greatest challenges faced by employers. I would like to reiterate that QSI has no tolerance whatsoever for unlawful underage labor within its workforce and has voluntarily and proactively gone to great lengths to prevent violations and keep minors safe. We are always looking for additional specific guidance from DOL, but will continue to independently put forth the effort to improve our processes to address compliance at the highest levels. We wish to be a part of the solution and ensure the employment of minors does not occur within our workforce. Additionally, we would welcome any specific guidance and best practices that DOL puts forward on steps to verify the age of workers who the Federal government has confirmed are eligible to work through the E-Verify system.

Please let us know if you and the other HELP committee members have any questions about QSI's response to your letter or if you require additional information or documentary support to understand QSI's robust compliance policies and practices.⁵ Thank you for your consideration of this written response and the accompanying documentation.

Respectfully submitted,



James Hamilton
Vice President of Inspired Performance and
Compliance

⁵ By providing this response and any documents, QSI does not intend to waive any applicable privileges under the U.S. Constitution, common law, or otherwise, relating to documents or information which may not be subject to production. By providing the materials or information, QSI has made every effort to prevent the disclosure of any privileged or proprietary information or material. To the extent that any documents or information may subsequently be determined to be privileged or proprietary, QSI does not intend to waive and has not waived the attorney-client privilege or any other protections, and any such disclosure would be inadvertent on the Company's part.

APPENDIX

QSI Response to Senator Bill Cassidy’s Letter dated January 22, 2024

Timeline of QSI’s Enhanced Youth Employment Compliance Procedures	
QSI enrolls in E-Verify to confirm employment eligibility of all employees.	August 2004
QSI institutes the 18+ hiring policy.	2007
QSI creates Document Retention and Destruction policy.	March 2015
QSI voluntarily initiated third party audits which included evaluation of fair wages, working hours, and youth employment restrictions.	May 2015
QSI creates video training in English and Spanish on FLSA compliance that includes an explanation of youth employment restrictions. Training is utilized during onboarding.	May 2017
HRIS system Workday implemented. No individual can be hired or paid without being successfully entered into the centralized database. All files are maintained electronically with the system configured to retain documents in compliance with all regulations.	October 2018
Workday configured so that you must answer a pre-qualifying question that you are 18+ to continue the application process.	October 2018
QSI integrates E-Verify with Workday so that only hiring personnel can enter data.	October 2018
QSI voluntarily initiates third party audits which included evaluation of fair wages, working hours, and youth employment restrictions.	2019
QSI adds additional protections into the Workday application process to prevent the hiring of anyone under 18. Workday Worker Record configuration – “hard stop” was listed on personal information (18 or older) preventing any later changes to birthdate.	June 2020
All data is now centrally entered into Workday and confirmed by Corporate Compliance Team at QSI headquarters.	June 2020
"Common Sense" audits begin.	November 2022

The 21+ hiring policy is instituted. Workday further configured with hard stops so that you must be 21+ to be hired.	May 2023
Comprehensive retraining on FLSA for hiring managers. To be conducted on an annual basis along with training provided during onboarding.	May 2023
QSI partners with the Academy of Mayan Languages in Guatemala to create audio recordings of 21+ age requirement in 22 Mayan languages for recruiting and onboarding.	June 2023
"Protect the Enterprise" audits begin, where photos of employees are uploaded into Workday and compared to their I-9 documents by the centralized Corporate Compliance team.	September 2023
QSI hires identity fraud expert (Guidepost) to audit random employee sets for possible false identification documentation.	September 2023
QSI engages Centre for Child Rights and Business to conduct audits.	October 2023
Training on identity fraud initiated for all hiring and compliance managers through Guidepost.	October 2023
All employees sent a reminder notification of 21+ policy through Workday system.	November 2023
Testing of Age Approximation Platform to refine the process.	December 2023
Rapid deployment of Age Approximation Platform begins on all current and new hires. Deployment is currently underway.	January 2024
QSI begins third party child labor audits with the Centre for Child Rights.	January 2024



February 5, 2024

Via Electronic Delivery:

The Honorable Bill Cassidy, M.D.
Ranking Member
Committee on Health, Education,
Labor and Pensions
U.S. Senate
Washington, D.C. 20510-6300

Re: January 22, 2024, Letter Regarding Department of Labor Investigation

Dear Ranking Member Cassidy:

This letter responds to your January 22, 2024, letter relating to an investigation initiated by the Department of Labor (“DOL”) involving Perdue Farms Inc (“Perdue”).

By way of background, Perdue is a 104-year-old fourth generation family-owned food and agriculture company, deeply rooted in its commitment to responsible food and agriculture practices. With a workforce of more than 21,000 employees and operations spanning across 27 states and internationally, we are focused on the health and safety of our employees, farmers, communities, customers, and business partners. As an essential part of the U.S. food supply chain, we remain dedicated to providing a safe, stable, and abundant food supply. I invite you and your staff to review our [considerable corporate responsibility commitments](#). These commitments reflect our dedication to the public, customers, business partners, employees, and regulators, underscoring our ongoing efforts to make a positive impact on the communities we serve.

Underage labor has no place in our industry or business, and we have zero tolerance for it. Perdue prohibits the employment of individuals under the age of eighteen, and we make every effort to ensure our third-party suppliers comply with child labor laws. We were deeply troubled to learn that one of our sanitation suppliers, Fayette Industrial Sanitation Solutions, had an underage worker at our Accomac, Virginia, facility in early 2022. We first learned this disappointing news in September 2023, at the time of publication of the *New York Times Magazine* story you reference in your letter. Since that time, we have strengthened our efforts to hold suppliers accountable for child labor compliance by implementing age verification audits, tightening facility access procedures, and launching an internal reporting campaign. We also remain committed to collaborative partnerships with local schools to detect and address underage labor in the communities we are actively present in.

With that said, Perdue wants to set the record straight about a misleading aspect of the *New York Times Magazine* story that forms the basis of your letter. As you note that story recounts an accident involving an injury to a worker of a third-party sanitation supplier that occurred at Perdue's Accomac processing facility. For clarity, regulations of the Food Safety and Inspection Service ("FSIS") of the U.S. Department of Agriculture ("USDA") require the cleaning of all product contact surfaces at the end of the production day. Perdue has historically outsourced the sanitation function at its processing facilities to professional plant sanitation suppliers with the technical skills, equipment, and products necessary to clean the facilities in accordance with these USDA requirements.

As stated above, in September 2023, Perdue learned that the then-sanitation supplier for our Accomac facility, Fayette Industrial Sanitation Solutions ("Fayette"), employed an underage worker that was injured in an accident in early 2022. Perdue immediately asked Fayette about the age of the injured individual. In response, Fayette disclosed for the first time that following the injury it had determined the individual to be under the age of eighteen. In addition, Fayette shared the documentation the injured worker provided at the time of his hire reflecting his age to be above age eighteen. Consistent with Fayette's representation to Perdue, the *New York Times* reported that the injured worker admitted that he used fraudulent documentation to gain employment with Fayette. Fayette assured us that the minor received workers' compensation benefits for the injury.

The introductory paragraph of your letter states that the *New York Times* "alleged that management had knowledge it was engaging in unlawful acts, and stopped the child laborers from leaving work early to catch their school buses because it could be seen as 'a tacit admission that the shift was filled with minors.'" The *Times* story quotes a "Miquel Cobo" who is described as the "assistant manager of the sanitation shifts at Perdue" with the statement referenced in your letter. The *New York Times* story inaccurately implies that Perdue management knew of child labor working at the Accomac facility. ***Mr. Cobo was not a Perdue employee.*** Perdue confronted the *Times* about the false implication, but the newspaper refused to correct its story. It stated: "While it is true that Mr. Cobo is not identified in the particular sentences as a Fayette employee, the immediate context of the statement conveys to readers that **Fayette, not Perdue, is in charge of the sanitation workers**" (emphasis added). The *Times* further noted, "We feel that the piece has sufficient context and information for the reader to know that Cobo is employed by an outside sanitation company." (Referenced correspondences with the *Times* are attached to this letter).

We believe it is important that you fully understand that the *Times* did not allege (and by its statements to Perdue maintains that it did not intend to imply) that Perdue management had any knowledge of child labor on its worksite.

Your letter states, "[u]nfortunately, Perdue is not the only company found to have employed minors unlawfully." We believe it is important to correct this assertion as well. **Perdue has not been found to have employed minors unlawfully at any of its worksites.** The minor referenced in the *Times* story was an employee of Fayette, one of our former sanitation suppliers.

February 5, 2024

Page 3

I will reiterate that underage labor has no place in our business. Perdue has long-standing policies in place to ensure the safety of everyone working in our facilities, including robust measures to prevent minors from engaging in hazardous work in violation of the law.

Please find attached, as requested, a question-by-question response to your January 22 inquiry.

Perdue appreciates your interest in this important matter. Perdue remains committed to ensuring that no child under the age of eighteen works at our facilities and will continue holding our suppliers to the same standards.

Respectfully,

A handwritten signature in blue ink, appearing to read "H. Frerichs, Jr.", written in a cursive style.

Herbert D. Frerichs, Jr.
General Counsel

Attachments

February 5, 2024

**Responses of Perdue Farms to January 22, 2024, Letter of Bill Cassidy, M.D.
Ranking Member Committee on Health, Education, Labor and Pensions, U.S. Senate**

1. What steps does Perdue take to ensure that, in the event it hires minors to work at any of its locations or facilities, those minors do not work in prohibited and/or dangerous locations or perform prohibited and/or dangerous tasks?

Perdue prohibits minors—defined as individuals under the age of eighteen—from working at any of its production locations or facilities. Perdue also includes a provision in third-party contracts prohibiting workers under the age of eighteen at its facilities.

Besides these long-standing policies prohibiting child labor, Perdue has implemented the following additional compliance steps:

- In March 2023, Perdue implemented written guidelines on Child Labor Prevention and Protection, which included training on child labor for human resources and directors of operation.
- In April 2023, Perdue required third-party suppliers, including sanitation companies, to complete labor compliance certifications. In those certifications, the third-party suppliers agreed they shall not knowingly employ any workers under the age of eighteen to provide any work for Perdue contracts.
- Since April 2023, Perdue’s human resources team has conducted unannounced, visual age-audits of workers, including workers of sanitation suppliers on the night shifts. As part of these unannounced audits, Perdue human resources visually observes workers who enter and/or exit the facility. If Perdue’s human resources team observes someone who appears under the age of twenty-one, Perdue’s team requires the worker to produce satisfactory age verification documentation. Satisfactory age verification documents could include, for example, a government-issued identification document with photograph identification and a date of birth evidencing that the worker is age eighteen or above.
- Perdue requires all Perdue associates and third-party labor suppliers to have facility access badges with a photograph. Perdue has implemented strict “no photo security badge, no access” procedures.
- Perdue has implemented a “See Something, Say Something” campaign with posters in all facilities (in multiple languages), specifically requiring associates to report to its hotline any suspected worker under age eighteen.

- a. **In addition to answering this question please produce a copy of all Perdue's policies that relate to hiring and/or employing minors at any Perdue location or facility.**

Perdue's policies are attached.

- b. **Does Perdue use a single, uniform policy across its locations and facilities? If not, please explain why.**

Yes.

2. **Does Perdue provide training materials for its managers relating to its compliance with child labor law provisions of the Fair Labor Standards Act (FLSA)?**

Yes.

- a. **In addition to answering this question, please produce a copy of Perdue's training materials for all managers that relate to compliance with child labor law provisions of the FLSA.**

Perdue's training materials are attached.¹

- b. **Does Perdue use uniform training materials across its locations and facilities? If not, please explain why.**

Yes. Perdue's training materials are uniform across its locations and facilities.

3. **Has Perdue taken any adverse employment actions against current or former managers since January 1, 2022, related to any violations or alleged violations of the child labor provisions of the FLSA? If so, please provide the following information:**

No.

Perdue did terminate its contracts with Fayette Industrial Sanitation Solutions following our investigation of the *New York Times* story.

- c.[sic] **The location(s) where the management personnel was employed;**

Not applicable.

¹ We request that you treat the training materials submitted as attachments to our response as business confidential. We ask that you provide us with written notice three business days in advance of any public release of all or any part of those materials.

d.[sic] The nature of the violation; and,

Not applicable.

e.[sic] The date Perdue took the adverse employment action.

Not applicable.

4. What policies, procedures, and/or other system(s) does Perdue use to confirm the eligibility of their employees to work in the United States?

After a conditional offer of employment is made to a candidate, Perdue provides the Form I-9 with complete instructions and the Lists of Acceptable Documents to the newly hired employee. The employee completes and signs Section 1 of Form I-9 no later than the employee's first day of employment. Generally, at orientation, but no later than three business days of the date of hire, the new employee presents to Perdue human resources for examination original, acceptable, and unexpired documentation from the Lists of Acceptable Documents that shows their identity and employment authorization. Perdue human resources then completes Section 2 of Form I-9 and enters the information from the Form I-9 in the E-Verify system.

f.[sic] If Perdue uses E-Verify and/or other web-based systems, does Perdue ensure that management personnel do not misuse these systems or engage in unreported employment? If so, how?

Yes. Perdue provides training to human resources team members. In addition, Perdue corporate human resources conducts periodic internal I-9 audits of all facilities to ensure E-Verify processes are followed.

5. Has Perdue contracted with a third-party company to perform its cleaning and sanitation services at any of its meat-packing or slaughterhouse facilities since January 1, 2021? If so, which one?

Yes. Perdue contracts with third-party sanitation suppliers for its harvesting and processing facilities. Prior to 2024, contracts for sanitation services for facilities in Accomac, Virginia; Lewiston, North Carolina; and Salisbury, Maryland were with Fayette. Perdue currently contracts with Packers Sanitation Services, Inc. ("PSSP") at these facilities and at its Schulenburg, Texas, and Mount Vernon, Washington, processing facilities.

Perdue contracts with QSI Sanitation at its Bridgewater, Virginia; Cromwell, Kentucky; Dillon, South Carolina; Gainesville, Georgia; Georgetown, Delaware; Milford, Delaware; Perry, Georgia; Rockingham, North Carolina; Sioux Center, Iowa; Sioux City, Iowa; and Washington, Indiana processing facilities. Perdue contracts with Hacks Food Safety Specialist Inc. at its Petaluma, California, processing facility.

Perdue in-sources sanitation and employs all cleaning and sanitation employees at its Monterrey, Tennessee, and Concord, North Carolina, prepared foods facilities. Prepared foods facilities are not processing facilities. Prepared foods facilities produced cooked frozen products. Sanitation of prepared foods facilities require different sanitation processes than harvesting and processing facilities.

a. If so, does Perdue still contract for those cleaning and sanitation services?

Yes. See above.

b. If Perdue no longer contracts with any third-party company to perform its cleaning and sanitation services, does Perdue now employ all cleaning and sanitation employees itself?

See above.

KIRKLAND & ELLIS LLP
AND AFFILIATED PARTNERSHIPS

1301 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
United States

Brian A. Benczkowski, P.C.
To Call Writer Directly:

Facsimile:

www.kirkland.com

February 5, 2024

VIA ELECTRONIC TRANSMISSION

The Honorable Bill Cassidy, M.D.
Ranking Member
United States Senate
Committee on Health, Education, Labor, and Pensions
Washington, DC 20510

Dear Senator Cassidy:

I am writing in response to your letter of January 22, 2024, to our client Monogram Foods (“Monogram” or “the company”) in your capacity as the Ranking Member of the Senate HELP Committee, requesting information about an investigation completed by the U.S. Department of Labor (DOL) in the Fall of 2023. Monogram is committed to compliance with all applicable laws and regulations, including those relating to the employment of minors. It has been – and will remain – the company’s policy not to knowingly or intentionally hire anyone in violation of the child labor provisions of the Fair Labor Standards Act (FLSA). Monogram was disappointed by the DOL’s findings and remains committed to upholding industry-leading policies and practices relating to the child labor provisions of the FLSA.

OVERVIEW OF DOL INVESTIGATION

The DOL initiated an investigation of the company’s Chandler, Minnesota facility on March 28, 2023. The purpose of the investigation was to determine whether Monogram had employed underage workers at this facility in violation of the FLSA. Following the DOL’s visual assessment of Monogram’s Chandler workforce, select interviews with its employees, and a review of requested documents, the DOL identified two individuals, out of approximately 450 employees at this facility, who appear to have obtained employment using falsified identification documentation relating to their identity and/or age.

Both employees submitted documentation to Monogram stating that they were 25- and 26-years-old, respectively. The falsified identification documentation submitted by these two employees was processed and validated by the federal government’s E-Verify system as part of the company’s standard I-9 processing at the time of their hire. Following the DOL’s determination of the age of these two employees and that Monogram was in violation of the FLSA, the company promptly terminated both individuals’ employment.

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The Honorable Bill Cassidy, M.D.

February 5, 2024

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Before the DOL completed its investigation, Monogram took several voluntary actions to ensure no other individuals were working at its facilities in violation of the child labor provisions of the FLSA, including: (1) conducting visual assessments of almost 4,000 workers at Monogram's 10 U.S. production facilities; (2) conducting age verification reviews of all employees under the age of 30 at the Chandler facility, and under the age of 26 at all other facilities; (3) adopting a Child Labor Policy that prohibits anyone under the age of 18 from working at the company; and (4) reviewing and amending all third-party contracts for Monogram facilities to ensure that they comply with the company's strict labor and employment standards. In addition to the items above, Monogram also has adopted or further revised many of its labor and employment practices as described below.

As you are aware, Monogram voluntarily entered into a consent order and judgment in the United States District Court for the District of Minnesota related to this matter. Monogram has taken its responsibilities under the District Court's order and judgment very seriously and is currently in full compliance with all of the Court's requirements. Below are responses to your specific questions and attached are documents responsive to your requests.

- 1. Has Monogram changed its policies and procedures to ensure all employees are of legal age and/or eligible to work in the particular job they are hired into?**
 - a. A copy of all Monogram document retention policies for maintaining and preserving employee records in place between January 1, 2022, and July 6, 2023.**
 - b. A copy of all Monogram document retention policies for maintaining and preserving employee records implemented since the July 6, 2023, District Court order went into effect, including all such policies currently in effect. To the extent Monogram maintains different policies for any of its individual locations, provide all such policies for each location.**
 - c. If all Monogram locations do not follow the same document retention policies, please explain why.**

Monogram has taken several steps to ensure that all employees are of legal age and/or eligible to work at a company facility. Monogram has adopted a Child Labor Policy that explicitly prohibits anyone under the age of 18 from working at the company and has provided extensive training on this policy to all employees, including staff responsible for hiring. In addition to the company's long-standing practices requiring completion of a Form I-9, submission of a government-issued photo ID, and processing all new hires for employment authorization using the federal government's E-Verify system, the company additionally requires every candidate to complete a job application confirming their age and date of birth and obtains a supplementary

KIRKLAND & ELLIS LLP

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third-party background check confirming each candidate's age and identity. Monogram also uses the Social Security Administration's Consent-Based Social Security Verification system to validate if the name, date of birth, and social security numbers match the Social Security Administration's records. The company also has established a toll-free hotline through which any company employee can anonymously seek guidance and report compliance issues with the child labor provisions of the FLSA.

Monogram has created a robust age and eligibility-to-work verification process and has specifically trained its Human Resources ("HR") team across the company on these procedures. The procedures include:

- Certification by job applicants (as part of the Application form) that they are 18 or older and that they are no longer in high school;
- A Consent-Based Social Security Verification check prior to the first day of employment, as well as a third-party background check to confirm applicant's date of birth, age, and identification information prior to starting work;
- Employment Eligibility Verification (Form I-9 and E-Verify); and
- Supplemental Age/Identity Verification, confirming that the potential employee reasonably appears to be the person in the identification documents and that the age appears reasonable given the person's appearance, completed following the I-9 and E-Verify process, but prior to starting work.

The age and eligibility to work verification process is conducted through the company's human capital management system and is audited monthly by its Director of Labor & Employment Compliance, a newly established role. In addition, the company provided every HR team member with identification reference manuals for state and federal identification documents and training on how to identify false age and identity documentation.

Monogram also adopted a Supplier Code of Business Conduct that extends the under age 18 prohibition to any third-party providing services to or workers at all Monogram facilities. In addition, the company has posted Child Labor posters at multiple locations within all of its facilities. To underscore the prohibition of under age 18 workers, the company also affixed stickers on all food processing equipment to ensure that employees are aware of the company's Child Labor Policy and that the equipment cannot be operated or serviced by anyone under the age of 18.

Monogram does not have any separate document retention policies for its employee records beyond those required by applicable law. Instead, it maintains all employee records in its human

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capital management system, which is configured to maintain and preserve records in accordance with federal, state, and local laws in all jurisdictions where the company operates. Any differences in records retention policies between Monogram facilities are governed by those federal, state, and local laws.

Attached please find copies of Monogram's current Child Labor Policy, Supplier Code of Business Conduct, Child Labor Law Poster, and Child Labor Equipment Sticker.

2. **Has Monogram changed its training materials for its managers relating to its compliance with child labor law provisions of the FLSA? In addition to answering this question, please produce the following documents:**
 - a. **A copy of Monogram's training materials for all managers that relate to compliance with child labor law provisions of the FLSA prior to the July 6, 2023 District Court order and judgment.**
 - b. **A copy of Monogram's training materials for all managers that relate to compliance with child labor law provisions of the FLSA following the July 6, 2023 District Court order and judgment.**

In December 2023, Monogram adopted new training materials for all employees and trained all salaried employees, including executive officers, senior leaders, and managers relating to the child labor provisions of the FLSA. This is above and beyond what is required in the District Court's order and judgment, which only required that the company train managers. In January 2024, Monogram also commenced training for all hourly employees on its child labor policies.

Attached please find a copy of Monogram's current Child Labor Training Materials.

3. **What steps does Monogram take to ensure that, in the event it hires minors to work at any of its locations or facilities, those minors do not work in prohibited and/or dangerous locations or perform prohibited and/or dangerous tasks?**
 - a. **In addition to answering this question, please product a copy of all Monogram policies that relate to hiring and/or employing minors at any Monogram location or facility.**

As noted above, Monogram has voluntarily adopted a Child Labor Policy that prohibits anyone under the age of 18 from working for Monogram Foods, so the company does not knowingly hire anyone under that age. In addition, it has posted Child Labor posters at multiple locations within all of its facilities and has affixed stickers to the same effect on all food processing

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The Honorable Bill Cassidy, M.D.

February 5, 2024

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equipment to ensure that all employees are aware of this policy and that those under 18 are not to operate or service such equipment.

- 4. Please identify all third-party consultants, including those hired to maintain compliance with the July 6, 2023, District Court order and judgment, hired to ensure Monogram complies with the child labor provisions of the FLSA.**

Monogram has retained the services of the TAMS Group to maintain compliance with the District Court order and judgment, and with the child labor provisions of the FLSA.

- 5. Has Monogram taken any adverse employment actions against current or former managers since July 6, 2023, related to violations of the child labor provisions of the FLSA? If so, please provide the following information:**

- a. The location(s) where the management personnel was employed;**
- b. The nature of the violation and adverse action taken; and**
- c. The date Monogram took the adverse employment action.**

Monogram has not taken any adverse employment actions against any manager – current or former – as the company is not aware of any evidence that suggests any of its managers knowingly hired anyone in violation of the child labor provisions of the FLSA. However, during the course of reviewing the matters at the company’s Chandler facility, Monogram concluded that two employees, [REDACTED] at that location, had failed to comply with Monogram’s enhanced hiring and onboarding policies and requirements. As a result, the company terminated those individuals for their failure to follow the safeguards built into the company’s policies and procedures.

Monogram did discover that the two individuals identified by the DOL as being minors at the Chandler facility obtained employment using falsified identification documentation relating to their identity and/or age. Both employees submitted documentation stating that they were 25- and 26-years-old, respectively. The falsified identification documentation submitted by these two employees was processed and validated by the federal government’s E-Verify system as part of Monogram’s standard I-9 processing at the time of their hire. The DOL never shared with Monogram any evidence of the actual ages of the two employees, and Monogram has no other means to determine their age at this time. In the future, should Monogram determine that any of its employees has knowingly or intentionally violated any law, including the child labor provisions of the FLSA, it will not hesitate to take appropriate employment action, up to and including termination of those employees. This is not a new practice but simply a continuation of how Monogram has always viewed such conduct, and it is why Monogram agreed to include a provision

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February 5, 2024

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requiring this type of response in the Consent Order and Judgment entered by the federal court in Minnesota.

6. What policies, procedures, and/or other system(s) does Monogram use to confirm the eligibility of their employees to work in the United States.

a. If Monogram uses E-Verify and/or other web-based systems, does Monogram ensure that management personnel do not misuse these systems or engage in unreported employment? If so, how?

Monogram now requires every candidate to complete a job application confirming that they are eligible to work in the United States and to participate in a supplementary third-party background check confirming their identity. The company also uses the Social Security Administration's Consent-Based Social Security Verification system to validate social security numbers.

Monogram created a very robust age and eligibility to work verification process and has trained its HR team across the company on these procedures. The age and eligibility to work verification process is conducted through Monogram's human capital management system and is audited monthly by its Director of Labor & Employment Compliance, a newly established role. In addition, the company provided all HR team members with identification reference manuals for state and federal identifications and provided training on how to identify false age and identity documentation.

Monogram manages all employee records, on-boarding, time and attendance, and pay through its human capital management system, which is audited internally by its Director of Labor & Employment Compliance (specifically on eligibility to work and age verification) and members of its Finance organization reconcile time and attendance and pay for all employees on a weekly basis. In addition, the company's human capital management system is linked to the time clocks at all Monogram facilities, which use biometric data to allow employees to clock in and out. These steps help the company ensure that its system is not being misused to allow anyone to engage in unreported employment.

Monogram hopes you find this letter and enclosed documents responsive to your request. The company takes seriously its obligations to comply with all legal and regulatory obligations, particularly those under the FLSA. The company was disappointed and concerned by the findings of the DOL, and has taken significant steps, both voluntarily and in response to the court's order and judgment, to ensure that it is not only in compliance with the law, but also that it is well-prepared with an industry-leading program to prevent further violations of the FLSA. We appreciate and share your concerns about addressing child labor compliance matters, and Monogram Foods is committed to continuing to follow strong compliance practices and policies.

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Monogram does not, by this production or any subsequent production, intend to waive any applicable privileges arising from common law or the U.S. Constitution, or other legal basis under which information may not be subject to production. In producing these materials, Monogram has taken reasonable steps to prevent the disclosure of privileged materials. If it were found that any disclosed information constitutes disclosure of otherwise privileged matters, such disclosure would be inadvertent. By disclosing such information, Monogram does not intend to waive and has not waived the attorney-client privilege or any other protections.

Thank you for the opportunity to respond to your letter and please do not hesitate to contact me with further questions or concerns.

Sincerely,

A handwritten signature in blue ink, appearing to read "Brian A. Benczkowski".

Brian A. Benczkowski, P.C.



May 2, 2024

The Honorable Bill Cassidy
Ranking Member
Committee on Health,
Education, Labor & Pensions
United States Senate
428 Dirksen Senate Office Building
Washington, DC 20510

Dear Ranking Member Cassidy,

I write on behalf of Tyson Foods in response to your April 18, 2024, letter regarding hiring practices and the steps Tyson has taken to prevent illegal child labor.

A food processing facility is no place for a child, and Tyson Foods categorically prohibits the hiring of anyone under the age of eighteen to work in our facilities. We understand we have a responsibility to the communities we serve, and Tyson Foods strives to respect and promote Human Rights in accordance with the Universal Declaration on Human Rights and UN Guiding Principles on Business and Human Rights. And, we are committed to partnering with federal, state, and local governments, and local communities to ensure this type of violation does not happen at Tyson Foods or anywhere in our supply chain.

Tyson Foods does not allow the employment of minors anywhere in our facilities, nor do we facilitate, encourage, excuse, or in any other way participate in the use of child labor in any Tyson Foods facility by any of our subcontractors. Tyson Foods's company policy states:

*4.6. **Forced Labor and Human Trafficking:** At all Tyson operations and facilities, we strictly prohibit (i) forced or abusive labor, modern forms of slavery, and involuntary servitude; (ii) the hiring of individuals that are under 18 years of age; (iii) human smuggling, and (iv) human trafficking. The Company further does not tolerate any form of child labor or prison labor in any operations or facilities, except as permitted by local law.*

Tyson Foods suppliers contractually agree to abide by the standards set forth in our Supplier Code of Conduct, which has been in place since 2004. This Code of Conduct includes specific labor and human rights provisions that require contractors to:

- Verify the eligibility of their employees,



- Prohibit inappropriate recruiting practices and fees,
- Ensure no forced labor or child labor is being used or human trafficking is occurring,
- Respect the right of employees to freely associate, organize, and bargain collectively,
- Ensure compliance with applicable wage and hour laws,
- Prohibit discrimination, harassment, and workplace violence,
- Provide options for employees to report concerns without fear of retaliation.

Further, the Code of Conduct requires suppliers to conduct business in a way that integrates health and safety into their processes by:

- Complying with all federal, state, and local health and safety laws, regulations, and standards,
- Training and communicating regularly with their employees about safety,
- Making continuous efforts to achieve a workplace that is free from work-related injuries and illnesses.

Immediately upon learning of the allegations against third-party sanitation providers, we took action to review hiring practices and re-confirm contract compliance for all Tyson Foods sanitation providers as well as compliance with our Supplier Code of Conduct. We have met with third-party sanitation providers on multiple occasions to review their hiring practices and audits they conduct to verify employment eligibility. At no time did Tyson Foods discover any violations of child labor laws. Additionally, we required all sanitation suppliers to conduct a complete and comprehensive review of their employees supporting Tyson Foods facilities. We have terminated our relationship with third-party sanitation providers at several facilities, consistent with our policy and contract requirements. Tyson Foods team members—not subcontractors—currently perform sanitation processes at many Tyson Foods facilities, and we are working to increase our investment in this capability going forward.

While Tyson Foods' policies are important to operating ethically, we do not rely on our policies as the exclusive means to ensuring compliance. For decades, Tyson Foods has implemented extensive, best-in-class controls to verify the eligibility of our workforce. Specifically, Tyson Foods was at the forefront in participating in the E-Verify program since 1998, shortly after the program was first piloted in 1996. Furthermore, Tyson Foods was the first major food company, and just the fourteenth company overall, to participate in the ICE Mutual Agreement between



Government and Employers (IMAGE) program, which was designed to help combat unlawful employment and reduce vulnerabilities that help undocumented individuals gain such employment. The company began participating in the IMAGE program in January 2011, has repeatedly renewed its participation in the program, and has undergone and satisfied multiple Employment Eligibility Authorization audits.

Well beyond our policies and participation in E-Verify and IMAGE, Tyson Foods has also implemented processes to ensure compliance in our hiring practices. For example, all Tyson Foods work application procedures for industrial positions are configured to automatically decline from consideration individuals under age 18, our human resources professionals are trained to identify fraudulent documentation, and all hiring managers receive child labor prevention training every year. Tyson Foods also posts clear and conspicuous notice of our team members' rights in the workplace, including our strict prohibition on employing underage individuals, in prominent high traffic locations in all facilities, in multiple languages, consistent with the law. These postings are in cafeterias, employee break rooms, hallways, and hiring centers. Team members have multiple ways to report violations of company policy or suspicious activity, including anonymously through the company's Ethics Line, which is available in multiple languages 24/7 and managed by a third party. We have trained security personnel stationed at entrances to look for any individuals appearing to be underage. In addition, our Sanitation Center of Excellence performs visual checks of third-party employees and is trained to ask questions designed to elicit information for anyone appearing underage.

Despite these robust internal controls, we recognize the need to continually evolve and update our practices. Tyson Foods has developed and deployed additional child labor compliance training for anyone at Tyson Foods responsible for recruiting, hiring, or vetting prospective employees. In addition, we have developed company-wide training for Tyson Foods community liaisons to conduct outreach to local law enforcement, school districts, non-profits, and other community partners and create two-way dialogue on the best ways to detect and end any potential child labor violations. This includes sharing our ethics hotline where individuals may anonymously report suspicious activity in any of our facilities. We completed these trainings in early May 2023.

All Tyson Foods contracts with third-party suppliers include requirements that they comply with all federal, state, and local labor laws and abide by our Supplier Code of Conduct. This includes specific requirements that suppliers verify employment eligibility of their employees and "ensure no forced labor or child labor is being



used” and requires suppliers to have controls in place to prevent these illegal practices. To ensure compliance, Tyson Foods contractually requires regular compliance audits of our third-party sanitation providers. These labor, health and safety, environmental performance, and ethics audits, based on the widely used Sedex Members Ethical Trade Audit (SMETA) standard, are rigorous and include in-person plant tours, document reviews, and interviews with frontline team members to check that the correct processes and procedures are in place and being followed at each Tyson Foods facility. The audits also extensively examine and validate contractors’ hiring processes. To date, none of these regular audits, conducted by Intertek, found child labor at any Tyson Foods facility or in use by any third party contracted to Tyson Foods at a Tyson Foods facility. Moving forward, we plan to increase the frequency of these audits. Further, Tyson Foods’s Sanitation Center of Excellence implemented an unannounced audit program to review supplier compliance and we will use a third-party auditor to conduct random audits of our suppliers. Procedural or process violations would result in immediate remediation; however, if suppliers are found in violation of child labor laws at our facilities, we will terminate those contracts. We also revised our contracts with providers to include requirements for enhanced child labor training for all management employees. Our Center of Excellence will spot check these trainings during their unannounced audits. We have also established a task force on this issue made up by members of our Compliance, Legal, Human Resources, Communications, Government Affairs and Sustainability teams to drive continuous improvements to our program.

Tyson Foods is one of more than 400 global companies who have partnered with Tent Partnership for Refugees (TPR). Our partnership with TPR is voluntary and informal, and we do not have a contractual relationship. TPR works with local refugee resettlement agencies to pair refugees with work opportunities. Tyson Foods does not “aim” to hire immigrant workers—rather, we seek qualified individuals who are legally authorized to work in the United States to fill available positions at our facilities. While we prefer to staff our facilities locally, sometimes this approach does not meet our staffing requirements. For example, the TPR event referenced in the *Bloomberg* article was for a Tyson Foods facility in another state, where we have acute staffing challenges despite the over thirty hiring events we have held locally since November 2023. Further, any person applying to work at Tyson Foods, whether through the partnership with TPR or any other means, must provide legally required documentation proving their authorization for employment and are subject to the processes and protocols mentioned above.

While Tyson Foods is committed to taking significant additional steps to monitor compliance, conduct due diligence, offer training and support, and remediate



violations, no company of any size in any industry can absolutely guarantee success without the active partnership with federal and state governments. Troubling press accounts have brought to light that these violations are not unique to one industry or geographic area and, according to the Department of Labor, have been ongoing over the past several years. Potential violations of the law go beyond child labor violations and could encompass human trafficking, identity theft, and exploitation to a greater extent than previously reported. Along those lines, we recommend three actions for your consideration that government could take to help address the widespread challenge of underage individuals working in dangerous environments.

- First, Tyson Foods supports increased penalties for repeated, knowing, and willful violations of child labor provisions of the Fair Labor Standards Act (FLSA) that could function as an additional deterrent for bad actors. We would welcome the opportunity to collaborate on legislative proposals.
- Second, age verification is particularly challenging since states provide most age-based documentation, identification is easily falsified or stolen, and migrants may have no age indicative documentation at all. While government sanctioned workforce eligibility programs such as E-Verify and IMAGE serve an important purpose, neither program contains mechanisms to verify age. The age certification process described in regulations is unclear and subject to variance at the state level, and we would like to collaborate with you and the Department of Labor to enhance existing federal age certification processes to ensure all employers can effectively prevent underage labor and identify false and fraudulent documentation schemes.
- Third, Tyson Foods supports the creation of a child labor prevention advisory committee at the Department of Labor to bring together government, businesses, labor unions, educators, non-profits, and other stakeholders to address challenges in child labor prevention and share best practices and solutions. We would be pleased to participate in this committee.

We recognize that the root causes of underage labor are complex. Companies, not-for-profits, and government agencies must work together on long-term solutions including establishing pathways to education for migrant children, wraparound services like food assistance, housing, transportation, and livelihood skills for their families.



Tyson Foods is proud of our diverse workforce and the opportunities we provide to those emigrating to this country, and we are committed to ensuring they have the tools, resources, and support to be successful. Our compensation for hourly team members averages over \$24 an hour including medical, dental, and vision insurance. We are investing \$60 million in the next four years to provide access to post-secondary education at some of the nation's top universities to all team members. Tyson has invested over \$5 million to build an onsite childcare center in Humboldt, Tennessee, and we provide tuition subsidies of up to \$6,500 per child per year. These new investments in our team members, in addition to already existing investments in affordable transportation and healthcare services, are part of Tyson Foods's strategy to become the workplace of choice in the food production industry.

Tyson Foods is accountable for who works in its facilities, and we are committed to compliance with all labor laws and to holding those we do business with to the highest standards of accountability. We recognize these ongoing commitments will take additional actions on our part and the part of other stakeholders, including government, to ensure children are safe in our communities. We welcome the opportunity to partner with those committed to work productively on finding practical and lasting solutions to these issues. Please do not hesitate to reach out to me if I may be of further assistance.

Sincerely,

A handwritten signature in blue ink, appearing to read "AYK", written over the word "Sincerely,".

Andy York
Vice President, Head of Global Government Affairs



December 22, 2023

The Honorable Bill Cassidy, M.D.
Ranking Member
Committee on Health, Education, Labor, and Pensions
U.S. Senate
Washington, D.C. 20510

Dear Ranking Member Cassidy,

Thank you for your September 11, 2023, letter regarding the U.S. Department of Health and Human Services (HHS) Office of Refugee Resettlement's (ORR) Unaccompanied Children (UC) Program. I am pleased to respond on behalf of the ORR Director.

ORR is dedicated to ensuring the safety and well-being of unaccompanied children in ORR care from the time they enter ORR's care and custody following referral from the U.S. Department of Homeland Security (DHS) or other federal entity until they are appropriately and safely released to a thoroughly vetted sponsor. The care and safety of children in ORR's custody is always ORR's top priority, including during the historic influx of unaccompanied children in fiscal year (FY) 2021. Pursuant to the William Wilberforce Trafficking Victims Reauthorization Act (TVPRA) of 2008, children identified as unaccompanied children must be referred to and placed in ORR care within 72 hours of their arrival at DHS. In an effort to timely accept these referrals from DHS in FY 2021, ORR activated temporary bed capacity through Emergency Intake Sites (EIS) and Influx Care Facilities (ICF). During this time, ORR faced compounding challenges related to the COVID-19 pandemic, including difficulty in operationalizing additional standard network capacity and hiring staff across the provider network. ORR worked quickly to respond to this historic child welfare emergency and prioritize the safety and well-being of children, including to maintain a high standard of care for children sheltered at EIS and ICF facilities. ORR continues to enhance its ability to manage emergency response efforts by expanding standard network bed capacity and minimizing the amount of time children stay in congregate care settings. Notably, no EIS facilities have been in operation since June 2022, and ORR currently has no plans to open such facilities given the expansion of its standard network.

ORR has a legal obligation to provide for the care and custody of all children who have been referred. To this end, ORR facilitates the provision of health care services for all unaccompanied children in its care. At the time of referral, ORR requests background information from the referring Federal agency to assess whether the unaccompanied child is a danger to self or others, whether there are any known medical and/or mental health issues, and whether other special concerns or needs are known. ORR uses this information to determine an appropriate placement for the child in the least restrictive setting. If any acute medical or mental health issues are identified based on the referral information or during this initial intake assessment, children are

immediately referred for evaluation in an emergency room setting. If no acute or urgent needs are identified, then a child is referred to a Care Provider Site for placement. Care Provider Sites are responsible for ensuring that a comprehensive initial medical exam (IME) is conducted by a licensed health care provider within two days of the child's admission if placed in a standard facility or 48 hours if at an ICF. The IME parallels an age-appropriate well-child visit and includes age and risk-factor based communicable disease screening.

Children in ORR care receive routine medical and dental care, emergency health services, immunizations, mental and behavioral health services, medications, and other services as appropriate. Per ORR policies and procedures, any child identified as needing specialty care is referred to a specialist as soon as possible for further evaluation to ensure they receive necessary and timely health services.¹ In addition, any child who develops and/or is identified to have an urgent medical condition or experiences a medical emergency while in ORR care is referred for immediate evaluation in an emergency room.²

Children with pre-existing medical conditions are especially vulnerable and may already be hospitalized or require hospitalization at the time of ORR admission. ORR is legally obligated to cover the cost of medical services for unaccompanied children while in ORR care and custody. This includes routine and specialty care, urgent and emergency care, hospitalizations, and medically necessary surgeries and procedures. ORR accounts for these medical services obligations when determining the budget for the UC Program. As with all children in ORR's care and custody, the decision to release unaccompanied children with pre-existing medical conditions to thoroughly vetted sponsors is made with the best interests and safety of the child in mind and in accordance with child welfare best practices.

Further, ORR has policies and procedures in place for the screening, treatment, prevention, and reporting of communicable diseases.³ ORR requires its care providers to observe all unaccompanied children for signs or symptoms of communicable diseases and act to protect others against possible infection. ORR facilities must have policies and procedures for identifying, reporting, and controlling communicable diseases that are consistent with state and local laws and regulations. In particular, ORR has protocols to ensure that diseases of public health concern, including tuberculosis, are diagnosed and treated promptly in unaccompanied children.⁴ Children in care are screened and evaluated for signs and symptoms of tuberculosis.⁵

¹ U.S. Department of Health and Human Services, *Office of Refugee Resettlement Unaccompanied Children Program Policy Guide, Section 3.4*, www.acf.hhs.gov/orr/resource/children-entering-the-united-states-unaccompanied-section-3#3.4.

² U.S. Department of Health and Human Services, *Office of Refugee Resettlement Policy Memorandum: Medical Services Requiring Heightened ORR Involvement* (Sept. 29, 2020) www.acf.hhs.gov/sites/default/files/documents/orr/garza_policy_memo.pdf.

³ U.S. Department of Health and Human Services, *Office of Refugee Resettlement Unaccompanied Children Program Policy Guide, Section 3.4.6*, www.acf.hhs.gov/orr/resource/children-entering-the-united-states-unaccompanied-section-3#3.4.6.

⁴ A tuberculosis diagnosis can indicate either active tuberculosis or latent tuberculosis infection (LTBI). A person with active tuberculosis may be infectious, have symptoms, and spread tuberculosis bacteria to others. A person with LTBI has no symptoms, does not feel sick, cannot spread tuberculosis to others. Persons with LTBI may develop tuberculosis disease if they do not receive treatment for LTBI.

⁵ Any child with suspected or confirmed active tuberculosis is separated from other children, evaluated, and treated in coordination with local and state public health authorities.

A child with active tuberculosis is treated and may be placed with their sponsor once they are deemed non-infectious and the health department in the sponsor's community has agreed to assume care of the child. Children diagnosed with latent tuberculosis infection (LTBI) are generally not started on LTBI treatment while in ORR care and custody unless they are able to complete the three-to-four-month course while in care. If a child with LTBI does not start treatment while in ORR care and custody, the child is discharged with a letter to the sponsor explaining the diagnosis and next steps; when appropriate, ORR also notifies the health department in the sponsor's community.

Children referred to ORR's care may arrive with pre-existing health conditions, undiagnosed underlying health conditions, or have acquired illnesses or injuries due to their experience while transiting to the United States. ORR requests and attempts to obtain as much background information from the referring Federal agency about each unaccompanied child to learn whether there are any known medical and/or mental health issues and whether other special concerns or needs are known. Unfortunately, prior medical conditions or preexisting conditions may tragically result in a child's death while in ORR's care and custody. Under this administration, HHS notifies Congress of such deaths when a child has passed while in ORR care and custody. Since January 2021, four unaccompanied children have passed away while in ORR care and custody, all of whom had serious medical conditions. None of these unaccompanied children were placed in EIS or ICF facilities. ORR is committed to adhering to its notification and reporting requirements following an unaccompanied child's death, including to notify the appropriate Congressional officials within 24 hours of the death. Effective July 11, 2023, ORR adopted policy revisions to expand its notification of an unaccompanied child's death to include the Senate Committee on Health, Education, Labor, and Pensions and the House Committee on Energy and Commerce.⁶

ORR takes its responsibility to protect and promote the health and safety of unaccompanied children seriously and continually evaluates its policies and processes to ensure the safety and well-being of children referred to its care even in times of future influx, including those with pre-existing serious medical conditions and communicable diseases, and to make sure all children are provided access to life-saving health care.

Thank you again for your concern for the safety and well-being of unaccompanied children. If you or your staff have questions, please feel free to contact the Office of the Assistant Secretary for Legislation at (202) 690-7627.

Sincerely,



Melanie Anne Egorin, PhD
Assistant Secretary for Legislation

⁶ U.S. Department of Health and Human Services, *Office of Refugee Resettlement Unaccompanied Children Program Policy Guide, Section 3.3.16*, www.acf.hhs.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide-section-3#3.3.16.



July 12, 2024

The Honorable Bill Cassidy, M.D.
Ranking Member
Committee on Health, Education, Labor, and Pensions
U.S. Senate
Washington, D.C. 20510

Dear Ranking Member Cassidy:

Thank you for your May 16, 2024, letter regarding the U.S. Department of Health and Human Services (HHS) Office of Refugee Resettlement's (ORR) Unaccompanied Children (UC) Bureau. I am pleased to respond on behalf of the Secretary.

ORR is dedicated to ensuring the safety and well-being of unaccompanied children in ORR care from the time they enter ORR's custody following referral from the U.S. Department of Homeland Security or other federal entity until they are appropriately and safely released to a vetted sponsor. HHS is committed to working in good faith to address congressional oversight requests in a timely manner and to keeping our partners in Congress updated on the important work we are doing, including within the UC Bureau. We regularly provide briefings to Congress on new developments and are committed to being responsive to letters that we receive.

As the Secretary noted in his testimony before the Senate Finance Committee earlier this year, HHS grant recipients and contractors are certainly within their rights to respond directly to congressional inquiries. HHS has sought to offer support to grant recipients and contractors should they have any questions regarding their contractual obligations, such as ownership of the information requested and compliance with any contract confidentiality restrictions.

Thank you for your shared commitment for the safety and well-being of unaccompanied children. If you or your staff have questions, please feel free to contact the Office of the Assistant Secretary for Legislation at (202) 690-7627.

Sincerely,

Melanie Anne Egorin

Melanie Anne Egorin, PhD
Assistant Secretary for Legislation

PATTY MURRAY, WASHINGTON
ROBERT F. CASEY, JR., PENNSYLVANIA
TAMMY BALDWIN, WISCONSIN
CHRISTOPHER MURPHY, CONNECTICUT
TIM KAINE, VIRGINIA
MARGARET WOOD HASSAN, NEW HAMPSHIRE
TINA SMITH, MINNESOTA
BEN RAY LUJÁN, NEW MEXICO
JOHN W. HICKENLOOPER, COLORADO
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TED BUDD, NORTH CAROLINA

United States Senate

COMMITTEE ON HEALTH, EDUCATION,
LABOR, AND PENSIONS

WASHINGTON, DC 20510-6300

WARREN GUNNELS, MAJORITY STAFF DIRECTOR
AMANDA LINCOLN, REPUBLICAN STAFF DIRECTOR

www.help.senate.gov

September 6, 2024

VIA ELECTRONIC TRANSMISSION

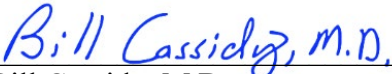
The Honorable Xavier Becerra
Secretary
U.S. Department of Health and Human Services
330 C Street, S.W.
Washington, D.C. 20201

Secretary Becerra:

I write to request that you produce unredacted, electronic copies of all contracts entered into between the U.S. Department of Health and Human Services and General Dynamics Information Technology, Inc. relating to any aspect of the Office of Refugee Resettlement’s Unaccompanied Children Program. This production must include all contracts entered into since January 21, 2021 and any contracts entered into prior to January 21, 2021 that have not yet reached the end of their period of performance. I am making this request pursuant to 48 C.F.R. § 5.403 which states that “Contracting officers shall give Members of Congress, upon their request, detailed information regarding any particular contract.”¹

Please confirm, in writing, that you have received this request and provide a specific timeline as to when these contracts will be provided to my office. Please contact [REDACTED] at [REDACTED] with any questions. Thank you for your attention to this request.

Sincerely,



Bill Cassidy, M.D.
Ranking Member
U.S. Senate Committee on Health,
Education, Labor, and Pensions

¹ 48 C.F.R. § 5.403 (2024).