

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

_____	)	
ANGELICA S. <i>et al.</i> ,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	
	)	Civil Action No. 25-01405-DLF
U.S. DEPARTMENT OF HEALTH AND	)	
HUMAN SERVICES, <i>et al.</i> ,	)	
	)	
Defendants.	)	
_____	)	

**DEFENDANTS’ MEMORANDUM OF LAW IN OPPOSITION TO PLAINTIFFS’  
MOTION FOR A PRELIMINARY INJUNCTION**

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## INTRODUCTION

This case lacks the urgency Plaintiffs attempt to invoke. As Plaintiffs acknowledge, Congress has entrusted the Office of Refugee Resettlement (ORR), a component of U.S. Department of Health and Human Services (HHS), with the responsibility for caring for the thousands of minors who each year are deemed to be unaccompanied alien children (UAC) and reunifying them where possible with their parents or other suitable sponsors. In doing so, ORR must ensure that any sponsor to whom a child may be released is able to care for the child in a safe environment. Defendant ORR therefore acted within its statutory and discretionary authority to publish an Interim Final Rule (IFR) and update guidance concerning its process for vetting potential sponsors of UACs.

To carry out this mission, ORR has developed procedures for vetting potential sponsors of UAC. These procedures include measures to verify the identity of the potential sponsor as well as any other adult living in the potential sponsor's household, background checks of the potential sponsor and household members, and, in some circumstances, home studies. From the time ORR was first charged with the care and placement of UAC, ORR has required potential sponsors to submit to a background check, including fingerprints, as part of this process in certain circumstances.

Plaintiffs are five UACs and one legal services organization, Immigrant Defenders Law Center. They challenge the legality of the IFR promulgated by ORR, *Unaccompanied Children Program Foundational Rule; Update To Accord With Statutory Requirements*, 90 Fed. Reg. 13,554-01 (Mar. 25, 2025) (IFR). Plaintiffs also challenge the legality of ORR's updated requirements for an individual to qualify as a UAC sponsor. In their Complaint, Plaintiffs allege

that the IFR and updated sponsor-vetting guidance violate various provisions of the Administrative Procedure Act (APA). *See generally* ECF No. 1, Compl.

On May 9, 2025, Plaintiffs filed the instant Motion for a Preliminary Injunction. ECF No. 10 (Mot.). Plaintiffs seek an order: (1) provisionally certifying the putative class asserted in their Motion for Class Certification, ECF No. 9; (2) staying the IFR; (3) prohibiting ORR from enforcing its updated sponsor identification and proof of income requirements; (4) requiring ORR to inform all potential sponsors whose applications were denied based on the IFR or the updated sponsor-vetting guidance that they may continue with their application; (5) requiring ORR to adjudicate delayed sponsor applications based on the requirements in place at the time the potential sponsor submitted the application; and (6) enjoining ORR from retroactively applying updated requirements to sponsor applications. *See* Mot. 43-44; Compl., Prayer for Relief.

The Court should deny Plaintiffs' Motion because their request for a stay of the IFR under 5 U.S.C. § 705 comes too late for either HHS or the Court to grant, where the effective date of the IFR passed before the Plaintiff sought a stay. Furthermore, the Court should deny Plaintiffs' request for the extraordinary remedy of a preliminary injunction, because the UAC Plaintiffs do not meet the requirements for such relief and the organizational Plaintiff lacks standing. Notably, the organizational Plaintiff is free to submit comments on the IFR because the comment period remains open until May 27, 2025, *see* 90 Fed. Reg. 13,554-01. The requested preliminary injunction would improperly intrude on HHS's statutory authority while not necessarily serving the children's interest.

## **BACKGROUND**

### **I. Statutory and Regulatory Background**

The statutory and regulatory framework governing the federal care and custody of UAC, as well as their release and sponsorship, reflects explicit congressional intent for ORR to “mak[e]



placement determinations for all unaccompanied alien children who are in Federal custody by reason of their immigration status,” and to ensure UAC “are protected from smugglers, traffickers, or others who might seek to victimize or otherwise engage them in criminal, harmful, or exploitive activity.” 6 U.S.C. § 279(b)(1)(C) & (b)(2)(A)(ii); *see also* 8 U.S.C. § 1232(c)(1). That framework balances the mandate that ORR protect UAC from harm with the requirement that ORR “promptly” place UAC “in the least restrictive setting that is in the best interest of the child.” 8 U.S.C. § 1232(c)(2)(A).

**A. The Homeland Security Act of 2002 (HSA).**

In 2002, Congress enacted the HSA, Pub. L. No. 107-296, 116 Stat. 2135 (codified in relevant part at 6 U.S.C. § 279), abolishing the Immigration and Naturalization Service (INS) and transferring the responsibility for the care and placement of UAC from INS to ORR. 6 U.S.C. §§ 279(a), (b)(1)(A), (g)(2).

The HSA defines a UAC as “a child who—(A) has no lawful immigration status in the United States; (B) has not attained 18 years of age; and (C) with respect to whom—(i) there is no parent or legal guardian in the United States; or (ii) no parent or legal guardian in the United States is available to provide care and physical custody.” 6 U.S.C. § 279(g)(2). Further, it assigns ORR broad authority over the care and custody of UAC while they are in federal custody due to their immigration status, including coordinating their care and placement, ensuring their best interests in custodial decisions and that they are protected from smugglers, traffickers, and others who might seek to victimize and exploit UAC. 6 U.S.C. § 279(b)(1)(A) & (b)(2)(A)(ii). These responsibilities are carried out through cooperative agreements and contracts with care providers under ORR policies and oversight. *See* 6 U.S.C. § 279(b)(1); 31 U.S.C. § 6305.

**B. The Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA).**

Congress enacted the TVPRA in 2008 to strengthen protections for UAC and support their safe repatriation or appropriate placement. The statute, consistent with the HSA, makes the Secretary of HHS responsible for the care and custody of UAC. 8 U.S.C. § 1232(b)(1). The TVPRA also states that HHS, and other agencies, "shall establish policies and programs to ensure that unaccompanied alien children in the United States are protected from traffickers and other persons seeking to victimize or otherwise engage such children in criminal, harmful, or exploitative activity..." 8 U.S.C. § 1232(c)(1). It also requires the HHS Secretary to make a determination that a sponsor "is capable of providing for the child's physical and mental well-being." 8 U.S.C. § 1232(c)(3)(A). This safety and suitability determination must "at a minimum, include verification of the custodian's identity and relationship to the child, if any, as well as an independent finding that the individual has not engaged in any activity that would indicate a potential risk to the child." *Id.* Thus, the TVPRA is explicit that ORR must prioritize the safety and well-being of UAC while in its care and upon release.

**C. The Unaccompanied Children Program Foundational Rule (2024).**

In April 2024, ORR promulgated the Unaccompanied Children Program Foundational Rule, codified at 45 C.F.R. Part 410, to establish comprehensive regulations governing its UAC program consistent with its statutory responsibilities. The Foundational Rule also implements provisions of the *Flores Settlement Agreement* (FSA) relevant to ORR's care and custody of UAC and conditionally and partially terminated the FSA as to ORR in June 2024. *See Unaccompanied Children Program Foundational Rule*, 89 Fed. Reg. 34,384, 34,385 (Apr. 30, 2024); *Flores v. Garland*, No. CV 85-4544-DMG (AGRX), 2024 WL 3467715, at \*9 (C.D. Cal. June 28, 2024).

Effective July 1, 2024, the Foundational Rule codified in regulation standards and practices that were previously described in ORR policies.

Specifically, the Rule provides that ORR must release UAC from its custody “[s]ubject to an assessment of sponsor suitability,” 45 C.F.R. § 410.1201, which includes “verification of the potential sponsor’s identity,” 45 C.F.R. § 410.1202(b), “verification of the employment, income, or other information provided by the potential sponsor as evidence of the ability to support the child,” 45 C.F.R. § 410.1202(c), and “[i]n all cases, ORR shall require background and criminal records checks,” *id.*, which may include a criminal history check based on fingerprints. In any event, the Foundational Rule does not prohibit the collection of fingerprints in all circumstances, and it is silent regarding identity document requirements and the types of documents acceptable to prove income. The Rule reinforces congressional intent articulated in the HSA and TVPRA that HHS ensure UAC protection from human traffickers and release UAC only to those sponsors capable of protecting their well-being. 45 C.F.R. § 410.1003.

#### **D. The Interim Final Rule (2025).**

On March 25, 2025, HHS published an IFR notifying the public of its intention to amend one provision of one of its regulations. *Unaccompanied Children Program Foundational Rule; Update To Accord With Statutory Requirements*, 90 Fed. Reg. 13,554-01 (Mar. 25, 2025); Declaration of Toby Biswas ¶ 18, dated May 23, 2025 (“Biswas Decl.”). Specifically, the IFR amended the Foundational Rule by striking 45 C.F.R. § 410.1201(b) (2024), which provided:

ORR shall not disqualify potential sponsors based solely on their immigration status and shall not collect information on immigration status of potential sponsors for law enforcement or immigration enforcement related purposes. ORR *shall not share any immigration status information* relating to potential sponsors with any law enforcement or immigration enforcement related entity at any time.

90 Fed. Reg. 13,554 (emphasis added). The IFR was effective immediately upon publication in the Federal Register and provided for a 60-day comment period ending on May 27, 2025. *Id.*

Citing 5 U.S.C. § 553(b)(4)(B), HHS asserted good cause for issuing the IFR without notice and comment because ORR had no authority to promulgate 45 C.F.R. § 410.1201(b) (2024) where the rule contravened 8 U.S.C. § 1373, and was therefore not in accordance with law under the APA, 5 U.S.C. § 706(2)(A). Section 1373 provides:

Notwithstanding any other provision of Federal, State, or local law, a Federal, State, or local government entity or official may not prohibit, or in any way restrict, any government entity or official from sending to, or receiving from, the Immigration and Naturalization Service information regarding the citizenship or immigration status, lawful or unlawful, of any individual.

Because the statute prohibits any restriction on sharing information regarding immigration status between governmental entities, HHS concluded that its regulation was invalid and must be removed. 90 Fed. Reg. 13,555. Thus, HHS also asserted that revoking the rule immediately was in the public interest and “no amount of public input could give ORR the power to contravene a duly-enacted law of Congress via regulation.” 90 Fed. Reg. 13,555.

The stricken language in 45 C.F.R. § 410.1201(b) (2024) that precludes sharing citizenship and immigration status information with other federal agencies threatens to hamper ongoing interagency efforts to identify, investigate, and prosecute sponsor fraud and other human trafficking offenses perpetrated against UAC, thereby interfering with ORR’s core statutory missions to ensure the safety and well-being of the minors in its care and custody *and* to combat human trafficking under the HSA and TVPRA. Biswas Decl. ¶ 20.

#### **E. ORR Release Policies and Practices.**

To carry out its statutory and regulatory mandate under the HSA and TVPRA, and the Foundational Rule, ORR has developed policies and procedures for identifying and conducting suitability assessments of, potential sponsors. These procedures are generally set out in ORR’s

publicly available UAC Bureau Policy Guide (UAC Policy Guide). *See* ORR Unaccompanied Alien Children Bureau Policy Guide, *available at* <https://perma.cc/Q2C3-3SC5>; *see also* Biswas Decl. ¶¶ 2 & n.1, 4. A full assessment of a potential sponsor’s suitability is particularly appropriate because ORR is not a law or immigration enforcement agency and lacks the authority to hold individuals accountable by reassuming care if the sponsor abuses or neglects a child after a UAC has been released from ORR custody. Biswas Decl. ¶ 5. Rather, ORR only takes children into its custody upon referral by another federal agency, as described in statute. *Id.* In this regard, ORR is also very different from state child welfare agencies, which typically retain such authority post-placement. *Id.* Accordingly, ORR must front-load child safety considerations in its identity verification and sponsor vetting policies. *Id.*

In light of ORR’s obligation to protect UAC from smugglers, traffickers, and others who may seek to victimize them, “safe and timely release . . . involves several steps, including: the identification of sponsors; sponsor application; interviews; the assessment (evaluation) of sponsor suitability, including verification of the sponsor’s identity and relationship to the child (if any), background checks, and in some cases home studies; and post-release planning.” UAC Policy Guide § 2.1. There are four categories of potential sponsors: (1) Category 1, consisting of parents or legal guardians; (2) Category 2A, consisting of siblings, half-siblings, grandparents, immediate relatives (such as aunts, uncles, and cousins) who previously served as a primary caregiver, and other biological relatives and relatives through marriage; (3) Category 2B, consisting of immediate relatives (including biological relatives and relatives through marriage) who did not previously serve as a primary caregiver; (4) Category 3, consisting of other sponsors, such as distant relatives and unrelated adult individuals. *Id.* § 2.2.1. ORR conducts suitability assessments of any potential sponsor (with the assistance of a care provider), including a review of the potential sponsor’s

strengths, resources, risk factors, and special concerns within the context of each child's needs, strengths, resources, risk factors, and relationship to the sponsor. *Id.* §§ 2.2.2, 2.4.

A potential sponsor must complete a Family Reunification Application (FRA), provide unexpired government-issued identification documentation for the sponsor and any other adults living in the household or identified in a sponsor care plan, and, along with any adult living in his or her household, undergo a background check. UAC Policy Guide §§ 2.2.4, 2.5. All potential sponsors must also submit proof of address, income, sponsor-child relationship, and criminal history documents (if applicable). *Id.* § 2.2.4. Additionally, in certain circumstances a home study, which consists of interviews, a home visit, and a written report containing the home-study case worker's findings, is performed. *Id.* § 2.4.2.

Once the assessment of the potential sponsor is complete, the care provider makes a release recommendation. UAC Policy Guide § 2.7. ORR makes the final release decision. *Id.* Release decisions include: (1) approve release to sponsor; (2) approve release with post-release services; (3) conduct a home study before a final release decision; (4) deny release; or (5) remand for further information. *Id.* ORR denies release if: (1) the potential sponsor is not willing or able to provide for the child's physical or mental well-being; (2) the potential sponsor is not willing to complete the mandatory fingerprint check; (3) the physical environment of the home presents a risk to the child's safety or well-being; or (4) release of the UAC would present a risk to him or herself, the sponsor, household, or community. *Id.* § 2.7.4.

#### **F. Recent Reports Concerning ORR's Sponsor Vetting Process (2022-24).**

In December 2022, the Permanent Subcommittee on Investigations within the U.S. Senate Committee on Homeland Security and Governmental Affairs ("the Subcommittee") published a report detailing the inadequate treatment of UAC in federal care and the insufficient safeguards to

ensure they are not trafficked or abused following their release. Biswas Decl. ¶ 9. The Subcommittee found that despite the increased number of UAC entering the United States in 2021 and 2022, ORR's completion of background checks significantly declined from FY 2019. *Id.* Moreover, the Subcommittee identified the lack of adequate background checks for potential sponsors and the waiver of background check requirements on household members, even when releasing a child to their parent, as areas where additional safeguard measures were necessary. *Id.* The Subcommittee specifically recommended that ORR enhance its procedures for verifying pre-existing relationships and develop formal guidance for case managers during the verification process. *Id.* The Subcommittee also recommended that ORR update the UAC Policy Guide to indicate that if a potential sponsor or household member refuses to comply with required background checks, ORR will prohibit further consideration of the release of a child into their custody. *Id.*

In March 2023 after a Florida grand jury published a report outlining over 100 allegations concerning deficiencies in ORR's UAC Program, ORR established an Integrity & Accountability (I&A) Team to detect and prevent fraud. Biswas Decl. ¶¶ 6-7. The I&A Team identified several instances of fraudulent sponsorship applications, document falsifications, and patterns of human trafficking and exploitation. Biswas Decl. ¶ 7. For instance, the Team identified instances of children and sponsors using altered birth certificates or unaltered birth certificates belonging to another person. *Id.* The Team found that the fraud often involved collusion with others, such as a family member in the country of origin. *Id.* In another example, the I&A Team identified 10 UAC who were released to sponsors who committed intentional document fraud in October 2024. *Id.*

In one particularly egregious case, the I&A Team found that a woman and her partner attempted to sponsor a total of 15 UAC over a five-year period by using multiple aliases. Biswas

Decl. ¶ 8. The woman used various aliases to attempt to sponsor eight UAC over the same period, with four UAC being released to her and four unsuccessful attempts to sponsor other UAC. *Id.* The aliases were only discovered when the sponsor underwent fingerprinting. *Id.* Of the four unsuccessful sponsorships, three were Category 1 cases, and one was a Category 2A case. *Id.* Despite this evidence, ORR's data revealed that less than 1% of sponsorship applications have been denied in recent years.

In February 2024, the HHS Office of Inspector General published its finding in *Gaps in Sponsor Screening and Follow Up Raise Safety Concerns for Unaccompanied Children* that:

1. In 16% of children's case files, one or more required sponsor safety checks lacked any documentation indicating that the checks were conducted.
2. For 19% of children who were released to sponsors with pending Federal Bureau of Investigation fingerprint or State child abuse and neglect registry checks, children's case files were never updated with the results.
3. In 35% of children's case files, sponsor-submitted identification documents contained legibility concerns.
4. ORR failed to conduct mandatory home studies in two cases and four other cases raise concerns about whether ORR guidance on discretionary home studies should offer more specificity.
5. In 5% of cases, sponsor records within ORR's case management system were not updated with child welfare outcomes or sponsorship history.

Biswas Decl. ¶ 9, Ex. A, (*also available at* <https://perma.cc/2GSC-YTAJ>).

As a result of these findings, HHS OIG recommended, among other things, that ORR develop additional safeguards to ensure that all safety checks are conducted and documented prior to approving the release of a child to their sponsor. Biswas Decl. ¶ 9. This recommendation is still marked as ongoing on the HHS OIG recommendation implementation tracker. *Id.*

#### **G. Updated ORR Guidance Regarding UAC Sponsor Vetting (2025).**

Upon his inauguration, President Trump ordered HHS, along with the U.S. Department of Justice and Department of Homeland Security, to take "all appropriate action to stop the trafficking and smuggling of alien children into the United States[.]" Executive Order 14159, "*Protecting the*



*American People Against Invasion*,” 90 FED. REG. 8443, at 8447 (Jan. 20, 2025). Shortly thereafter, former Acting Director of ORR, Mellissa Harper, issued a memorandum (Harper Memo) outlining immediate changes to address ongoing concerns with gaps in ORR’s sponsor vetting process, as well as fraud and trafficking. Biswas Decl. ¶ 11, Ex. B. The memorandum highlighted one particularly egregious instance of sponsor fraud, where a potential sponsor had obviously photoshopped himself into a photograph to establish kinship with the child. Biswas Decl. ¶ 11, Ex. B at 3. Subsequently, that same potential sponsor presented a foreign identification card bearing the name and photograph of another individual in an attempt to establish his identity and sponsor another child. Biswas Decl. ¶ 11, Ex. B at 4. In another example regarding age fraud, a UAC killed his sponsor months after he was released from ORR care. Biswas Decl. ¶ 11, Ex. B at 5. It was discovered during a law enforcement investigation later on that the UAC was actually 23 years old at the time of the murder. *Id.* These investigations were the rationale for implementing immediate policy changes, which included mandatory enhanced biometric collection and background checks, reassessment of the use of secondary documents that cannot be reliably verified as proof of identity, and sponsor presentation of original documents in-person. Biswas Decl. ¶ 11. The average length of care for UAC in ORR custody as of February 2025 was 25.8 days, but that length of time did not permit ORR to conduct adequate sponsor vetting measures necessary to ensure children are not released to potentially dangerous situations like those detailed in the investigations. Biswas Decl. ¶ 12.

On February 14, 2025, ORR issued Field Guidance (“FG”) 26, which requires all potential sponsors, their adult household members aged 18 and above, and all adult caregivers identified in a Sponsor Care Plan to undergo national fingerprint-based FBI background checks. Biswas Decl. ¶ 13. FG 26 also requires the use of only unexpired and legible photocopies or high-resolution

digital scans/photos of identification documents to establish identity. *Id.* These updates to the guidance for vetting potential sponsors directly support ORR's efforts to combat sponsor fraud and mitigate risk of human trafficking of UAC by: requiring the same identity document be used as part of the sponsorship application, the fingerprint application, and at discharge; ensuring validation of acceptable identity documents; and re-establishing universal FBI fingerprints for all sponsors. *Id.* The universal fingerprint policy was previously in place prior to 2018, and it ensured equity in background information available for each sponsor as part of the totality of circumstances assessment conducted by ORR in release determinations. *Id.*

To further address identified gaps in the sponsor vetting process, ORR updated its UAC Policy Guide Sections 2.2.4 (concerning required supporting documents for sponsor applications to include unexpired identity documents and proof of income), 2.4.1 (concerning proof of income as part of sponsor assessment criteria), 2.7.4 (concerning lack of fingerprinting and proof of income as bases for denial of release requests), and 5.8.2 (concerning fraud reporting). Biswas Decl. ¶ 15, Ex. C. ORR made these updates to align the acceptable identity documents for identity verification purposes with the standards used for I-9 verifications as a safer framework than reliance on foreign-issued identity documents. Biswas Decl. ¶ 14. ORR has encountered difficulties authenticating foreign-issued documents, especially in a timely manner. Biswas Decl. ¶ 15. ORR is aware of widespread fraud involving the use of such documents and has had to rely on foreign consulates and embassies, often liaising with the Department of State, to authenticate documents issued outside the United States. *Id.* This process is complicated by international relations (including whether the United States maintains diplomatic relations with certain countries) and the stability of certain foreign states. *Id.*

In consideration of family reunification, the policies contemplate an exception for Category 1 sponsors on a case-by-case basis. Biswas Decl. ¶ 15. With regard to proof of address documentation, UAC Policy Guide Section 2.2.4, ORR has previously released children to addresses that did not include apartment numbers or were themselves suspected to be fraudulent; resulting in children released to locations that may not have been actual residences or for which the specific residential unit is unknown. *Id.* With regard to sponsor denial criteria (UAC Policy Guide Section 2.7.4), ORR clarified that a sponsor's or adult household member's refusal to present for fingerprinting would be sufficient for denial of release as failure to present can be an indication that the individual is trying to conceal known biometrics or criminal history, which could be grounds for sponsorship denial. *Id.* And with respect to income verification, in the state child welfare system, parents, legal guardians, and close kin must demonstrate their financial capability to support a child's needs if the child is returned to their care. Biswas Decl. ¶ 17. By requiring the submission of proof of income information and supporting documentation, case managers will be better equipped to identify potential indicators of labor exploitation. *Id.* ORR has identified instances where parents and other family members have been subjected to human trafficking and/or labor exploitation and had similar debts as the children they sponsored. *Id.* The information obtained during employment and income verification can inform the decision to refer a case for a home study or post-release services. *Id.* Finally, the guidance update to UAC Policy Guide Section 5.8.2 established clearer protocols for detecting, documenting, and responding to fraud, including preventing fraudulent actors from exploiting the UAC Bureau and UAC for trafficking or other forms of exploitation. Biswas Decl. ¶ 14.

## **II. This Lawsuit**

On May 8, 2025, Plaintiffs filed this suit. ECF No. 1, Compl. Plaintiffs allege that the IFR violates the APA because: (1) HHS did not publish the IFR through notice and comment and did

not have good cause for it to take immediate effect, Compl. ¶¶ 110-16 (citing 5 U.S.C. § 706(2)(D)); (2) the IFR exceeds statutory authority because it is contrary to ORR's statutory obligation to promptly place UAC in the least restrictive setting that is in their best interest, Compl. ¶¶ 117-23 (citing 5 U.S.C. §§ 706(2)(A), (C)); (3) the IFR is contrary to the constitutional right to family unity, Compl. ¶¶ 124-28 (citing 5 U.S.C. § 706(2)(B)); and (4) the IFR is arbitrary and capricious because it does not explain why it rescinds the prohibition on denying sponsor applications based on immigration status and collecting information on sponsor immigration status, Compl. ¶¶ 129-32.

Plaintiffs claim that the updated guidance on sponsor vetting requirements violates the APA because: (1) it is contrary to the TVPRA's requirement to promptly place UAC in the least restrictive setting that is in their best interest, they violate the *Accardi* doctrine that federal agencies are required to follow their own regulations, and they violate the Paperwork Reduction Act, Compl. ¶¶ 133-43 (citing 5 U.S.C. § 706(2)(A), (C)); (2) they are contrary to the constitutional right to family unity, Compl. ¶¶ 144-47 (citing 5 U.S.C. § 706(2)(B)); (3) they are arbitrary and capricious because they result in denials of sponsorship and were promulgated without reasoned explanation, Compl. ¶¶ 148-52 (citing 5 U.S.C. § 706(2)(A)); and (4) ORR violated the APA when it promulgated the proof of identity and income requirements without notice and comment, Compl. ¶¶ 153-58 (citing 5 U.S.C. § 706(2)(D)).

The UAC Plaintiffs allege that they are irreparably harmed by the IFR and the updated guidance on sponsor vetting requirements because the IFR and updated guidance have delayed their release to sponsors and prolonged separation from their families. *E.g.*, Compl. ¶¶ 55, 146. However, the UAC Plaintiffs cannot make the connection between the length of their time in ORR

custody and the IFR/updated guidance where independent circumstances causing delays in their release existed in each case prior to the IFR/updated guidance. *See* Compl. ¶¶ 68-99.

Although the organizational Plaintiff alleges that the IFR/updated guidance have harmed the organization’s mission to represent UAC in removal proceedings by causing it to divert and expend additional resources, Compl. ¶¶ 100-02, the organization is not subject to the IFR or the policy modifications. Indeed, the organizational Plaintiff’s only alleged injury is that the IFR/updated guidance will affect their resources. Declaration of Cynthia Isabel Felix ¶¶ 10-12, 18, 20, 22.

## STANDARD OF REVIEW

### I. Rule 65 – Preliminary Injunction.

A preliminary injunction is “an extraordinary and drastic remedy.” *Munaf v. Geren*, 553 U.S. 674, 689 (2008). A party seeking such relief “must establish that [it] is likely to succeed on the merits, that [it] is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in [its] favor, and that an injunction is in the public interest.” *Winter v. NRDC*, 555 U.S. 7, 20 (2008). “Although [the D.C.] Circuit has taken no position on the ‘sliding scale approach,’ the movant must, at a minimum, ‘demonstrate that irreparable injury is likely in the absence of an injunction.’” *Fla. EB5 Invs., LLC v. Wolf*, 443 F. Supp. 3d 7, 11 (D.D.C. 2020) (internal citations omitted) (Leon, J.).

Where, as here, “an injunction is mandatory—that is, where its terms would alter, rather than preserve, the status quo by commanding some positive act—the moving party must meet a higher standard than in the ordinary case by showing clearly that he or she is entitled to relief or that extreme or very serious damage will result from the denial of the injunction.” *Columbia Hosp. for Women Found., Inc. v. Bank of Tokyo-Mitsubishi Ltd.*, 15 F. Supp. 2d 1, 4 (D.D.C. 1997)

(internal quotation marks omitted), *aff'd*, 159 F.3d 636 (D.C. Cir. 1998); *Dallas Safari Club v. Bernhardt*, 453 F. Supp. 3d 391, 398 (D.D.C. 2020).

## II. 5 U.S.C. § 705 – Relief Pending Review.

Plaintiffs have moved for a stay under 5 U.S.C. § 705, which provides, in relevant part, that “[o]n such conditions as may be required and to the extent necessary to prevent irreparable injury, the reviewing court . . . may . . . postpone the effective date of an agency action or to preserve status or rights pending conclusion of the review proceedings.” “[A] stay under § 705 should be imposed for one—and only one—reason: to maintain the status quo in order to allow judicial review of the underlying regulation to proceed in a ‘just’ manner.” *Bauer v. DeVos*, 325 F. Supp. 3d 74, 106-07 (D.D.C. 2018) (emphasis added). Moreover, as the D.C. Circuit has explained, Section 705 is intended to “postpone the effective date of a not yet effective rule, pending judicial review.” *Safety-Kleen Corp. v. EPA*, Nos. 92-1629, 92-1639, 1996 U.S. App. LEXIS 2324, at \*2-3 (D.C. Cir. Jan. 19, 1996) (emphasis added). “The factors governing issuance of a preliminary injunction also govern issuance of a § 705 stay.” *Dist. of Columbia v. USDA*, 444 F. Supp. 3d 1, 15 (D.D.C. 2020). These factors are discussed below.

## ARGUMENT

Plaintiffs’ claims conflict with the authority vested in HHS over the care, custody, and release of UAC to suitable sponsors by the HSA and the TVPRA. *Vt. Yankee Nuclear Power Corp. v. NRDC*, 435 U.S. 519, 543 (1978) (“[T]his much is absolutely clear. Absent constitutional constraints or extremely compelling circumstances, the administrative agencies should be free to fashion their own rules of procedure and to pursue methods of inquiry capable of permitting them to discharge their multitudinous duties.” (quotation omitted)). HHS “enjoys broad discretion in determining how best to handle related, yet discrete, issues in terms of procedures . . . and priorities.” *See Mobil Oil Expl. & Producing Se. Inc. v. United Distribution Cos.*, 498 U.S. 211,

230 (1991). Plaintiffs’ attempts to interfere with explicit statutory mandates and agency discretion to implement its own rules are unavailing. They show neither that they are clearly entitled to relief nor that extreme or very serious damage will result from the denial of an injunction—the standard applicable when requesting a mandatory injunction that would alter, rather than preserve the status quo. *See Winter*, 555 U.S. at 20; *Columbia Hosp. for Women*, 15 F. Supp. 2d at 4.

**I. Plaintiffs cannot demonstrate that they are likely to succeed on the merits.**

**A. Plaintiffs lack standing.**

The UAC and organizational Plaintiffs lack standing to challenge the IFR and the updated sponsor-vetting guidance because, as explained below, they cannot show a judicially cognizable injury caused by Defendants. If a litigant lacks standing, the court has no subject-matter jurisdiction and therefore lacks constitutional authority to decide the case. *Ctr. for L. & Educ. v. Dep’t of Educ.*, 396 F.3d 1152, 1156–57 (D.C. Cir. 2005). “The first component of the likelihood of success on the merits prong usually examines whether the plaintiffs have standing in a given case.” *Barton v. District of Columbia*, 131 F. Supp. 2d 236, 243 n.6 (D.D.C. 2001) (citing *Steel Co. v. Citizens for a Better Env’t*, 523 U.S. 83, 101, 118 S. Ct. 1003, 140 L.Ed.2d 210 (1998)). “To establish standing, ... a plaintiff must demonstrate (i) that she has suffered or likely will suffer an injury in fact, (ii) that the injury likely was caused or will be caused by the defendant, and (iii) that the injury likely would be redressed by the requested judicial relief.” *FDA v. All. for Hippocratic Med.*, 602 U.S. 367, 380 (2024).

*i. The UAC Plaintiffs.*

The UAC Plaintiffs lack Article III standing to bring their APA claims because they do not “satisfy the threshold requirement” of “alleg[ing] an actual case or controversy.” *O’Shea v. Littleton*, 414 U.S. 488, 493 (1974). Where, as here, the relief sought is also prospective, a plaintiff must demonstrate a risk of future injury that is both “real” and “immediate” and neither

“conjectural” nor “hypothetical.” *City of Los Angeles v. Lyons*, 461 U.S. 95, 102–03 (1983); *see also Nat’l Immigr. Project of Nat’l Laws. Guild v. Exec. Off. of Immigr. Rev.*, 456 F. Supp. 3d 16, 25–26 (D.D.C. 2020). A plaintiff seeking forward-looking relief bears the burden of proving the existence of a future “threatened injury [that is] certainly impending.” *Clapper v. Amnesty Int’l USA*, 568 U.S. 398, 401 (2013). Plaintiffs’ request for relief falls short because it rests on the speculative effect of ORR’s policies on their ability to be released to a qualified sponsor, but Plaintiffs each have individual circumstances preexisting the challenged rule and guidance, and regardless, have unique fact-specific circumstances. *See generally* Declaration of Angelica S., ECF No. 9-7; Declaration of Eduardo M., ECF No. 9-8; Declaration of Liam W., ECF No. 9-9; Declaration of Leo B., ECF No. 9-10; Declaration of Xavier L., ECF No. 9-11. They also cannot show that the injury they claim—delay in release to a sponsor—is “fairly traceable to the defendant’s challenged conduct.” *Am. Soc’y for Prevention of Cruelty to Animals v. Feld Entm’t, Inc.*, 659 F.3d 13, 19 (D.C. Cir. 2011) (citing *Lujan*, 504 U.S. at 560–61, 112 S. Ct. 2130).

Plaintiffs’ speculative allegations of harm do not raise any concrete injury sufficient to establish standing or obtain injunctive relief. For example, Angelica S. came into ORR custody in November 2024, approximately three months prior to the IFR/updated guidance in February/March 2025. Angelica S. Decl. ¶ 2, ECF No. 9-7. Thus, the IFR/updated guidance cannot be the reason she was not released to a sponsor prior to February/March 2025. Indeed, other factual circumstances, including that an adult caregiver in the potential sponsor’s home was arrested in January 2025 for sexual abuse of an eight-year-old child. Biswas Decl. ¶ 22. Even if Plaintiffs do show a cognizable injury in fact, their claims are not redressable because the Court cannot order ORR to grant their sponsor’s applications or order their release when they do not have a qualified sponsor.



ii. *The Organizational Plaintiff.*

The organizational Plaintiff, Immigrant Defenders Law Center, cannot establish organizational standing based on its claims that the IFR and updated sponsor-vetting guidance have resulted in its reallocation and expenditure of their attorneys' time and resources. Felix Decl. ¶¶ 10-12, 18, 20, 22. Where an organization sues on its own behalf, it must establish standing in the same manner as an individual. *See Warth v. Seldin*, 422 U.S. 490, 511 (1975). Organizations may have standing in some situations where they are directly injured, as recognized in *Havens Realty Corp. v. Coleman*, 455 U.S. 363 (1982). But as the Supreme Court has recently held, *Havens* does not stand for the proposition that "standing exists when an organization diverts its resources in response to a defendant's actions." *All. for Hippocratic Med.*, 602 U.S. at 395. The Court read *Havens* narrowly as regarding a situation where the defendants' "actions directly affected and interfered with [the plaintiff's] core business activities" and analogized the case to "a retailer who sues a manufacturer for selling defective goods to the retailer." *Id.* The IFR and updated guidance at issue here does not directly or indirectly apply to the organizational Plaintiff and would "not impose[] any similar impediment to [Plaintiffs'] advocacy business." *Id.* Thus, Plaintiffs cannot establish standing under *Havens*, as clarified by *All. for Hippocratic Med.*

Prior to the Supreme Court's clarification of *Havens* in *All. for Hippocratic Med.*, the D.C. Circuit developed a two-part inquiry for determining standing where an organization claims a diversion-of-resources injury: (1) "whether the defendant's allegedly unlawful activities injured the plaintiff's interest in promoting its mission," and, if so, (2) "whether the plaintiff used its resources to counteract that injury." *ASPCA v. Feld Entm't, Inc.*, 659 F.3d 13, 25 (D.C. Cir. 2011). *All. for Hippocratic Med.* calls this test into question. But even that framework makes clear that expending time and resources alone to respond to governmental action does not cognizably injure

an organization. At most, such expenditures on their own may constitute “setback[s] to [the organization’s] abstract social interests.” *Havens*, 455 U.S. at 379. And “[t]he mere fact that an organization redirects some of its resources to litigation and legal counseling in response to actions or inactions of another party is insufficient to impart standing upon the organization.” *El Paso Cnty., Texas v. Trump*, 982 F.3d 332, 344 (5th Cir. 2020) (quoting *Ass’n for Retarded Citizens of Dall. v. Dall. Cnty. Mental Health & Mental Retardation Ctr. Bd. of Trs.*, 19 F.3d 241, 244 (5th Cir. 1994)); *Turlock Irr. Dist. v. FERC*, 786 F.3d 18, 24 (D.C. Cir. 2015) (“impairment of its advocacy” not enough).

Instead, the organizational plaintiff must also demonstrate that the challenged actions have injured the plaintiff in the first instance. *See All. for Hippocratic Med.*, 602 U.S. at 394. Plaintiffs cannot do so here. They do not explain how rules strengthening documentation and identity requirements for UAC sponsorship would impair their mission to represent immigrants in removal proceedings or provide legal services to UAC. Felix Decl. ¶¶ 5-6. Instead, the harms they cite—such as spending additional time and resources on cases and communication with ORR—are part and parcel of providing legal services. *Id.* ¶¶ 10-12, 18, 20, 22.

Relatedly, in their capacity as lawyers for UAC in removal proceedings, Plaintiffs have no cognizable interest in avoiding whatever reallocation of resources they may choose to make in light of the IFR/updated guidance. Such voluntary reallocation is merely an “indirect effect[]” of the IFR/updated guidance that makes their assertion of injury “more attenuated,” *United States v. Texas*, 599 U.S. 670, 680 n.3 (2023), and with which ORR’s statutory and regulatory authority are not concerned. *See Haitian Refugee Ctr. v. Gracey*, 809 F.2d 794, 804–07 (D.C. Cir. 1987). “If the law were otherwise, an enterprising plaintiff would be able to secure” the right to challenge a governmental action without any otherwise cognizable injury “simply by making an expenditure”

in response to the action. *Clapper*, 568 U.S. at 416. Under their theory, law firms may sue any time the law changes in a way that requires them to alter their business strategy due to an increase or decrease in the amount of time they must spend on cases, or even where the law becomes easier for non-attorneys to navigate such that finding clients becomes more difficult. As a practical matter, this theory would nullify the principle that a lawyer has no independent litigable interest in the legal rules applicable to the lawyer’s clients. *See, e.g., Kowalski v. Tesmer*, 543 U.S. 125, 130–34 (2004); *see id.* at 135 (Thomas, J., concurring) (“Litigants who have no personal right at stake may have very different interests from the individuals whose rights they are raising.”); *cf. All. For Hippocratic Med.*, 602 U.S. at 393 (rejecting the creation of a special “doctor standing”). The Supreme Court “has ‘never accepted such a boundless theory of standing.’” *Murthy v. Missouri*, 144 S. Ct. 1972, 1996 (2024) (quoting *Already, LLC v. Nike, Inc.*, 568 U.S. 85, 99 (2013)).

*iii. The organizational Plaintiff is not within the zone of interests.*

The organizational Plaintiff’s claims also fail because the alleged effect of the IFR/updated guidance on their expenditures and legal practices does not fall within the zone of interests of the HSA or the TVPRA. A plaintiff must be “adversely affected or aggrieved by agency action within the meaning of a relevant statute” to sue under the APA. 5 U.S.C. § 702. And “the interest sought to be protected” must be “arguably within the zone of interests to be protected or regulated by the statute ... in question.” *Clarke v. Secs. Indus. Ass’n*, 479 U.S. 388, 396 (1987) (quoting *Rusk v. Cort*, 369 U.S. 367, 379–380 (1962)). Nothing in the text, structure, or purpose of the HSA or TVPRA suggests that Congress intended to permit organizations to contest ORR’s statutory and regulatory authority over the care and custody of UAC based on attenuated effects on their own spending decisions.

Organizations that “provide legal help to immigrants” do not satisfy the zone-of-interests test. *INS v. Legalization Assistance Project of L.A. Cty. Fed’n of Labor*, 510 U.S. 1301, 1302 (1993) (O’Connor, J., in chambers). Federal immigration law was “clearly meant to protect the interests of undocumented [noncitizens], not the interests of organizations.” *Id.* at 1305. That an immigration regulation “may affect the way an organization allocates its resources” for representing noncitizens accordingly does not bring the organization “within the zone of interests” that the asylum and withholding statutes protect. *Id.*

Accordingly, Plaintiffs lack standing, and the Court should deny their request for a preliminary injunction.

**B. The Interim Final Rule is Lawful and Should Not be Enjoined**

*i. ORR properly utilized the exceptions to notice-and-comment procedures.*

ORR was not required to follow notice-and-comment procedures before publishing the IFR because good cause existed to remove the provision of the Foundational Rule that contravened a federal statute. The APA provides an exception to notice-and-comment procedures “when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.” 5 U.S.C. § 553(b)(4)(B). Here, ORR determined that a provision of the Foundational Rule contravened a federal statute and, thus, “ORR had no authority to promulgate such a rule.” 90 Fed. Reg. 13,555. Specifically, the provision stated:

ORR shall not disqualify potential sponsors based solely on their immigration status and shall not collect information on immigration status of potential sponsors for law enforcement or immigration enforcement related purposes. *ORR shall not share any immigration status information relating to potential sponsors with any law enforcement or immigration enforcement related entity at any time.*

45 C.F.R. 410.1201(b) (emphasis supplied). This provision defied a statute enacted by Congress, which prohibits restricting agencies—like ORR—from sharing information on immigration status with immigration enforcement agencies:

Notwithstanding any other provision of Federal, State, or local law, *a Federal, State, or local government entity or official may not prohibit, or in any way restrict, any government entity or official from sending to, or receiving from, the Immigration and Naturalization Service information regarding the citizenship or immigration status, lawful or unlawful, of any individual.*

8 U.S.C. § 1373. Accordingly, ORR determined that it was required to “update the Foundational Rule to strike 45 C.F.R. § 410.1201(b).” 90 Fed. Reg. 13,555. Specially, ORR issued a rule change that removed “the prohibition on sharing immigration status information relating to potential sponsors with law enforcement and immigration enforcement entities.” *Id.* Additionally, ORR found that the good cause exception to notice and public comment under 5 U.S.C. § 553(b)(4)(B) applied, and that it had the authority to issue the rule change as an IFR. *Id.*

As required by 5 U.S.C. § 553(b)(4)(B), ORR incorporated its finding of why there was good cause for the exception into a brief statement of reasons in the IFR. 90 Fed. Reg. 13,555. In the statement, ORR explained that “45 C.F.R. § 410.1201(b) contravenes 8 U.S.C. § 1373,” and that the agency “had no authority to promulgate such a rule.” *Id.* ORR further explained that “revoking [the provision] immediately is in the public interest,” and that “notice and comment is unnecessary and contrary to the public interest because no amount of public input could give ORR the power to contravene a duly-enacted law of Congress via regulation.” *Id.* Finally, ORR found that there was good cause under 5 U.S.C. § 553(d)(3) for the IFR to take immediate effect on March 25, 2025, and encouraged “all interested parties to participate in this rulemaking by submitting written comments, views, and data on any or all aspects of this IFR.” *Id.* The closing date for public comments is May 27, 2025. *Id.* ORR will prioritize reviewing those public

comments and publishing a final rule. Biswas Decl. ¶ 21. The timeline for publishing a final rule depends on the number of comments received, but ORR estimates that it will take “several months to finalize and clear.” *Id.*

Plaintiffs argue that ORR has not adequately invoked any exception to the notice-and-comment procedures. *See* Mot. 16-20. As set forth above, however, ORR provided the justification in the IFR that “notice and comment is unnecessary and contrary to the public interest because no amount of public input could give ORR the power to contravene a duly-enacted law of Congress via regulation.” 90 Fed. Reg. 13.555. As the D.C. Circuit explained in *Mack Trucks, Inc. v. E.P.A.*, “the public interest prong of the good cause exception is met only in the rare circumstance when ordinary procedures—generally presumed to serve the public interest—would in fact harm that interest.” 682 F.3d 87, 95 (D.C. Cir. 2012). That exception fits ORR’s justification here. In the situation where a regulation limits ORR’s ability to share immigration status information with federal enforcement agencies squarely contravenes a federal law that prohibits this restriction on information-sharing, delaying the resolution of the conflicting authorities to permit public commentary would jeopardize the public interest. During the entire open period for public participation, the offending regulation would remain in effect, confusing both the public and ORR as to which authority to follow. Depending on the number of comments received, this untenable situation would have continued many months before ORR would have been able to promulgate a corrective rule. Plaintiffs’ suggestion that “the public could have provided ‘data, views, or arguments’ about ‘the interaction between § 1373 and the statutes and regulations governing ORR’s program and suggested regulatory alternatives,’” *see* Mot. 20, fails to address this interim period where ORR and the public would have been unsure of what law to follow, and the continuing public harm of requiring an agency to violate federal law. The public interest exception

under § 553(b)(4)(B) relieves ORR of operating in this untenable situation in rare circumstances like this one where notice-and-comment procedures would harm corrective rule making.

Plaintiffs also seek to separate the clauses in the first sentence of the former 45 C.F.R. 410.1201(b), arguing that eligibility and collection provisions of the first sentence are not “inextricably linked” to the information sharing provision in the second sentence, and thus should not have been removed in the IFR. *See* Mot. 18-19; *see* 90 Fed. Reg. at 13,555 n.1. The first sentence provides that,

ORR shall not disqualify potential sponsors based solely on their immigration status and shall not collect information on immigration status of potential sponsors for law enforcement or immigration enforcement related purposes.

First, the two clauses of the first sentence cannot be so neatly separated as Plaintiffs suggest. The use of the word “and” typically signifies a conjunctive list, meaning that each condition must be satisfied. Thus, absent clear intent to the contrary, the eligibility clause must be considered together with the collection clause. Second, it is difficult to imagine how ORR can fulfill its statutory obligation under § 1373 to share immigration status information that it uncovers in the course of other legal obligations (including the TVPRA)—whether affirmatively or at the request of an immigration enforcement agency—if it does not collect this information. ORR would either have to explicitly discourage potential sponsors from sharing any immigration status information, which could potentially conflict with its duty of making placements in the best interest of the child, or it would have to destroy any such information that it receives, raising both record-keeping and § 1373 compliance concerns. Thus, ORR correctly found that “45 C.F.R. 410.1201(b)’s parts are inextricably linked and there was no indication in the Foundational Rule that it was intended to treat the information-sharing and the eligibility issues as distinct.” *See* 90 Fed. Reg. at 13,555, n.1. Moreover, ORR’s alternative justification for removing the entire provision under former 45

C.F.R. 410.1201(b), based on the preamble of the Foundational Rule, 89 Fed. Reg. at 34,389, “that severability runs—at most—to provisions, not to portions of provisions,” also justifies ORR’s decision to excise the entire provision in the IFR.

ORR was also justified in invoking the good cause exception to provide for immediate effect of the IFR. The APA permits substantive rules to take immediate effect—bypassing the typical 30-day minimum requirement after publication and service—where the agency provides good cause and publishes the justification with the rule. 5 U.S.C. 553(d)(3). The section 553 exceptions, however, are to “be narrowly construed and only reluctantly countenanced.” *Am. Fed’n of Gov’t Emp., AFL-CIO v. Block*, 655 F.2d 1153, 1156 (D.C. Cir. 1981). Here, ORR’s good cause for invoking the exception was that the “IFR brings an ORR regulation into compliance with a federal statute and regulated entities do not need time to adjust their behavior before this rule takes effect.” *See* 90 Fed. Reg. at 13,555. ORR, of course, can determine whether it has had sufficient time to adjust its behavior to comport with the IFR without a 30-day period before it became effective. Plaintiffs, however, argue that this is incorrect given their reliance on the protections of the Foundational Rule, and the fact that “ORR’s changes to sponsor requirements to increase scrutiny of sponsor’s immigration status and permit denials based on immigration status have caused significant disruption and delays in ORR’s release process.” *See* Mot. 22. It is unclear, however, what changes Plaintiffs will need to make in their behavior to comport with the IFR—they offer none. To the extent that Plaintiffs may be impacted by changes in the behavior of potential sponsors due to the IFR, it is speculative that the 30-day effective date would make any meaningful difference such that the Plaintiffs would need to modify their behavior. Similarly, even if some potential sponsors may be dissuaded if they know ORR may be required to share their immigration status with immigration enforcement, there is no indication that a 30-day effective period for the



IFR would have any meaningful impact on their behavior. On this record, ORR’s decision to make the IFR effective immediately was lawful.

Finally, if the Court questions whether ORR was required to comply with notice-and-comment procedures, this issue can be addressed during the merits of this case. As discussed below, none of the Plaintiffs have provided evidence sufficient to make a clear showing that they will suffer irreparable harm if the Court does not enter the requested preliminary injunction. *See Fisheries Survival Fund v. Jewell*, 236 F. Supp. 3d 332, 336 (D.D.C. 2017) (plaintiffs bear “considerable burden” in the D.C. Circuit “of proving that their purported injuries are ‘certain, great and actual—not theoretical—and imminent, creating a clear and present need for extraordinary equitable relief to prevent harm.’”). On this record, Plaintiffs are not entitled to the extraordinary relief of a preliminary injunction, and the Court should deny their motion.

*ii. The Interim Final Rule is Neither Arbitrary Nor Capricious.*

ORR’s decision to issue the IFR to correct the conflict between the Foundational Rule and 8 U.S.C. § 1373 was reasonable and reasonably explained and, thus, not arbitrary and capricious. As discussed previously, ORR decided to promulgate the IFR to make the Foundational Rule consistent with its legal obligation to share information with other federal agencies. Plaintiffs argue that ORR has not provided any justification for rescinding the first sentence of 45 C.F.R. 410.1201(b), which dealt with sponsor eligibility and information collection, but not information sharing. *See* Mot. 22. ORR’s explanation is that these components of 45 C.F.R. 410.1201(b) are “inextricably linked,” and that “there is no indication in the Foundational Rule that it was intended to treat the information-sharing and the eligibility issues as distinct.” 90 Fed. Reg. at 13,555 n.1. Indeed, that these issues are in the same provision of the Foundational Rule is instructive. Additionally, ORR found significant that the preamble of the Foundational Rule made plain that

“severability runs . . . to provisions, not portions of provisions,” as further evidence that information-sharing and eligibility were not intended to be treated separately. Plaintiffs, however, contend that ORR has not provided any rational basis for this policy change, and failed to consider the impact of its decisions on Plaintiffs. PI, pp. 23-36.

ORR has provided a rational basis for its decision and, thus, it is not arbitrary and capricious under the APA. “The scope of review under the arbitrary and capricious standard is narrow and a court is not to substitute its judgment for that of the agency[.]” *Motor Vehicle Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983) (internal quotation omitted); *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 513 (2009). “[This] standard of review is highly deferential to the agency,” *Bean Dredging, LLC v. United States*, 699 F. Supp. 2d 118, 126 (D.D.C. 2010), and to survive the “arbitrary and capricious” standard, the agency need only articulate “a rational connection between the facts found and the choice made,” *Motor Vehicle Mfrs.*, 463 U.S. at 43. “The question is not what [the reviewing court] would have done, nor whether [the court] agree[s] with the agency action. Rather, the question is whether the agency action was reasonable and reasonably explained.” *Jackson v. Mabus*, 808 F.3d 933, 936 (D.C. Cir. 2015). Here, the Court should not substitute its judgment for ORR’s, even if it were to disagree with the decision that ORR made. ORR reasonably decided to promulgate the IFR to make the Foundational Rule consistent with § 1373, and provided a reasoned explanation for doing so. Under the deferential arbitrary and capricious standard that the Court applies under the APA, ORR’s decision was lawful.

**C. The Interim Final Rule Does Not Constitute “Final Agency Action” Subject to Judicial Review Under the APA.**

Plaintiffs err in contending that the IFR constitutes “final agency action” subject to judicial review. As articulated below, the IFR, by its explicit nature and the procedural posture of its

promulgation, fails to meet the established legal criteria for finality. As a result, this Court may not exercise review over Plaintiffs' APA claims challenging the IFR.

The APA strictly limits judicial review to, *inter alia*, "final agency action for which there is no other adequate remedy in a court." 5 U.S.C. § 704. This finality requirement is a critical prerequisite, preventing premature judicial intervention in administrative processes that are not yet conclusive. Plaintiffs' assertion that the IFR is final agency action misapprehends the governing legal standards and the nature of the challenged agency action. The Supreme Court in *Bennett v. Spear*, 520 U.S. 154 (1997) articulated the definitive two-prong test for determining whether an agency action is "final."

*First*, the action must mark the "consummation" of the agency's decision-making process—it must not be of a merely tentative or interlocutory nature. *Id.* This prong inquires whether the agency has reached a definitive and terminal point in its consideration, representing its settled position. *Second*, the action must be one by which "'rights or obligations have been determined,' or from which 'legal consequences will flow.'" *Id.* This prong focuses on whether the action carries legal weight, alters the legal landscape, or has direct and appreciable legal ramifications. Indeed, a pragmatic and flexible approach is often encouraged in applying this test, particularly concerning the legal consequences prong. However, this pragmatism does not dilute the fundamental requirement that the agency has definitively spoken and its action has a tangible legal effect. Contrary to Plaintiffs' arguments, the IFR does not meet either prong of the *Bennett v. Spear* test.

The IFR, on its face and by its procedural context, is not the consummation of ORR's decision-making process. The rule is denominated as an "Interim Final Rule" and, critically, was issued with a 60-day public comment period. The very purpose of an "interim" rule coupled with

a comment period is to solicit public input—written data, views, or arguments—that the agency is expected to consider before issuing a potentially revised, truly final rule. This ongoing solicitation signifies that the agency’s deliberative process has not concluded; the agency has explicitly reserved the opportunity to modify its position based on public feedback.

An action that is “tentative or interlocutory in nature” does not satisfy the consummation prong. An “Interim” rule subject to public comment and potential agency alteration is inherently tentative. It does not represent the agency’s “settled position” but rather a provisional step pending further consideration. Plaintiffs acknowledge that ORR made the IFR effective immediately without first considering notice and comment. The post-promulgation comment period for an Interim rule, however, underscores that the agency’s decision-making is not yet finalized. The agency has not reached a “terminal point” in its deliberations.

Indeed, the IFR does not definitively determine rights or obligations, nor do final legal consequences irrevocably flow therefrom at this stage. To be sure, though the IFR was made effective immediately, its “interim” status and the pending comment period prevent it from definitively determining rights or obligations or causing legal consequences to flow with the finality required under *Bennett v. Spear*’s precedent. For “rights or obligations [to] have been determined” or for “legal consequences [to] flow,” the agency action must be a conclusive and settled pronouncement. An interim rule that the agency itself has indicated is subject to change based on public commentary lacks this definitive character.

And while immediate practical effects may arise, as Plaintiffs allege, the legal status of these effects as flowing from a finally determined agency position is undermined by the rule’s provisional nature. The legal landscape is not irrevocably altered by a measure explicitly open to imminent agency revision. Any rights purportedly determined, or consequences imposed, by the

IFR are contingent upon the agency's ultimate decision after the comment period. The agency may amend or rescind the IFR, thereby altering or nullifying those initial effects. This potential for change differentiates the IFR from an action that permanently fixes legal relationships or obligations. The alleged harms, such as prolonged detention and family separation, while undoubtedly significant, do not transform an administratively non-final action into a final one for the purposes of APA review. The legal character of the agency action itself—its conclusiveness and the finality of its legal impact—is the linchpin of the *Bennett v. Spear* inquiry.

Accordingly, absent final agency action, this court lacks jurisdiction to review Plaintiffs' APA claims challenging the IFR. The requirement of "final agency action" in APA § 704 is a mandatory prerequisite to judicial review for actions not otherwise made reviewable by a specific statute. While the APA itself is not an independent grant of subject-matter jurisdiction, *see Califano v. Sanders*, 430 U.S. 99 (1977), the absence of final agency action means that a fundamental condition for invoking the APA's judicial review provisions has not been met. Plaintiffs assert that the IFR is procedurally invalid because ORR bypassed notice and comment and made the IFR effective immediately without good cause. They further argue it is arbitrary and capricious. These substantive and procedural challenges under the APA, however, are premature if the threshold requirement of finality is not satisfied. This court cannot reach the merits of an APA claim if the challenged action is not final.

The Interim Final Rule, by virtue of its "interim" designation and the ongoing 60-day comment period which contemplates potential agency revision, is not the "consummation" of ORR's decision-making process. Furthermore, it does not definitively determine rights or obligations, nor do final legal consequences irrevocably flow therefrom at this stage. Accordingly, the IFR does not constitute "final agency action" under 5 U.S.C. § 704 as interpreted by *Bennett*

*v. Spear*. Plaintiffs’ APA claims challenging the IFR are therefore not ripe for judicial review, and this court should decline to exercise review over them.

**D. ORR’s sponsor documentation requirements are lawful.**

Plaintiffs contend that ORR’s updated sponsor-vetting guidance is unlawful and violates the APA because the guidance violates ORR’s own regulations and the TVPRA’s mandate that ORR place UAC in the least restrictive setting. Mot. at 27-40. However, Plaintiffs fail to contend with the TVPRA’s equally compelling mandate that ORR ensure UAC safety and protection from human traffickers. 8 U.S.C. 1232(a)(1).

Plaintiffs argue that ORR’s refusal to accept other proof of financial stability, instead of requiring proof of income, is contrary to the Foundational Rule and that ORR is acting in contravention of their own regulations in violation of the *Accardi* doctrine. Mot. 30-31. However, the language of the Foundational Rule that as part of the suitability assessment ORR “may” require verification of income or other information that a sponsor can support a child does not preclude ORR from requiring certain types of documents to prove a suitability factor.

In addition, Plaintiffs argue that the updated proof of income requirements lead to unnecessary delays in violation of the TVPRA and the Foundational Rule. Mot. 31-33. Plaintiffs fail to acknowledge that ORR has concluded in its discretion that to implement the TVPRA’s mandate that ORR protect UAC from human traffickers that it was necessary to strengthen its proof of income requirements. Biswas Decl. ¶ 17. Plaintiffs offer no justification for elevating the TVPRA’s mandate to promptly place children in the least restrictive setting over the mandate to ensure the safety of UAC and protect them from smugglers or human traffickers. 8 U.S.C. 1232(c)(2)(A). Further, while the Foundational Rule provides a timeframe of 10-14 days for adjudication of completed sponsor applications, the Foundational Rule also provides that the

timeframe applies in cases “absent unexpected delay.” 45 C.F.R. 410.1205(b). In cases where potential sponsors decline to submit required documentation, the exception to the timeline where there is an unexpected delay applies.

Further, Plaintiffs argue that the identification and income requirements are arbitrary and capricious under the APA. Mot. at 33-36. Citing *Fox Television Stations*, 556 U.S. at 515, and *Regents of Univ. Of Cal.*, 591 U.S. at 30, Plaintiffs contend that ORR failed to explain its updated sponsor-vetting guidance and to consider reliance interests when updating its guidance. Mot. at 33-36. However, those cases do not negate ORR’s broad discretion to fashion its own rules of procedure nor have they shown that notice and comment rulemaking apply to ORR’s decision concerning the types of documents it will accept to implement the Foundational Rule. *See Vt. Yankee*, 435 U.S. at 543; *Mobil Oil*, 498 U.S. at 230.

**E. ORR’s Revised Identification and Income Verification Requirements are Not Impermissibly Retroactive.**

Plaintiffs’ contention that ORR’s revised identification and income verification requirements in Policy Guide § 2.2.4 are impermissibly retroactive when applied to pending sponsorship applications is unavailing. The presumption against retroactivity primarily protects against impairing vested rights, increasing liability for past conduct, or imposing new duties regarding transactions already completed. The submission of a sponsorship application, however, does not create a vested right to approval under standards subsequently deemed insufficient by ORR to ensure child safety and well-being—the agency’s paramount statutory mandate. Unlike cases where past actions irrevocably fixed rights, *see, e.g., St. Cyr*, 533 U.S. 289 (2001), concerning past criminal conduct, the sponsorship process is inherently forward-looking and discretionary, focused on the prospective release of a child. Applying updated requirements to pending applications to ensure they meet current safety standards before a child is released does

not impair rights a party possessed when they acted, as the transaction—the release decision—is not yet complete. ORR’s obligation to ensure a child’s safety necessitates applying the most current and appropriate standards, and sponsors do not have a settled expectation to be judged by potentially outdated criteria when the overarching consideration is child welfare.

**F. Plaintiffs lack standing to assert a claim under the Paperwork Reduction Act**

Plaintiffs also assert that ORR’s updated sponsor-vetting guidance is contrary to law because it violates the Paperwork Reduction Act (PRA) and thus ORR “is prohibited from penalizing sponsors for failing to provide the specific documentation required by the unapproved revisions to Policy Guide § 2.2.4.” *See* Mot. 36-37. Plaintiffs, however, are not subject to the collection requirement that they challenge—potential sponsors are. Accordingly, Plaintiffs lack standing to assert this claim because they have not suffered an injury in fact. *See Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560 (1992). For this reason, they cannot demonstrate a likelihood of success on the merits of this claim.

**II. Plaintiffs have not demonstrated they will suffer irreparable harm without the extraordinary relief of a preliminary injunction.**

Plaintiffs have not established that they are suffering irreparable harm that warrants a preliminary injunction. The “standard for irreparable harm is particularly high in the D.C. Circuit.” *Fisheries Survival Fund v. Jewell*, 236 F. Supp. 3d 332, 336 (D.D.C. 2017). The Supreme Court has made clear that a court may not issue “a preliminary injunction based only on a *possibility* of irreparable harm . . . [since] injunctive relief [i]s an extraordinary remedy that may only be awarded upon a clear showing that the plaintiff is entitled to such relief.” *Winter*, 555 U.S. at 22 (emphasis added). In fact, if a party makes no showing of imminent irreparable injury, the court may deny the motion for injunctive relief without considering the other factors. *CityFed Fin. Corp. v. Office of Thrift Supervision*, 58 F.3d 738, 747 (D.C. Cir. 1995). “[P]roving ‘irreparable’ injury is a



considerable burden, requiring proof that the movant’s injury is ‘*certain, great[,] and actual*—not theoretical—and *imminent*, creating a clear and present need for extraordinary equitable relief to prevent harm.” *Nat’l Immigr. Project of Nat’l Laws. Guild v. Exec. Off. of Immigr. Rev.*, 456 F. Supp. 3d 16, 33 (D.D.C. 2020) (alterations in original) (quoting *Power Mobility Coal. v. Leavitt*, 404 F. Supp. 2d 190, 204 (D.D.C. 2005)).

The organizational Plaintiff does not allege any irreparable harm. The UAC Plaintiffs contend that they suffer irreparable harm “as they remain unnecessarily detained and separated from their families.” Mot. 40. Specifically, Plaintiffs assert that they are experiencing emotional distress and contend that some children have experienced stress that led to physical symptoms such as headaches, stomachaches, and difficulty sleeping and eating. *Id.* at 40–41. Even if accepted as true, these assertions of irreparable harm are mitigated by the government’s provision of healthcare to UAC in ORR custody. While placed at ORR standard programs, Plaintiffs are provided comprehensive health care, including mental health care and emergency care. 45 C.F.R. § 410.1307(b)(1), (6).

More broadly, the government contests Plaintiffs’ premise that being cared for in one of ORR’s standard programs constitutes irreparable harm. UAC are in ORR custody, but almost never detained. Almost all UAC are placed in standard programs that are not restrictive. 45 C.F.R. § 410.1104. In the context of UAC, the Supreme Court has recognized that “‘juveniles, unlike adults, are always in some form of custody,’ and where the custody of the parent or legal guardian fails, the government may (indeed, we have said *must*) either exercise custody itself or appoint someone else to do so.” *Reno v. Flores*, 507 U.S. 292, 302 (1993) (citation omitted) (quoting *Schall v. Martin*, 467 U.S. 253, 265 (1984)). By definition, when a child is a UAC, the custody of the parent or legal guardian has failed. 6 U.S.C. § 279(g). Congress mandates that HHS take responsibility

for the care and custody of all UAC. 8 U.S.C. § 1232(b)(1). ORR’s standard programs provide numerous services to care for UAC. *See generally* 45 C.F.R. § 410.1302. Of course, ORR prefers to place UAC with a vetted, suitable family member in the community. But when ORR cannot confirm that the “proposed custodian is capable of providing for the child’s physical and mental well-being,” ORR abides by its statutory mandate to maintain custody. 8 U.S.C. § 1232(c)(3)(A). This provision for children’s welfare does not constitute irreparable harm.

To the extent Plaintiffs allege that ORR custody becomes an irreparable injury at some number of days, they do not identify what that point is. Even if some length of ORR custody were to constitute irreparable harm, much of Plaintiffs’ alleged harm would not be attributable to the updated policies. For example, Angelica S. was in ORR custody for several months before the updates to the UAC Policy Guide because of her pregnancy and because the initial sponsorship process was interrupted by the arrest of an adult caregiver. Biswas Decl. ¶ 22.

In addition, Plaintiffs have not made any showing that the IFR has caused them irreparable harm. Plaintiffs may believe that fewer potential sponsors may be willing to come forward because they are concerned that their immigration status will be shared with DHS, but on this record Plaintiffs’ showing is insufficient to meet their “considerable burden” of proving that the alleged injury is “certain, great, and actual,” as well as “imminent.” *Nat’l Immigr. Project*, 456 F. Supp. 3d at 33. Plaintiffs have not made a clear showing of irreparable harm, so this Court should not grant injunctive relief.

### **III. Plaintiffs’ request for preliminary injunctive relief is contrary to the public interest.**

#### **A. Any relief must be sharply limited.**

Even if this Court were to grant relief, universal relief would be inappropriate, and any relief must be tailored to the specific claims made and to the individual and organizational

Plaintiffs here. But Plaintiffs argue that the Court should enjoin the IFR and prohibit ORR from enforcing or implementing its updated sponsor-vetting guidance entirely. Mot. at 4, 14, 43-44. The Court should not heed Plaintiffs' request.

First, under Article III, “[a] plaintiff’s remedy must be tailored to redress the plaintiff’s particular injury,” *Gill*, 138 S. Ct. at 1934, and the rule in equity is that injunctions “be no more burdensome to the defendant than necessary to provide complete relief to the plaintiffs.” *Madsen v. Women’s Health Ctr., Inc.*, 512 U.S. 753, 765 (1994). Plaintiffs bear the burden of showing that something short of the nationwide injunction they seek will not fully redress their particular injuries. *See Winter*, 555 U.S. at 20. Here, any relief must be tailored to remedying Plaintiffs’ alleged harms. Plaintiffs’ claims are case specific. For example, Plaintiffs argue that Angelica S., who gave birth in February 2025, “lacks any viable sponsor because of ORR’s changed identification and information collection and sharing policies and, absent an injunction, will have to raise her baby alone in a restrictive congregate care environment far from family support.” Mot. at 40. However, Plaintiffs neglect to mention a key fact likely lending to the delayed release in her case—“her potential sponsor disclosed that Angelica’s adult caregiver was arrested on January 23, 2025, for sexual abuse toward an eight-year-old child.” Biwas Decl. ¶ 22. An injunction should not preclude ORR from implementing policies to protect UAC without case specific analysis.

Second, nothing in the APA indicates that a nationwide injunction is appropriate at this preliminary stage. *Cf. Trump v. Hawaii*, 138 S. Ct. 2392, 2425 (2018) (Thomas, J., concurring) (“No statute expressly grants district courts the power to issue universal injunctions.”). The APA provides only that a court may “hold unlawful and set aside agency action.” 5 U.S.C. § 706(2); *see also* Mot. at 15, 22 (arguing IFR should be set aside). But no part of that text specifies whether any action, if found likely to be invalid, should be set aside on its face or as applied to the

challenger. In the absence of a clear statement to the contrary, this Court should adopt the reasonable reading of the “set aside” language. *See, e.g., New York v. U.S. DHS*, 969 F.3d 42, 87-89 (2d Cir. 2020); *California v. Azar*, 911 F.3d 558, 584 (9th Cir. 2018); *Va. Soc’y for Human Life v. FEC*, 263 F.3d 379, 393 (4th Cir. 2001) (“Nothing in the language of the APA, however, requires us to exercise such far-reaching power.”). The APA itself should be read to limit interim relief to the parties before it. *See* 5 U.S.C. § 705 (relief pending review is appropriate only “to the extent necessary to prevent irreparable injury”).

Indeed, the APA’s very reference to actions for “declaratory judgments” makes clear that no injunction—much less a nationwide one—is compelled by the APA when agency action is held unlawful. *See* 5 U.S.C. § 705; H.R. Rep. No. 1980, 79th Cong., 2d Sess. 42 (1946) (referring to possibility of suits for declaratory relief to “determine the validity or application of a rule or order”); *see also* S. Rep. No. 752, 79th Cong., 1st Sess. 26 (1945). A different result is not compelled under *Nat’l Mining Ass’n v. U.S. Army Corps of Engineers*, 145 F.3d 1399, 1409 (D.C. Cir. 1998), or *Grace v. Barr*, 965 F.3d 883, 887 (D.C. Cir. 2020). Those cases dealt with final judgments, “where the court had already held that the rule at issue was unlawful and should be vacated.” *U.S. Ass’n of Reptile Keepers, Inc. v. Jewell*, 106 F. Supp. 3d 125, 128 (D.D.C. 2015), *aff’d sub nom. U.S. Ass’n of Reptile Keepers, Inc. v. Zinke*, 852 F.3d 1131 (D.C. Cir. 2017). However, in adjudicating a preliminary injunction motion, “the Court has not finally determined that the [action] is unlawful,” so “the need for narrow tailoring . . . is particularly important,” and any “injunction should be limited in scope to protect only” parties to the case. *Id.* at 126, 129; *see Neb. DHHS v. DHHS*, 435 F.3d 326, 330 (D.C. Cir. 2006) (district court erred by not limiting injunction to plaintiff alone).

If the Court decides any relief is warranted, the circumstances of this case would warrant remand without vacatur. As explained, the decision to order relief under the APA must be exercised in conformity with equitable principles. *See Allied-Signal*, 988 F.2d at 150; *see also Advocs. for Highway & Auto Safety v. Fed. Motor Carrier Safety Admin.*, 429 F.3d 1136, 1151 (D.C. Cir. 2005) (vacatur a question of the court’s remedial “discretion”). In this Circuit, that equitable balance is assessed by looking to “the seriousness of the order’s deficiency ... and the disruptive consequences of an interim change that may itself be changed.” *Allied-Signal*, 988 F.2d at 150–51. Applying this balance here, if the Court were to find the IFR and updated sponsor-vetting guidance invalid, it should remand without vacatur for ORR to allow the IFR comment period to close, and for ORR to consider Plaintiffs’ fact-specific claims regarding their allegedly delayed release to sponsors. The asserted defects that Plaintiffs identify could be remedied through re-issuance of the IFR and updated guidance without the purported procedural defects claimed here. *See, e.g., id.* at 151 (remand without vacatur appropriate where agency can “explain” on remand issues found arbitrary and capricious). Thus, vacatur is unwarranted.

**B. The balance of equities and public interest establish that no relief should be granted.**

The Court should deny Plaintiffs’ motion because the balance of equities and the public interest weigh strongly in the government’s favor. Any injunctive relief—preliminary or permanent—“is a matter of equitable discretion; it does not follow from success on the merits as a matter of course.” *Winter*, 555 U.S. at 32. Plaintiffs have not met their burden to prove that the Court should exercise its equitable discretion to enter an injunction here. Indeed, the public interest factors that Plaintiffs identify show that the Court should not enter an injunction. Thus, a “proper consideration of these factors alone requires denial of the requested injunctive relief.” *Id.* at 23.

Plaintiffs assert that the Court should enter a preliminary injunction because of the public’s “strong interest in the well-being of children.” Mot. 42. But the reverse is true. Because of the public’s interest in the well-being of children, the Court should permit ORR to conduct the vetting procedures that it has determined to be necessary to ensure children’s safety. Plaintiffs discount the government’s interest in “caring for children” by arguing that parents or other potential sponsors are available. Mot. 43. Plaintiffs, however, assume that the potential sponsors are “in fact suitable.” *Id.* ORR cannot make that assumption. Facts about some of the potential sponsors for the named Plaintiffs illustrate the point. An adult caregiver for Angelica S. was arrested on January 23, 2025, for sexual abuse toward an eight-year-old child, requiring ORR to investigate the home further. Biswas Decl. ¶ 22. On February 25, 2025, Eduardo M.’s adult caregiver “withdrew following background check results.” *Id.* ¶ 23. And ORR was aware that Xavier L.’s mother had been arrested in February and May of 2024. *Id.* ¶ 26. Through experience, ORR learned that its prior vetting procedures were insufficient to protect children. *Id.* ¶¶ 4–17. For that reason, in its professional judgment, ORR determined that the updates to the UAC Policy Guide are necessary to ensure that potential sponsors are suitable. The Court must give substantial deference to ORR’s experience and predictive judgments about the risks of fraud and human trafficking in the absence of the improved vetting requirements. *See Winter*, 555 U.S. at 27.

Plaintiffs also contend that the public interest favors “protecting the constitutional right to family integrity.” Mot. 42. But Plaintiffs have not shown that any such constitutional right is being violated. In the motion for a preliminary injunction, Plaintiffs do not try to show a likelihood of success on their constitutional claims. Therefore, the Court should not give the constitutional allegations any weight when balancing the equities.

Next, Plaintiffs maintain that an injunction is warranted by the substantial public interest “in having governmental agencies abide by the federal laws that govern their existence and operations.” Mot. 42 (quoting *League of Women Voters v. Newby*, 838 F.3d 1, 12 (D.C. Cir. 2016)). This contention fails to meet Plaintiffs’ burden for several reasons. First, as discussed above, the IFR and updates to the UAC Policy Guide were adopted in accordance with law. Second, far from ignoring the federal laws governing ORR, HHS enacted the IFR to conform its regulations to federal law—specifically, 8 U.S.C. § 1373. Third, while Plaintiffs emphasize Congress’s and the Foundational Rule’s use of the word *promptly*, Congress set forth several other requirements that ORR must satisfy before releasing a child to a sponsor. ORR must ensure that potential sponsors are, in fact, suitable and that UAC “are protected from smugglers, traffickers, or others who might seek to victimize or otherwise engage them in criminal, harmful, or exploitive activity.” 6 U.S.C. § 279(b)(2)(A)(ii). And ORR must ensure that UAC are “placed in a setting in which they are not likely to pose a danger to themselves or other.” *Id.* § 279(b)(2)(A)(iii). Further, ORR must determine that a sponsor “is capable of providing for the child’s physical and mental well-being.” 8 U.S.C. § 1232(c)(3)(A). This safety and suitability determination must “at a minimum, include verification of the custodian’s identity and relationship to the child, if any, as well as an independent finding that the individual has not engaged in any activity that would indicate a potential risk to the child.” *Id.* ORR’s experience and professional expertise have shown that the updated provisions of the UAC Policy Guide are necessary to meet those statutory requirements. Biswas Decl. ¶¶ 4–17.

In addition, Plaintiffs fail to acknowledge that the government has weighty interests in “protecting the community from crime.” *Schall v. Martin*, 467 U.S. 253, 264 (1984). ORR enacted the IFR and updated the UAC Policy Guide to “combat sponsor fraud and mitigate risk of human

trafficking,” crimes that victimize children and harm communities. Biswas Decl. ¶¶ 13–17. Similarly, the IFR removed a regulatory restriction that “threatens to hamper ongoing interagency efforts to identify, investigate, and prosecute sponsor fraud and other human trafficking offenses.” Biswas Decl. ¶ 19. “A rushed judgment is a dangerous one[.]” *Del. State Sportsmen’s Ass’n, Inc. v. Del. Dep’t of Safety & Homeland Sec.*, 108 F.4th 194, 203 (3d Cir. 2024), *cert. denied sub nom. Gray v. Jennings*, 145 S. Ct. 1049 (2025). At their current placements in ORR custody, Plaintiffs are cared for in safe environments. Based on this preliminary record and expedited briefing, the Court should not set aside the government’s judgments on those children’s safety.

Finally, the Court should “rightly hesitate to interfere with exercises of executive ... authority” such as ORR’s decisions here. *Del. State Sportsmen’s Ass’n*, 108 F.4th at 205. The balance of equities and the public interest show that this Court should not grant a preliminary injunction.

While these factors establish that the Court should not grant *any* preliminary injunctive relief, the balance of equities and public interest especially underscore why this Court should not grant nationwide relief or relief on the basis of a provisionally certified class. The Court has some information about the named Plaintiffs and their potential sponsors, but the Court has no information about the hundreds of other children in ORR care or about the individuals who may be trying to sponsor those children. The Court should not enjoin the procedures ORR deems necessary to ensure the suitability of those sponsors. The public interest supports deferring to ORR’s professional judgment about the steps needed to properly vet sponsors.

#### **IV. The Court should deny Plaintiffs’ request for provisional class certification.**

Plaintiffs have failed to demonstrate that they are entitled to class certification on a provisional basis because they have not shown in their preliminary injunction that they satisfy the requirements of Federal Rule of Civil Procedure 23. In granting such provisional certification, in



support of preliminary injunctive relief, a plaintiff must satisfy all the requirements of class certification under Rule 23. *R.I.L.-R v. Johnson*, 80 F. Supp. 3d 164, 179–80 (D.D.C. 2015) (citing *Berge v. United States*, 949 F. Supp. 2d 36, 49 (D.D.C. 2013)). In deciding whether class certification is appropriate, a district court must ordinarily undertake a “rigorous analysis” to see that the requirements of the Rule have been satisfied. *See Gen. Tel. Co. of SW v. Falcon*, 457 U.S. 147, 161 (1982). “Rule 23 does not set forth a mere pleading standard.” *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 349 (2011).

Rather, the party seeking class certification bears the burden of “affirmatively demonstrat[ing] his compliance with the Rule—that is, he must be prepared to prove that there are *in fact* sufficiently numerous parties, common questions of law or fact, etc.” *Id.* (emphasis in original). In short, should the Court even consider issuing classwide relief, it must first thoroughly consider Rule 23 requirements, which Defendants should have an opportunity to address. Because Plaintiffs have failed to make that showing here, the Court should deny their request for provisional class certification.

**V. If the Court grants a preliminary injunction, it should require bond.**

Finally, if the Court deems preliminary injunctive relief warranted (which it should not), Plaintiffs must be required to post security pursuant to Federal Rule of Civil Procedure 65(c). The Rule mandates that a court “may issue a preliminary injunction or a temporary restraining order *only if the movant gives security* in an amount that the court considers proper to pay the costs and damages sustained by any party found to have been wrongfully enjoined or restrained.” Fed. R. Civ. P. 65(c) (emphasis added).

## CONCLUSION

For the foregoing reasons, the Court should deny Plaintiffs' Motion for a Preliminary Injunction and their request to provisionally certify the putative class.

Dated: May 23, 2025

Respectfully submitted,

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**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

ANGELICA S., *et al.*,

Plaintiffs,

v.

U.S. DEPARTMENT OF HUMAN AND  
HUMAN SERVICES, *et al.*,

Defendants.

Case No. 1:25-cv-1405

**DECLARATION OF TOBY BISWAS**

I, **Toby Biswas**, declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, as follows:

1. I am the Director of the Division of Unaccompanied Alien Children (UAC) Policy in the Office of Refugee Resettlement (ORR), UAC Bureau, an entity within the Administration for Children and Families (ACF), U.S. Department of Health and Human Services (HHS).

2. I have held various roles within ORR since joining the agency in November 2009, and I have held my current role since April 2023. My responsibilities encompass the development and implementation of ORR's policies and procedures concerning the care and custody UAC. In this capacity, I am responsible for ensuring ORR's implementation of and compliance with programmatic policy prerogatives and statutory responsibilities, including those arising under the Homeland Security Act of 2002 (HSA), 6 U.S.C. § 279; Trafficking Victims Protection Reauthorization Act of 2008 (TVPPRA), 8 U.S.C. § 1232; and ORR's regulations, including the Foundational Rule, 45 CFR part 410.<sup>1</sup>

3. This declaration is based upon my personal knowledge, information acquired in the course of performing my official duties, information contained in the records of ACF and ORR, and information conveyed to me by current agency employees and contractors.

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<sup>1</sup> ORR policies with respect to UAC are also embodied in the ORR UAC Bureau Policy Guide ("UAC Policy Guide"), which is publicly available on ORR's website at <https://acf.gov/orr/policy-guidance/unaccompanied-children-bureau-policy-guide>.

## **POLICY CHANGES DUE TO INVESTIGATIONS REGARDING SPONSOR FRAUD AND HUMAN TRAFFICKING CONCERNS**

4. ORR's goal is to release UAC to suitable sponsors when consistent with our mandate to ensure that placement does not result in danger to the UAC, to the community, or risk of flight by the UAC. *See* 6 U.S.C. §279, 8 U.S.C. § 1232. Nevertheless, there are instances where a release subsequently poses a danger to a UAC. Numerous press accounts and investigations have revealed UAC released to bad actors who have harmed the minors.

5. Thus, it is important for ORR to fully assess a sponsor (even a parent) before making any release determination. This is particularly appropriate because ORR is not a law or immigration enforcement agency and lacks the authority to hold individuals accountable by reassuming care if the sponsor abuses or neglects a child after a UAC has been released from ORR custody; rather, ORR only takes children into its custody upon referral by another federal agency, as described in statute. In this regard, ORR is also very different from state child welfare agencies, which typically retain such authority post-placement. Accordingly, ORR must front-load child safety considerations in its identity verification and sponsor vetting policies.

6. In mid- 2023, ORR established an Integrity & Accountability (I&A) to detect and prevent fraud. The I&A Team identified several instances of fraudulent sponsorship applications, document falsifications, and patterns of human trafficking and exploitation. For instance, the Team has identified instances of children and sponsors using altered birth certificates or unaltered birth certificates belonging to another person. The Team found that the fraud often involved collusion with other people, such as a family member in the Country of Origin. For example, the I&A Team identified 10 UAC who were released to sponsors who committed intentional document fraud in October 2024. The Team believes, however, that this level of fraud is underreported. The volume of fraud is difficult to capture because the different categories of sponsors require varying documentation and scrutiny levels. For example, category 1 sponsors (parents or legal guardians) and category 2A (close relatives who have previously served as primary caretakers for the UAC) and 2B (close relatives who have not previously served as primary caretakers for the UAC) may be subject to less vigorous background check requirements than the category 3 sponsors (distant relatives and unrelated adults). ORR believed there was a significant risk that bad actors realized there were diminishing levels of scrutiny with increasing degrees of (alleged) relatedness to UAC and gamed the system under ORR's previous sponsor supporting documentation policies.

1           7. In one particularly egregious case, the I&A Team found that a woman and her  
2 partner attempted to sponsor a total of 15 UAC over a five-year period by using multiple aliases.  
3 The woman used various aliases to attempt to sponsor eight UAC over the same period, with four  
4 UAC being released to her and four unsuccessful attempts to sponsor other UAC. The aliases were  
5 only discovered when the sponsor underwent fingerprinting. Of the four successful sponsorships,  
6 three were Category 1 cases, and one was a Category 2A case. Despite these evidence, ORR's data  
7 revealed that less than 1% of sponsorship applications have been denied in recent years,  
8 highlighting systemic gaps in oversight that create dire child safety concerns.

9           8. In December 2022, the Permanent Subcommittee on Investigations within the U.S.  
10 Senate Committee on Homeland Security and Governmental Affairs ("the Subcommittee")  
11 published a report detailing the inadequate treatment of unaccompanied alien children in federal  
12 care and the insufficient safeguards to ensure they are not trafficked or abused following their  
13 release. The Subcommittee found that despite the increased number of unaccompanied alien  
14 children entering the United States in 2021 and 2022, the completion of background checks by  
15 ORR significantly declined from FY 2019. Moreover, the Subcommittee identified the lack of  
16 adequate sponsor background checks and the waiver of certain background check requirements on  
17 household members, even when releasing a child to his parent, as areas where additional safeguard  
18 measures were necessary. The Subcommittee specifically recommended that ORR enhance its  
19 procedures for verifying pre-existing relationships and develop formal guidance for case managers  
20 during the verification process. The Subcommittee also recommended that ORR update the UAC  
21 Policy Guide to indicate that if a potential sponsor or household member refuses to comply with  
22 required background checks, ORR will prohibit further consideration of the release of a child into  
23 their custody.

24           9. In February 2024, HHS OIG published its finding in *Gaps in Sponsor Screening*  
25 *and Follow-up Raise Safety Concerns for Unaccompanied Children* that

- 26           • In 16 percent of children's case files, one or more required sponsor  
27 safety checks lacked any documentation indicating that the checks were conducted.
- 28           • For 19 percent of children who were released to sponsors with  
pending FBI fingerprint or State child abuse and neglect registry checks, children's  
case files were never updated with the results.
- In 35 percent of children's case files, sponsor-submitted IDs  
contained legibility concerns.

1                   •       ORR failed to conduct mandatory home studies in two cases and  
2       four other cases raise concerns about whether ORR guidance on discretionary home  
3       studies should offer more specificity.

4                   •       In 5 percent of cases, sponsor records within ORR's case  
5       management system were not updated with child welfare outcomes or sponsorship  
6       history. [Exhibit A].

7       As a result of these findings, HHS OIG recommended, among others, that ORR develop  
8       additional safeguards to ensure that all safety checks are conducted and documented prior to  
9       approving the release of a child to their sponsor. This recommendation is still marked as ongoing  
10      on the HHS OIG recommendation implementation tracker.

11      10.     On January 20, 2025, President Trump signed Executive Order 14159, "*Protecting*  
12      *the American People Against Invasion*" which ordered the Secretary of Health and Human  
13      Services, along with the Attorney General and the Secretary of Homeland Security, to take "all  
14      appropriate action to stop the trafficking and smuggling of alien children into the United States[.]"  
15      90 FR 8443, at 8447.

16      11.     On February 4, 2025, former Acting Director of ORR, Mellissa Harper, issued a  
17      memorandum ("Harper Memo") outlining immediate changes to address ongoing concerns with  
18      gaps in ORR's sponsor vetting process, as well as fraud and trafficking. [Exhibit B]. The  
19      memorandum highlighted one particularly egregious instance of sponsor fraud, where a potential  
20      sponsor had obviously photoshopped himself into a photograph to establish kinship with the child.  
21      Subsequently, that same potential sponsor presented a foreign identification card bearing the name  
22      and photograph of another individual in an attempt to establish his identity and sponsor another  
23      child. In another example regarding age fraud, a UAC killed his sponsor months after he was  
24      released from ORR care. It was later discovered during a law enforcement investigation that the  
25      UAC was actually 23 years old at the time of the murder. In the memorandum, former Acting  
26      Director Harper specifically cited the results of the aforementioned investigations as the rationale  
27      for implementing immediate policy changes, which include mandatory enhanced biometric  
28      collection and background checks, reassessment of the use of secondary documents that cannot be  
29      reliably verified as proof of identity, and sponsor presentation of original documents in-person.

30      12.     The Harper Memo noted that the average length of care, which at the time was 25.8  
31      days, did not permit ORR to conduct the adequate sponsor vetting measures necessary to ensure

1 that children are not released to potentially dangerous situations like the ones detailed in the  
2 numerous investigations.

3 13. In response to the Harper Memo, on February 14, 2025, ORR issued Field Guidance  
4 (“FG”) 26 which requires all potential sponsors, their adult household members aged 18 and above,  
5 and all adult caregivers identified in a Sponsor Care Plan undergo national fingerprint-based FBI  
6 background checks. FG 26 also restricts the acceptable list of identification to only unexpired and  
7 legible photocopies or high-resolution digital scans/ photos of identification documents for  
8 establishing identity purposes. These sponsor vetting changes directly support ORR’s efforts to  
9 combat sponsor fraud and mitigate risk of human trafficking of unaccompanied alien children by:  
10 requiring the same identity document be used as part of the sponsorship application, the fingerprint  
11 application, and at discharge; ensuring that acceptable identity documents are easily validated as  
12 expired documents or unoriginal copies are not able to be consistently authenticated by issuing  
13 agencies; and re-establishing universal FBI fingerprints for all sponsors, a policy that was  
14 previously in place prior to 2018 – ensuring equity in background information available for each  
15 sponsor as part of the totality of circumstances assessment conducted by ORR in making release  
16 decisions.

17 14. On March 7, 2025, in alignment with ORR’s statutory and regulatory requirements  
18 (*see* 8 U.S.C. § 1232(c)(3)(A) and 45 C.F.R. § 410.1202) and to address identified gaps in the  
19 reporting of fraud incidents to HHS Office of the Inspector General (HHS/OIG), ORR updated its  
20 UAC Policy Guide Sections 2.2.4, 2.7.4, and 5.8.2 to align the acceptable identity documents for  
21 identity verification purposes with the standards used for I-9 verifications as a safer framework to  
22 mitigate reliance on foreign-issued identity documents, and establish clear protocols for detecting,  
23 documenting, and responding to fraud, including preventing fraudulent actors from exploiting the  
24 UAC Bureau and unaccompanied alien children for trafficking or other forms of exploitation. The  
25 updated list of documents ensures that the accepted documents from potential sponsors meet  
26 similar criteria as those used for I-9 verifications. In balance, ORR continues to afford due process  
27 protections for most relative sponsors, including providing written notice of the reason for the  
28 denial and opportunity to pursue an administrative appeal available to parents or other close  
relatives.

15. In further justification of this revision, ORR stated, in an accompanying decision  
memo, that while its former policies permitted the acceptance of a wide variety of identity  
documents, including many foreign-issued documents, ORR has encountered difficulties

1 authenticating foreign-issued documents, especially in a timely manner. ORR is aware of  
 2 widespread fraud involving the use of such documents and has had to relied on foreign consulates  
 3 and embassies, often liaising with the Department of State, to authenticate documents issued  
 4 outside the United States. This process is complicated by international relations (including whether  
 5 the United States maintains diplomatic relations with certain countries) and the stability of certain  
 6 foreign states. [Exhibit C]. Therefore, to address concerns regarding sponsor fraud involving  
 7 identity documents, ORR's revised policy relies on documents that the federal government relies  
 8 on to establish identity for both citizens and non-citizens. In consideration of family reunification,  
 9 the policies contemplate an exception for category 1 sponsors on a case-by-case basis. With regard  
 10 to proof of address documentation, ORR has previously released children to addresses that did not  
 11 include apartment numbers or were themselves suspected to be fraudulent; resulting in children  
 12 released to locations that may not have been actual residences or for which the specific residential  
 13 unit is unknown. With regard to sponsor denial criteria, ORR clarified that sponsor or adult  
 14 household member refusal to present for fingerprinting would be sufficient for denial of release as  
 15 failure to present can be an indication that the individual is trying to conceal known biometrics or  
 16 criminal history, which could themselves be grounds for sponsorship denial. In balance, ORR  
 17 continues to afford due process protections for most relative sponsors, including providing written  
 18 notice of the reason for the denial and opportunity to pursue an administrative appeal available to  
 19 parents or other close relatives.

16. On March 14, 2025, in the effort to combat fraud and consistent with statutory  
 requirements to place a UAC with an appropriate custodian (*see* 8 U.S.C. 1232(c)(3)(A), ORR  
 issued FG 27 which utilizes DNA testing to confirm kinship of any potential sponsor who claims  
 a biological relationship with the child. While the FG states that submitting a DNA sample is not  
 mandatory, failing to do so may result in ORR's recategorizing the sponsorship as an unrelated  
 category 3 sponsorship and necessitating enhanced vetting procedures.<sup>2</sup>

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2 On May 15, 2025, FG 27 was updated to address the following process matters:

- Clarifying that the DNA Diagnostic Center (DDC), not Point Comfort Underwriters (PCU) issues a reference number for DNA results
- Directing case managers to email DDC when a child with pending DNA test results transfers to another ORR facility
- Directing care providers to complete and send Treatment Authorization Request to PCU, then submit approved TAR to DDC according to DNA Testing Instructions.
- Clarifying that appointments may take between 5-7 days to schedule.



17. On April 15, 2025, to support child safety and further mitigate the risk of human trafficking, ORR revised its UAC Policy Guide Sections 2.2.4 and 2.4.1 to include income verification measures. This revision aims to ensure that sponsors can financially support the children they sponsor. The accompanying decision memo elucidates that 45 C.F.R. § 410.1202(c) requires a suitability assessment to include all necessary steps to determine the potential sponsor's ability to provide for the child's physical and mental well-being, which is a statutory requirement, (*see* 8 U.S.C. §1232(c)(3)(A)). This includes verifying the employment, income, or other information provided by the potential sponsor as evidence of their capacity to support the child. [Exhibit D]. Additionally, in the state child welfare system, parents, legal guardians, and close kin must demonstrate their financial capability to support a child's needs if the child is returned to their care. By requiring the submission of proof of income information and supporting documentation, case managers and Federal Field Specialists ("FFS") will be better equipped to identify potential indicators of labor trafficking or labor exploitation. The Office on Trafficking in Persons has identified instances where parents and other family members have been subjected to human trafficking and/or labor exploitation and had similar debts as the children they sponsored. The information obtained during employment and income verification can inform the safety assessment, safety planning, decision to refer a case for a home study or not, and the appropriate level of Post-Release Services to recommend.

#### **ISSUANCE OF THE INTERIM FINAL RULE TO CONFORM WITH INFORMATION SHARING REQUIREMENTS UNDER 8 U.S.C. § 1373**

18. On March 25, 2025, ORR published an Interim Final Rule ("IFR") amending 45 C.F.R. § 410.1201(b) which was previously published on April 30, 2024, in the Unaccompanied Children Program Foundational Rule. 90 FR 13554. ORR's amendment of 45 C.F.R. § 410.1201(b) is motivated by the discovery that 45 CFR 410.1201(b) (2024) contravenes 8 U.S.C. § 1373 and, as such, ORR lacked the authority to promulgate this section of the rule.

19. The stricken language in 45 C.F.R. § 410.1201(b) (2024) restricting sharing citizenship/immigration status information with other federal agencies threatens to hamper ongoing interagency efforts to identify, investigate, and prosecute sponsor fraud and other human trafficking offenses perpetrated against UAC, thereby interfering with ORR's core statutory missions to ensure the safety and well-being of the minors in its care and custody and to combat

1 human trafficking under the Homeland Security Act of 2002 (HSA), 6 U.S.C. § 279, and  
2 Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA), 8 U.S.C. § 1232.

3 20. As stated in the Good Cause section of the Federal Register notice, notice and  
4 comment is unnecessary and contrary to the public interest because no amount of public input  
5 could give ORR the power to contravene a duly-enacted law of Congress via regulation. 90 FR  
6 13555. Additionally, because the IFR brings an ORR regulation into compliance with a federal  
7 statute, regulated entities do not need time to adjust their behavior before this rule takes effect. *Id.*

8 21. The public comment period for the IFR concludes on May 27, 2025. ORR will be  
9 prioritizing its review of public comments and eventually, publication of a final rule. The specific  
10 timeline is, to some extent, dependent on the number of comments that ORR receives in addition  
11 to other policy priorities. Typically for a rule this size, it would take several months to finalize and  
12 clear.

## 13 **CASE STATUS OF NAMED PLAINTIFFS**

14 *Angelica S.*

15 22. ORR made contact with Angelica's potential sponsor on November 23, 2024, and  
16 received an updated Family Reunification Application on December 12, 2024. Although her  
17 potential sponsor received a positive home study determination, on January 23, 2025, Angelica  
18 was no longer cleared to travel due to her pregnancy. On January 30, 2025, her potential sponsor  
19 disclosed that Angelica's adult caregiver was arrested on January 23, 2025, for sexual abuse  
20 toward an eight-year-old child. Angelica gave birth to her child on February 6, 2025. On February  
21 19, 2025, ORR requested a home study addendum to confirm that the adult caregiver is no longer  
22 living in the home. On March 11, 2025, ORR informed Angelica's potential sponsor of the new  
23 identification document requirements. Her potential sponsor indicated that she did not possess any  
24 form of identification due to her lack of legal immigration status. On March 18, 2025, her potential  
25 sponsor withdrew her sponsorship application. On March 27, 2025, the FFS concurred with the  
26 sponsorship withdrawal. As recently as May 12, 2025, Angelica's sister has not been able to  
27 identify a viable sponsor; therefore, Angelica is currently on track for placement in long term foster  
28 care, and any placement consideration will include keeping her together with her child.

*Eduardo M.*

1           23.     ORR received the amended Family Reunification Application from Eduardo's  
2 mother on January 30, 2025. On February 15, 2025, Eduardo's mother and adult caregiver initiated  
3 their fingerprinting process. However, on February 25, 2025, Eduardo's adult caregiver withdrew  
4 following background check results. On March 11, 2025, Eduardo's mother informed ORR that  
5 she does not have a form of acceptable identity document that would meet the new requirements  
6 and that she is unable to obtain an identification card and driver's license. On March 15, 2025,  
7 Eduardo's mother was informed of the DNA testing requirement. On March 24, 2025, she attended  
8 the test appointment and results were received on April 16, 2025. On April 20, 2025, one of  
9 Eduardo's adult caregivers had to withdraw due to his inability to obtain an acceptable  
10 identification document and a new adult caregiver was identified in his place. Eduardo's mother  
11 notified ORR that she was unable to obtain her proof of income on April 24, 2025, and Eduardo's  
12 FFS identified his case for a waiver of the proof of income requirement. As of April 29, 2025, the  
13 exemption waiver was submitted for consideration and currently pending ORR adjudication.

14           *Liam W.*

15           24.     Liam's mother submitted an updated Family Reunification Application around  
16 January 15, 2025. On February 6, 2025, a home study was completed based on the potential  
17 sponsor's two previous sponsorships. On April 11, 2025, a DNA test appointment was requested.  
18 On April 16, 2025, Liam's mother was informed of the proof of income policy update. She stated  
19 that she would reach out to ORR once she obtains a verification letter from her employer. As of  
20 April 23, 2025, the DNA test provider did not confirm the appointment request. On May 2, 2025,  
21 Liam's mother withdrew from the sponsorship process. Neither she nor her household members  
22 could obtain an acceptable form of identity document in their state of Florida.

23           *Leo B.*

24           25.     Leo was re-admitted into ORR custody on March 15, 2025, after he had been taken  
25 into ICE custody after he violated his probation for driving without a license; he had previously  
26 been reunified with his sister in March 2023. On March 20, 2025, Leo's sister withdrew the  
27 sponsorship application, citing an inability to meet the updated identification document  
28 requirement. On May 6, 2025, Leo's sister informed his case manager that there are no other  
potential sponsors available. Leo will reach the age of 18 in July 2025, at which point he will no  
longer be in ORR care.

1  
2 *Xavier L.*

3 26. Xavier's mother withdrew from the sponsorship process because she was unable to  
4 provide an acceptable form of identity document that met the updated requirements. Xavier was  
5 subject to a mandatory home study because his mother had previously attempted to sponsor one  
6 or more children with one being biologically unrelated to her. Xavier's mother had also been  
7 arrested in February and May of 2024, for prostitution and battery respectively. Due to the concern  
8 that Xavier may age out soon, his mother withdrew so as to allow her sister to apply for sponsorship  
9 instead. That second sponsorship application is pending receipt of DNA results to confirm kinship.

10 27. I declare under penalty of perjury that the foregoing is true and correct.

11 **Dated: Washington, D.C.**

12 **May 22, 2025**

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16 **Toby Biswas**  
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# EXHIBIT A

Department of Health and Human Services

**Office of Inspector General**



# Gaps in Sponsor Screening and Followup Raise Safety Concerns for Unaccompanied Children

**Christi A. Grimm**

Inspector General

February 2024, OEI-07-21-00250



# REPORT HIGHLIGHTS









February 2024 | OEI-07-21-00250

## Gaps in Sponsor Screening and Followup Raise Safety Concerns for Unaccompanied Children

### Why OIG Did This Study

The Office of Refugee Resettlement (ORR), a program office of the HHS's Administration for Children and Families (ACF), is tasked with evaluating the suitability of sponsors who apply to care for children who arrive in the United States unaccompanied by a parent or legal guardian. Thorough and efficient vetting of sponsors is essential to help protect the safety and well-being of unaccompanied children. To provide information on two important aspects of ensuring safe placements for children, we reviewed ORR's implementation of sponsor screening and post-release followup calls for children in our sample from early 2021, a time when ORR received a surge in referrals of unaccompanied children.

### What OIG Found

-  In 16 percent of children's case files, one or more required sponsor safety checks lacked any documentation indicating that the checks were conducted.
-  For 19 percent of children who were released to sponsors with pending FBI fingerprint or State child abuse and neglect registry checks, children's case files were never updated with the results.
-  In 35 percent of children's case files, sponsor-submitted IDs contained legibility concerns.
-  ORR failed to conduct mandatory home studies in two cases and four other cases raise concerns about whether ORR guidance on discretionary home studies should offer more specificity.
-  In 5 percent of cases, sponsor records within ORR's case management system were not updated with child welfare outcomes or sponsorship history.
-  In 22 percent of cases, ORR did not conduct timely Safety and Well-Being Follow Up Calls, and in 18 percent of cases, the followup calls were not documented in children's case files.

### What OIG Recommends

To continue to improve its process intended to safely release children to sponsors, we recommend that ACF: (1) implement additional safeguards to ensure that all safety checks are conducted and documented, as required, prior to approving the release of a child to their sponsor; (2) develop a reference guide to help case managers better evaluate sponsors' identity; (3) take additional steps to ensure that mandatory home studies are conducted when required; (4) provide additional guidance for case managers on when to consider recommending discretionary home studies; (5) ensure that sponsors' records in the UC Portal accurately capture sponsorship history and information obtained after children's release regarding sponsors' suitability; and (6) develop an effective monitoring mechanism to identify children who do not receive timely followup calls after their release to sponsors. ACF concurred with all of our recommendations.

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# BACKGROUND

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## OBJECTIVES

1. To assess the extent to which Office of Refugee Resettlement (ORR)-funded facilities took required steps to help ensure the safe release of unaccompanied children through sponsor screening and followup calls.
2. To identify ways in which ORR could better ensure the safe release of unaccompanied children to sponsors.

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ORR, a program office of the Administration for Children and Families (ACF) within the Department of Health and Human Services (HHS), manages the Unaccompanied Children (UC) Program. Children who arrive in the United States unaccompanied are in ORR's care and custody until they can be released to sponsors—the majority of whom are parents or other relatives—who assume care of them.<sup>1, 2</sup>

ORR is responsible for identifying and evaluating potential sponsors in the United States to release children from care in a safe and timely manner.<sup>3</sup> It is important for ORR to protect children from unsafe placements by taking appropriate steps to screen sponsors while also releasing children from care in a timely manner and without unnecessary delay. The age of these children, their separation from family, and the dangerous journey to the United States make these children especially vulnerable to exploitation.<sup>4</sup> Thorough vetting of sponsors is essential to help identify potential safety concerns before children are released to sponsors.

## Unaccompanied Children Program

Unaccompanied children are minors who have no lawful immigration status in the United States, are less than 18 years of age, and do not have a parent or legal guardian available in the United States to provide care and physical custody.<sup>5</sup> The majority of unaccompanied children in ORR custody have been apprehended by immigration authorities while trying to enter the United States. Children in custody of any Federal department or agency, including the Department of Homeland Security, must be transferred to ORR within 72 hours from the time that the child is determined to be unaccompanied, unless there are exceptional circumstances.<sup>6</sup> Federal law requires ORR to make safe and timely placements for children in the least restrictive setting that is in each child's best interest.<sup>7</sup> To that end, ORR funds a network of facilities that furnish temporary care for children until they are released to a sponsor or otherwise leave ORR custody.<sup>8</sup> A child remains in ORR custody until an appropriate sponsor in the United States who can assume custody is identified, the child turns 18

years old and ages out of the UC Program, or the child's immigration status is resolved.<sup>9</sup>

## Office of Refugee Resettlement care provider network

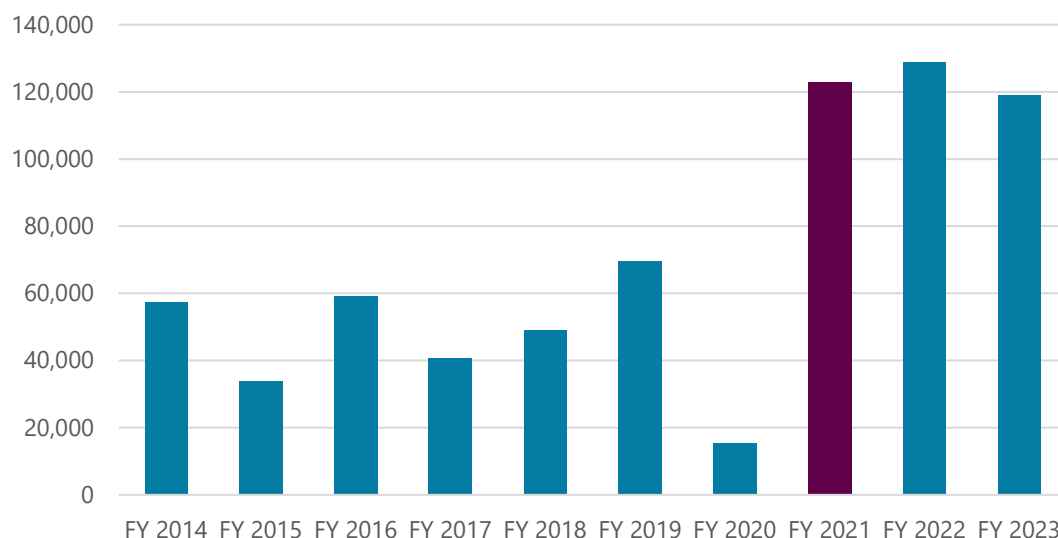
ORR enters into grants, cooperative agreements, and contracts with several types of facilities, in a variety of settings, to form a care provider network that provides placements for the children in its care.<sup>10</sup> These facilities must provide services for children, including housing, food, medical care, mental health services, educational services, case management, and recreational activities.<sup>11</sup> Most facilities are licensed or accredited under the laws of their respective States, and they must meet ORR requirements.<sup>12</sup> During our review in fiscal year (FY) 2021, ORR provided funding to approximately 200 facilities and programs in 22 States.

Standard network facilities, which are licensed residential care provider facilities in which all programmatic components are administered onsite, represent the least restrictive setting for children.<sup>13, 14</sup> When ORR standard network facilities reach capacity during an influx or emergency, ORR may place children in influx care facilities (ICFs) or emergency intake sites (EISs).<sup>15, 16, 17</sup> ICFs provide temporary shelter and services to children and may be exempt from State or local licensing standards.<sup>18</sup>

Although the number of unaccompanied children referred to ORR care varies from season to season and year to year, in FY 2021 ORR received a surge in referrals of unaccompanied children from the previous year. The number of children in ORR care increased from 1,929 children in October 2020 to 20,339 children in April 2021. At the same time, ORR's capacity to care for these children was diminished due to COVID-19-related staffing shortages and the loss of bed space due to recommended public health mitigation strategies. (See Exhibit 1 for information on the number of referrals ORR has received since 2014.)

In response to the surge in referrals, ORR established EISs—unlicensed facilities meant to move children out of Department of Homeland Security border facilities.<sup>19</sup> While in operation from March 2021 to June 2022, EISs were designed to provide limited services to children on a short-term basis before they were transferred to a standard network facility or released to sponsors. EISs met basic standards of care for children in emergency response settings and, by April 30, 2021, were required to, as soon as possible and to the extent practicable, provide case management services for the safe and timely release of children to sponsors.<sup>20</sup>

**Exhibit 1: Annual referrals of unaccompanied children to ORR increased in FY 2021 and remained high in FY 2022 and 2023.<sup>1</sup>**



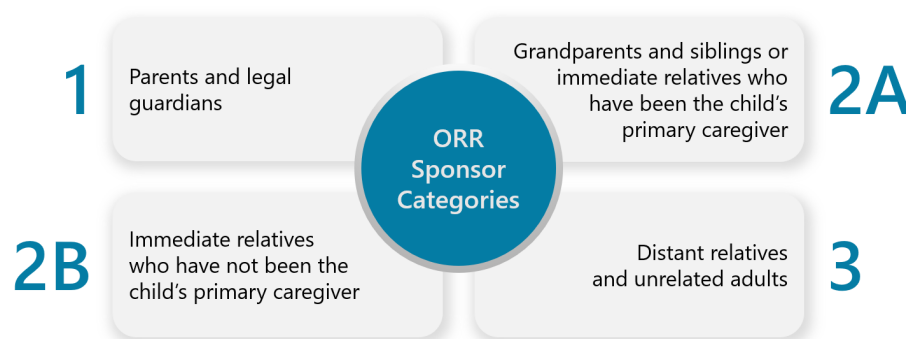
Source: ORR data on annual referrals of unaccompanied children from Department of Homeland Security, 2024.

<sup>1</sup> In FY 2020, the number of referrals of unaccompanied children decreased to 15,381 because of a U.S. public health order responding to the COVID-19 pandemic that was implemented in March 2020. The order suspended entry of certain noncitizens at or near the U.S. borders, resulting in the expulsion of most unaccompanied children upon attempting to enter the United States. Following a court injunction and a February 2021 policy change, referrals of unaccompanied children from the Department of Homeland Security to ORR began to increase.

## Sponsor screening for safe and timely release of children

ORR must release unaccompanied children from Federal custody to sponsors in the United States in a safe and timely manner.<sup>21</sup> Before releasing children to sponsors, ORR must establish the safety and suitability of potential sponsors.<sup>22, 23</sup> Children are released to sponsors in the following categories of preference: Category 1 (parent or legal guardian), Category 2A (an immediate relative such as a brother or grandparent, or a close relative such as an aunt or a first cousin who previously served as the unaccompanied child's primary caregiver), Category 2B (an immediate relative such as an aunt or a first cousin who was not previously the unaccompanied child's primary caregiver), and Category 3 (distant relatives and unrelated adults).<sup>24</sup> (See Exhibit 2 for the list of Sponsor Categories.)

## Exhibit 2: ORR Sponsor Categories for release of unaccompanied children<sup>1</sup>



Source: OIG review of ORR UC Program Policy Guide, section 2.2.1, June 2019.

<sup>1</sup> Category 4 placements occur when no sponsor is identified. We excluded Category 4 placements from our review.

## ORR and facility staff roles related to sponsor screening for safe and timely release of children from care

The steps for screening sponsors and releasing children from care are carried out by a variety of staff at all types of ORR facilities.<sup>25</sup> Key staff include:

*Case managers.* Case managers are facility staff who are responsible for assessing children and their potential sponsors, providing regular case updates to children, making transfer and release recommendations based on collected information, and coordinating the release of children.<sup>26</sup>

*Case coordinators.* Case coordinators review all assessment information for unaccompanied children and children's sponsors to make a recommendation for release at ORR facilities. During our review period (March–April 2021), case coordinators were not required staff at EIS facilities and were not required to review cases in which a child was eligible for expedited release.<sup>27, 28</sup>

*Federal field specialists.* Federal field specialists are ORR employees who serve as official ORR representatives in the field tasked with oversight of children's cases. Federal field specialists are responsible for approving or denying children's release to sponsors.

*Other key staff.* Other staff who are involved in the process of releasing children to sponsors include post-release service providers who connect children and their sponsors with resources within their local community, and other ORR and facility staff who conduct followup calls with children and their sponsors.

## Key steps in the sponsor screening process

ORR sets the following timelines for completing the screening process for potential sponsors in each sponsor category: Categories 1 and 2A (10 calendar days), Category 2B (14 calendar days), and Category 3 (21 calendar days). ORR's process for screening a sponsor includes:<sup>29</sup>

*Identifying and contacting a sponsor.* The case manager interviews the child, parents, legal guardians, or other family members (including those in their home country) to identify potential sponsors in the United States. Once a sponsor is identified, the case manager contacts the potential sponsor.<sup>30, 31</sup>

*Sponsor submission of an application for release.* The potential sponsor must complete and submit the Family Reunification Application.<sup>32</sup> The potential sponsor must also provide documentation (i.e., original versions or legible copies) needed to verify the sponsor's identity, address, and relationship to the child, and, when applicable, any household member's identity.<sup>33</sup> The case manager must ensure that copies of sponsor submitted identity documents (IDs) are readable, including a legible photo and information.<sup>34</sup>

The case manager is required to upload these documents to the child's case file in ORR's case management system, the UC Portal.<sup>35</sup>

*Sponsor Assessment.* The case manager completes the Sponsor Assessment in which each sponsor's strengths, resources, risk factors, and special concerns are reviewed. Case managers consider factors such as the sponsor's relationship with the child, the sponsor's motivation for wanting to sponsor the child, and the child's views on a release to the potential sponsor.<sup>36</sup> The case manager is required to upload the Sponsor Assessment to the child's case file in the UC Portal.<sup>37</sup>

### Exhibit 3: Key steps in the sponsor screening process



Source: OIG review of ORR UC Program Policy Guide, section 2, June 2019.

*Safety checks for all sponsors.* ORR requires potential sponsors—and when applicable, sponsors’ household members—to undergo address and background checks (together referred to as “safety checks”) prior to a child’s release.<sup>38, 39, 40</sup> The case manager is required to verify each sponsor’s address in several systems, including SmartyStreets<sup>41</sup> and Google Earth/Google Maps. The case manager is also required to search the sponsor’s address in the UC Portal to determine whether the address has been used in a previous sponsorship case. The case manager must document in the child’s case file that each address check has been completed (e.g., save screenshots showing the results of the address searches) and upload the supporting documentation to the UC Portal.<sup>42, 43</sup>

The case manager is required to conduct internet criminal public records checks and sex offender registry name and address checks for all potential sponsors. The case manager must upload documentation of the results of these public background checks (i.e., internet criminal public records checks and sex offender registry name and address checks) to the UC Portal.<sup>44</sup>

*Safety checks for some sponsors.* A sponsor may be required to receive a Federal Bureau of Investigation (FBI) criminal history check (fingerprint check) and/or a State child abuse and neglect registry check as part of their safety checks depending on the sponsor’s relationship to the child and other factors.<sup>45</sup> These checks are conducted and uploaded to the UC Portal by HHS.<sup>46, 47</sup> The case manager is notified of the results of these checks by email.<sup>48</sup> (See Appendix A for a detailed description of when each type of background check is required.) In some circumstances, a child may be released to a sponsor before ORR receives the results of a required FBI fingerprint or child abuse and neglect check (see Appendix B).

*Home study.* The case manager consults with a case coordinator to determine whether to recommend that a home study be conducted.<sup>49</sup> An ORR Federal field specialist makes the final decision as to whether a home study should be conducted. If a case is approved for a home study, the case manager makes a referral to a home study provider to conduct the home study.<sup>50</sup>

A home study consists of interviews, a home visit, and a written report containing a home study case worker’s findings. A home study case worker assesses the potential sponsor’s ability to meet the child’s needs, educates and prepares the sponsor for the child’s release, and builds on the Sponsor Assessment to verify or corroborate information gathered during that process.<sup>51, 52</sup>

**Exhibit 4: Staff determine whether to recommend a home study.**

Source: OIG review of ORR UC Program Policy Guide, section 2.4.2, January 2017.

*Mandatory home study.* A mandatory home study is required by the Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA) or by ORR policy for children who meet certain criteria. A TVPRA-mandated home study is required under the following circumstances: (1) a child is a victim of a severe form of trafficking in persons; (2) a child is a special needs child with a disability as defined by section 3 of the Americans with Disabilities Act of 1990; (3) a 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;<sup>53</sup> or (4) a child's sponsor clearly presents a risk of abuse, maltreatment, exploitation, or trafficking to the child based on all available objective evidence.<sup>54</sup>

ORR requires a mandatory home study under several circumstances. ORR's UC Program Policy Guide states that a home study is required for a nonrelative sponsor who seeks to sponsor multiple children, or who has previously sponsored or sought to sponsor a child and seeks to sponsor additional children.<sup>55</sup> In response to OIG's inquiry into this policy, ORR further clarified that an unrelated sponsor who had previously sponsored a related child is not required to undergo a home study when sponsoring an unrelated child. Separately, The UAC Manual of Procedures (version 5.0; internal guidance for ORR staff, contractors, and grantees) states that a home study is required for sponsors who are applying to sponsor a child who is not their own (e.g., niece or first cousin) and who have previously sponsored an unrelated child.<sup>56</sup> Additionally, ORR requires a mandatory home study for a child who is 12 years of age or younger before releasing them to a nonrelative sponsor.<sup>57</sup>

*Discretionary home study.* In cases in which a mandatory home study is not required, ORR's UC Program Policy Guide states that case managers and case coordinators may recommend a discretionary home study if they believe that it is likely to provide additional information to determine that



the sponsor is able to care for the child.<sup>58,59</sup> ORR provides minimal guidance on when a discretionary home study should be conducted.<sup>60</sup>

*Release decision.* The case manager reviews all collected information and makes a recommendation to the case coordinator regarding a child's release to a sponsor. The case coordinator is responsible for integrating all areas of assessment and providing their own assessment of potential sponsors. The case coordinator makes a recommendation for release to the ORR Federal field specialist.<sup>61</sup> The ORR Federal field specialist then makes one of the following determinations: (1) approves the release, (2) approves the release with post-release services, (3) requires a home study before making a decision, (4) denies the release, or (5) sends the case back for further review.<sup>62</sup> To make a decision to approve a release, the ORR Federal field specialist must determine that the sponsor can care for the well-being of the child.

## Safety and Well-Being Follow Up Calls

After the release of an unaccompanied child to a sponsor, ORR and facility staff conduct a Safety and Well-Being Follow Up Call (followup call) with both the sponsor and the child to help ensure the continued safety of the child.<sup>63, 64</sup> Staff are instructed to conduct these followup calls between 30 and 37 days after a child's release from care and note the outcome of the call in the child's case file.<sup>65</sup> The purpose of the followup call is to determine whether the child still resides with the sponsor, is enrolled in or attending school, and is safe, and to connect the child and their sponsor with any additional resources.<sup>66</sup> Additional resources can include legal services, educational support, medical care, and safety plans for children or sponsors at risk of experiencing violence or trafficking.

## ORR's online case management system

The UC Portal is ORR's online case management system and is used throughout the sponsor screening process. Case managers use the UC Portal to manage all activities related to a child's sponsorship case. The UC Portal contains documentation used to verify a sponsor's identity, address(es), and relationship with a child, as well as other documents related to a child's case.

Every child who enters ORR care and every potential sponsor is logged in the UC Portal.<sup>67</sup> Each child has an individual case file within the UC Portal that contains information from when the child enters ORR care to when the child is released, as well as followup that may occur. Similarly, each sponsor has a unique record that is connected to each child's case file by the case manager during the sponsor screening process. The sponsor's record contains links to the case files of each of the children associated with past sponsorships as well as flags for issues of concern.

Since April 2021, ORR has been making incremental improvements to the UC Portal. According to ORR, these improvements prioritize child safety, efficiency of the case management process, the overall user experience, and system security and stability.

## Related work

OIG has issued many reports related to the well-being of unaccompanied children. This report follows a companion report, [\*Operational Challenges Within ORR and the ORR Emergency Intake Site at Fort Bliss Hindered Case Management for Children\*](#), issued in September 2022.<sup>68</sup> The report found that operational challenges, including a rushed opening and rapid onboarding of inexperienced case managers, along with case management challenges, may have adversely affected the safety and well-being of unaccompanied children at the ORR EIS at Fort Bliss. In a 2017 report, OIG noted that ORR was able to contact 89 percent of sponsors and 84 percent of children 30 to 37 days after release from ORR custody.<sup>69</sup> For previous OIG reports related to unaccompanied children, please see Appendix C.

## Methodology

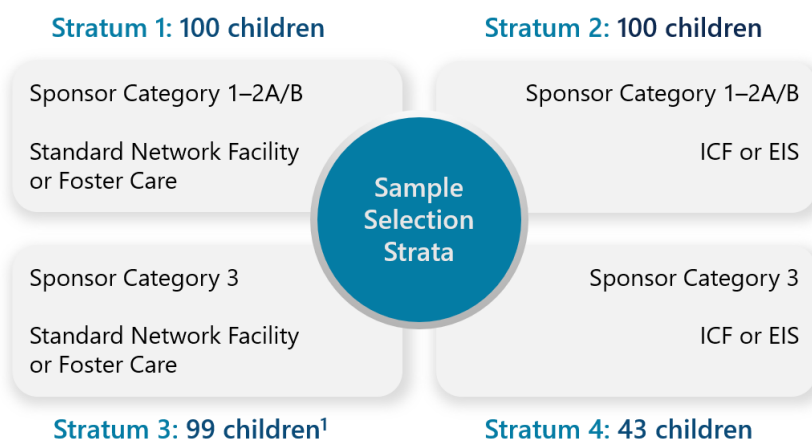
### Scope

To provide information on two important aspects of ensuring safe placements for children, we reviewed ORR's implementation of sponsor screening and followup calls for children released to sponsors in March and April 2021.

### Sample Selection

We identified a population of 16,790 children in ORR care who were released to sponsors in March and April 2021. We selected a random sample of 343 children stratified by facility type (i.e., (1) a standard network facility/foster care, or (2) ICF/EIS facility) and by sponsor category (i.e., (1) Category 1–2A/B, or (2) Category 3 sponsors) based on the population size of children within each stratum. One child was ineligible for our review, leaving a final sample size of 342 children. This sample design ensured that the sample included all sponsor categories and facility types.

### Exhibit 5: Stratified sample of 342 children released to sponsors in March and April 2021



Source: OIG sample selection of unaccompanied children, 2022.

<sup>1</sup> One child was ineligible for review in this stratum, for a final stratum size of 99 children.

## **Data Collection**

To examine sponsor screening and followup calls for children selected for this review, we requested all policies and guidance from ORR related to these processes that were in effect in March and April 2021. For children in our sample, we also requested all case file documentation from ORR related to these processes and timelines.

To better understand sponsor screening and followup calls, we conducted a pre-inspection site visit to the ORR EIS at Fort Bliss in June 2021. While onsite, we interviewed more than 30 ORR and facility staff for this review.<sup>70</sup> We also participated in an orientation to the UC Portal.

## **Data Analysis**

To determine whether sponsors were screened and followup calls were conducted according to ORR policy, we examined ORR's policies and guidance, and reviewed case file documentation and supplemental data (e.g., additional followup data not contained in children's case files) for the sampled children. We reviewed ORR's policies and guidance applicable to sponsor screening and followup calls and confirmed with ORR any questions regarding these policies.

We reviewed case file documentation obtained from ORR (i.e., documentation from the UC Portal and, when provided, scanned copies of the child's physical case file) for our sample of children to determine whether all sponsors were screened according to ORR policy and applicable field guidance. We determined whether all required sponsor documents and, as applicable, household member documents (e.g., proof of identity, proof of relationship, Family Reunification Packet) were contained in each child's case file. We reviewed the legibility of IDs submitted by sponsors.

We determined whether children's case files contained any documentation that indicated required safety checks were conducted (e.g., case notes or other references to a check). In addition, we determined whether children's case files contained ORR-required documentation verifying that each public background and address check was completed (e.g., a PDF or screenshot containing the results of a check). For additional details on the safety checks that we reviewed, please see the Detailed Methodology.

We also assessed whether children's case files contained any documentation that indicated a followup call was conducted for all sponsors and unaccompanied children. Then we reviewed the notes describing the outcome of each call.

For children who did not have documentation in their case file of a required step for the sponsor screening process or followup call, we reviewed supplemental data and documentation when provided by ORR. We attempted to analyze the timeliness of the sponsor screening process and identify any delays that may have occurred; however, the documentation we reviewed in the children's case files regarding this was not complete.

## Limitations

We reviewed all documentation contained within each child's case file to determine whether required steps for sponsor screening and followup calls were conducted; however, it is possible that actions were taken for sponsor screening and followup calls although no documentation of those actions appears in the case files.

## Standards

We conducted this study in accordance with the *Quality Standards for Inspection and Evaluation* issued by the Council of the Inspectors General on Integrity and Efficiency.

# FINDINGS

## In 16 percent of children's case files, one or more required sponsor safety checks lacked any documentation that the checks were conducted

Case files for 16 percent of unaccompanied children who were released to sponsors in March and April 2021 did not contain any documentation that indicated one or more required safety checks for sponsors were conducted. For all sponsors, required public background checks include internet criminal public records checks and sex offender registry name and address checks; required address checks include UC Portal address checks, SmartyStreets checks, and Google address checks. For some sponsors, FBI fingerprint and State child abuse and neglect registry checks are also required (see Appendix A).<sup>71</sup> In the children's case files that lacked any documentation of a check, we were unable to find any notes or other references in the case file that indicated the check was conducted. Specifically, 11 percent of children's case files were missing any documentation that indicated one or more required address checks were conducted and 5 percent of case files were missing any documentation that indicated one of the required background checks were conducted.<sup>72</sup>

**16%**  
of children's case files **lacked any documentation** indicating that one or more required safety checks were conducted

When case files do not contain any documentation indicating that required address checks were conducted, case managers may miss information that could reveal unsafe placements. For example, an address check may show that a residence is vacant or that the same residence was used by a sponsor for multiple prior sponsorships. Similarly, for the children whose case files lacked documentation indicating that required background checks were conducted, case managers could miss disqualifying information such as prior felony convictions or pending criminal charges. This evaluation, however, did not examine whether case managers addressed this missing information or how it may have impacted release decisions. For a detailed breakout of our review of these safety checks, see Appendix D.

In some case files that contained references to completed public background checks (i.e., sex offender registry name and address checks and internet criminal public records checks) or address checks, we were unable to identify ORR-required documentation verifying that the checks were completed.<sup>73</sup> During the period of our review, case managers were required to upload documentation verifying that they completed these public background checks and address checks to the UC Portal.

These case files did not contain the ORR-required documentation such as screenshots or PDFs with the outcome of the checks in the children's case files. (For a detailed breakout of checks that lacked the ORR-required documentation, see Appendix E.)

### **Other sponsor documents were missing or incomplete in several children's case files**

Our review also identified several children who were released to sponsors and who had missing or incomplete documents in their case file related to the sponsor screening process. Case managers collect and prepare many documents from each potential sponsor and manually upload each document to children's case files in the UC Portal. The incomplete and missing documents from the case files of children in our review included incomplete sponsor identity documentation, a missing household member identity document, missing Family Reunification Applications, and missing Sponsor Assessments. Although the impact of these missing documents was not evaluated in this review, documents that were incomplete or not uploaded to the UC Portal at the time of children's release could have limited the ability of staff who review and approve children's case files from fully assessing the safety of sponsors.

### **For 19 percent of children who were released to sponsors with pending FBI fingerprint or State child abuse and neglect registry checks, children's case files were never updated with the results**

For 19 percent of children whose sponsors required an FBI fingerprint check or a child abuse and neglect registry check, we found documentation in children's case files indicating that a check was initiated, but the results were pending at the time of the children's release.<sup>74</sup> ORR policy allows for children to be released to sponsors when the results of these checks are pending, under certain conditions (see Appendix B).<sup>75</sup> This practice can reduce children's length of stay in care because these checks can take weeks or more to be processed. However, this policy may also limit case managers' ability to address concerns regarding sponsor suitability before children are released to sponsors.

Further, children's case files were not updated to include the results of these checks after the children's release (see Appendix F). ORR was able to provide us with supplemental data regarding results from checks that were pending at the time of release and completed thereafter. However, this supplemental data did not demonstrate that children's case files had been updated with the results of these checks. Although ORR's policy does not require children's case files to be updated with the results of checks after the children have been released, a child's case file in the UC Portal is ORR's primary means of monitoring children and ensuring that each of the sponsor screening steps have been completed for their safety.

In cases in which ORR has released a child to a sponsor and later obtains concerning results from a safety check or information that would have led to a denial of

sponsorship, ORR policy directs staff to contact State Child Protective Services and/or local law enforcement as necessary and provide them with ORR's findings.<sup>76</sup> Without the results of the background checks, it is not possible for OIG to determine whether ORR needed to contact State Child Protective Services and local law enforcement for these children.

After ORR provided supplemental data on the 26 pending checks, five cases raised concern; the rest raised no concerns. There were three children for whom ORR could provide no evidence that the sponsor's results were ever received. ORR records also indicated that the sponsor results for two children included some derogatory information, but those results were not retrieved by nor sent to the children's care provider facility. Without knowing the nature of the derogatory information—which could be, but is not necessarily, information that would disqualify the sponsor—we cannot determine whether ORR should have taken any followup actions in these cases. For both of these children, ORR records indicated that followup calls successfully contacted the child and sponsor.

When children's case files are not updated with the results of these checks after children are released, it also has the potential to impede thorough screenings for sponsors during future sponsorship attempts. This is because ORR requires case managers to review the results of past background checks for potential sponsors who previously sponsored children.<sup>77</sup> If these results are not contained in children's case files, potential safety concerns could be missed during future sponsorship reviews.

## In 35 percent of children's case files, sponsor-submitted IDs contained legibility concerns

Our review of children's case files identified legibility concerns with sponsor-submitted IDs (e.g., images or scans of photo IDs, birth certificates, or legal documents) in 35 percent of children's case files. Facility staff are required to ensure that copies of sponsor-submitted IDs include a legible photo and information. However, we identified legibility issues in the scanned images of sponsor IDs including images that were overly dark, light, blurry, or grainy. (See Exhibit 6 for examples of sponsor IDs with legibility concerns on the next page.)

These issues could limit a case manager's ability to fully evaluate the photo or read the text on a sponsor's ID. ORR does require sponsors to present the same ID for review against the image of the ID submitted during the screening process when physical custody of the children is transferred to sponsors.<sup>78</sup> However, this review could be difficult in cases where the images of the IDs contain legibility issues.

In addition to sponsor IDs with legibility concerns, we identified images of IDs that were incomplete (e.g., missing the back or second page of the ID) and in which ID details (e.g., holograms or watermarks) were not visible in black and white images. Although ORR's policy during the review period did not provide additional guidance for case managers on images of sponsor-submitted IDs, ORR later provided a training



to its staff on safe releases.<sup>79</sup> In this training, ORR directed case managers to look for indicators that sponsor-submitted documents had been altered. For example, ORR listed missing holograms, misspelled words, and blurry pictures as common concerns that may prompt case managers to conduct additional verification of a sponsor-submitted document.

#### **Exhibit 6: Examples of sponsor identity documents with legibility concerns**



Source: OIG review of case files, 2022.

### **ORR failed to conduct mandatory home studies in two cases and four other cases raise concerns about whether ORR guidance on discretionary home studies should offer more specificity**

Our review of children's case files identified two cases in which ORR failed to conduct mandatory home studies. Home studies, which include in-person or virtual home visits and interviews with a potential sponsor and household members, represent an important opportunity to address safety issues and concerns before a child is released from care. Home studies also prompt FBI fingerprint and child abuse and neglect checks for sponsors who would not otherwise receive them, which may provide further information on the sponsors and other adult household members (see Appendix A). ORR is required to conduct mandatory home studies when a child or sponsor meets specific criteria. (For a description of our home study review process, please see the Detailed Methodology.)

In two cases, children who met ORR's criteria for a mandatory home study were released without receiving one. In one case, a child was released to a distant relative sponsor who previously sponsored an unrelated child, which necessitates a mandatory home study under ORR policy.<sup>80</sup> In another case, a child went through an expedited release process to a parent, although the child had reported escaping their physically and verbally abusive caregiver in their home country.<sup>81</sup> The TVPRA requires a mandatory home study for an alleged victim of physical abuse by a caregiver. In these cases, a home study would have helped case managers and Federal field



specialists to fully evaluate safety concerns and ensure that sponsors had sufficient supports and resources to meet the needs of these children.

If a case does not meet ORR criteria for a mandatory home study, facility staff may request, and ORR may approve, a discretionary home study if staff believe that it is likely to provide additional information regarding the suitability of a sponsor. However, ORR provides minimal guidance to case managers on recommending when a discretionary home study should be conducted.<sup>82</sup>

With limited guidance from ORR on the types of concerns that should prompt a case manager to consider whether a discretionary home study is warranted, opportunities to address safety issues could be missed.<sup>83</sup> In four cases for which a mandatory home study was not required and a discretionary home study was not performed, we found concerning information documented in children's case files regarding sponsors' living arrangements. In three of these cases, address checks conducted by case managers yielded results such as vacant houses or nonresidential addresses, but no home studies were conducted before children were released to these sponsors. Discretionary home studies could have enabled case managers to assess the safety of the home environments to ensure that they were valid places of residence before the children were released. In a separate case, information in the child's case file indicated that a sponsor's household member had been previously denied sponsorship for unsafe living conditions at a former address where three children had run away. A discretionary home study for this case could have included an interview with the household member in question and verified the safety of the residence. In these four cases, discretionary home studies could have provided additional information to help ORR assess the safety of the home environment.

## **In 5 percent of cases, sponsor records within ORR's case management system were not updated with child welfare outcomes or sponsorship history**

Information regarding child welfare outcomes or sponsorship history was inaccurate or missing from sponsor records within ORR's case management system, the UC Portal, for 5 percent of sponsors (see Appendix H). As a component of the sponsor screening process, case managers maintain information about potential and actual sponsors in their respective records within the UC Portal. These sponsor records are connected to children's case files by the case manager during the sponsor screening process. Within these sponsor records, case managers are required to use "flag" buttons to prominently display any issues that call into question the sponsor's ability to care for a child. For example, case managers should flag a case when a child who is still a minor no longer resides with the sponsor who accepted the responsibility to care for the child.<sup>84</sup> (See Exhibit 7 for an example of a sponsor flag.) In addition, the sponsor records contain a table that tracks how many children sponsors have previously sponsored or attempted to sponsor.

**Exhibit 7: Example of the Sponsor Flag button within a sponsor record**

Sponsor Flag: ☒

Flag Note:

The sponsor was flagged because the child ran away from home. The sponsor reported that the child went to work in Florida to pay off a debt. The sponsor filed a police report and CPS was alerted.

Source: OIG review of case files and ORR policy, 2022.

If child welfare outcomes or sponsorship history are not updated in the sponsor records, they may not be flagged or reviewed, as appropriate. This can impact the safety of other children that the sponsor may attempt to sponsor in the future. For example, if a sponsor's record does not capture child welfare concerns that occurred after a child is released, this information may not be flagged for review during future sponsorships. Another issue is the accuracy of data regarding how many children a sponsor has previously sponsored or attempted to sponsor. This process can reveal, for example, a history of sponsoring multiple unrelated children, which would raise concerns and prompt a mandatory home study. Because historical information about sponsors can help inform staff's decisions to approve or deny future applications for sponsorship, this missing information can hinder staff's ability to fully screen sponsors.

### **In several cases, sponsors' records were not updated and flagged after staff identified concerns following children's release to sponsors**

Although staff conducting followup calls and post-release services sometimes identified serious concerns about children's safety and well-being following their release from ORR care, these concerns were not always updated in sponsors' records. For example, one sponsor reported to a post-release services provider that the 15-year-old child released to the sponsor's care went missing in the middle of the night without any belongings or known contacts in the United States. The sponsor reported the case to the police department and the post-release service provider reported the child as missing to the National Center for Missing and Exploited Children. However, no notes or flags about this outcome were added to this sponsor's record, and he went on to sponsor two additional children following the incident. During the followup call for another case, a staff member discovered that the whereabouts of a 3-year-old child who had been released to an unrelated sponsor were unknown. Although the case was reported to Child Protective Services, no notes or flags were added to the sponsor's record in the UC Portal, meaning that a case

manager screening this sponsor for a future sponsorship may not learn of this concerning outcome.

Overall, staff identified more than 10 children who were no longer residing with their sponsors shortly after children were released from ORR care. Only five of these children's sponsor records noted this concerning outcome and contained related flags indicating concern about the suitability of the sponsor. It is possible that the remaining five children had legitimate reasons for no longer residing with the sponsor; however, information about the reasons for a change in the children's living situation was not always noted in the children's case files. Although we did not assess the impact of this missing information on any future placements with these sponsors, it is important that adverse outcomes be prominently noted in sponsor records. This is because case managers tasked with reviewing future sponsorship applications use this information in making placement decisions with a particular sponsor.

### **In several children's case files, sponsor records did not accurately reflect sponsorship history, which may have impeded case managers' ability to adequately screen sponsors**

Our review of children's case files identified 20 sponsor records in the UC Portal that did not reflect the number of children a sponsor had previously sponsored or attempted to sponsor. In these cases, we found references to previously sponsored children throughout the children's case files but did not see these sponsorships accounted for in sponsors' records. The process of confirming a sponsor's history of attempted and actual sponsorship is a crucial and required step to help alert case managers to a sponsor's past activities and identify potential safety concerns from previous screenings or sponsorships. This step introduces safeguards to mitigate risks of children falling victim to exploitation, which is a heightened concern when one adult attempts to sponsor several unrelated children.

### **In 22 percent of cases, ORR did not conduct timely Safety and Well-Being Follow Up Calls, and in 18 percent of cases, the followup calls were not documented in children's case files**

ORR made Safety and Well-Being Follow Up Calls to all children and their sponsors; however, our review of children's case files identified cases in which followup calls were not conducted timely or documented in children's case files. After children are released to sponsors, followup calls are an important opportunity for ORR to determine whether children are safe and whether children and their sponsors need additional support.

ORR guidance instructs staff to conduct followup calls within 30 to 37 days following a child's release.<sup>85</sup> When followup calls are not completed within 37 days, staff may face delays in connecting children and sponsors with additional resources, if needed,

or determining whether a child is still residing with their sponsor, is enrolled in school, is aware of upcoming court dates, and is safe. ORR also requires staff to document these calls, including the call outcome (e.g., if the child was safe or still residing with the sponsor), in children's case files. Noting the result of the call in the child's case file is important because case managers should consider this information (e.g., concerns identified if a child is no longer residing with the sponsor) when assessing future sponsorship attempts.<sup>86</sup>

### Followup calls were not conducted timely for 22 percent of children

Twenty two percent of followup calls were conducted 38 days or more after children's release, which may have caused delays in connecting children and sponsors to needed services (see Exhibit 8). Although ORR provided a list of dates showing that followup calls were made to all children in our sample at some point, many followup calls took place months after children left ORR care. For calls that occurred late, the median length of time before a call was placed was 122 days. The latest call that occurred for a child in our sample took place 324 days after this child was released.

The percentage of followup calls that were made 38 days or more after children's release varied by the facility type from which the children were released. Calls occurred late for 80 percent of children released from EISs, compared to 9 percent of children released from standard network facilities.<sup>87</sup> ORR attributed delays to the volume of children requiring followup calls in FY 2021 and the number of case managers or other staff available to make such calls. (See Appendix J for a detailed breakout of followup calls by facility type.)

#### Exhibit 8: For one in five children, ORR did not conduct timely Safety and Well-Being Follow Up Calls.



Source: OIG review of ORR case files, 2022.

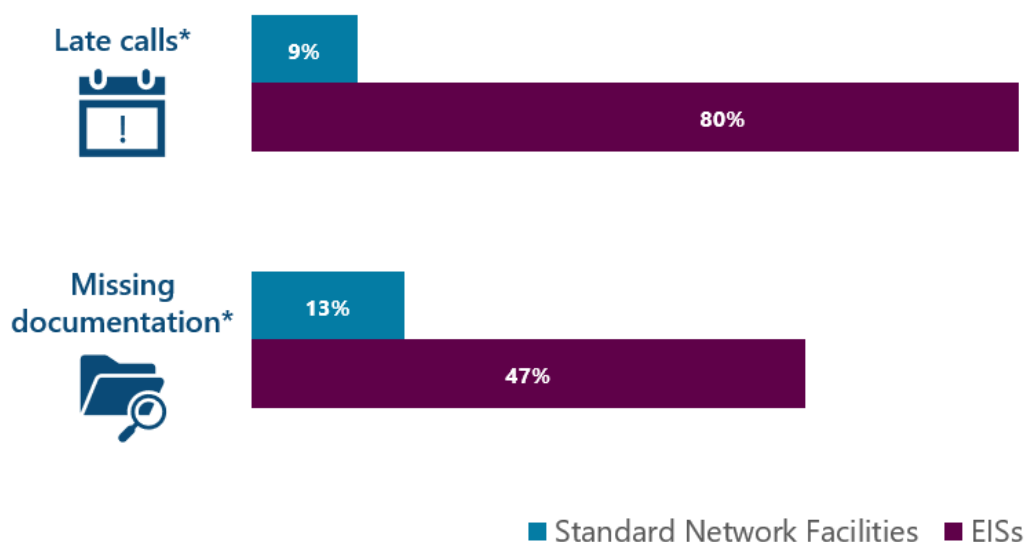
### The case files of 18 percent of children did not contain documentation of the followup calls

Although ORR ultimately provided OIG information indicating that followup calls were made to all children and their sponsors, the case files for 18 percent of children lacked documentation indicating that the followup calls occurred, including the outcomes of the call. For children whose case files lacked documentation, ORR provided a

separate data file including dates on which the followup calls occurred and limited details on the outcomes of the calls.

The percentage of children's case files that did not contain documentation of the followup calls varied by the facility type from which the children were released. Case files for 47 percent of children released from EISs were missing documentation of followup calls, compared to case files for 13 percent of children released from standard network facilities (see Exhibit 9). See Appendix J for a detailed breakout of the followup calls lacking documentation by facility type.

**Exhibit 9: For children released from emergency intake sites (EISs), followup calls were more often late and not documented in case files as compared to followup calls made to children released from standard network facilities.**



Source: OIG review of ORR case files, 2022.

Our sample included 169 children released from standard network facilities and 76 children released from EISs.

\* The difference in these proportions was statistically significant ( $p < 0.001$ ).

# CONCLUSION AND RECOMMENDATIONS

ORR conducts sponsor screening and followup calls to help ensure children's safety following their release to sponsors. Children who arrive in the United States unaccompanied are especially vulnerable to exploitation due to their age, separation from family, and hazardous journey to the United States. We acknowledge that ORR received a surge in referrals of unaccompanied children during our review period in 2021, that created operational constraints and hindered its ability to fulfill its mission. However, the number of unaccompanied children in ORR care has fluctuated widely over time, and ACF needs to be prepared to safely place children with sponsors in the event of future influxes. In fact, in 2022, referrals of unaccompanied children grew even higher, up to 128,904, compared to 122,731 the prior year.

Reducing the risk of harm to children following their release to sponsors requires a coordinated approach before and after children are released. To provide information on two important aspects of ensuring safe placements for children, we reviewed ORR's implementation of sponsor screening and post-release followup calls for children. We found that ORR generally conducted all steps for sponsor screening for most children in our sample; however, 16 percent of children's case files lacked any documentation that one or more required safety checks were conducted. We also identified other documentation deficiencies in the case files of children released from ORR's care in March–April 2021 that may have introduced vulnerabilities into the sponsor screening process. In addition, post-release followup calls that were conducted later than 37 days may have caused delays in connecting children and sponsors with needed services.

Addressing the vulnerabilities identified during our review will contribute to ORR's ongoing efforts to screen prospective sponsors more comprehensively and to better protect these children. Other actions including post-release services for all children and coordinated efforts with other child welfare agencies could further help to ensure children's safety.

Following our review period and in response to our companion report,<sup>88</sup> ORR reported taking several actions to improve the sponsor screening process. These actions include developing a training curriculum for case managers to help ensure effective case processing and sponsor screening and replacing all followup calls with post-release services by the end of FY 2024. The post-release services will include virtual or in-person visits with all children and their sponsors. Additionally, in June 2023, ORR published a sponsor screening audit, which outlined planned actions to improve the UC Program, including establishing a new Program Accountability team that will be responsible for assessing and addressing potential child exploitation risks.<sup>89</sup>

ORR also reported that it made multiple improvements to the UC Portal, including standardizing sponsor address data and adding additional data points to sponsor profiles. In addition, ORR has incorporated a case management dashboard to better track case manager interactions and delays in the sponsor screening process. Through this system, ORR is able to track which cases are delayed and why by reviewing case manager notes in tandem.

To continue to improve its process intended to safely release children to sponsors, ACF will need to take additional steps. We recommend that ACF:

## **Implement additional safeguards to ensure that all safety checks are conducted and documented, as required, prior to approving the release of a child to their sponsor**

ACF should implement additional safeguards to ensure that all safety checks are conducted and documented within each child's case file, as required, prior to children's release. To accomplish this, ACF could enable ORR's case management system, the UC Portal, to identify when a child's file is missing a required safety check, and prevent those children from being approved for release. Exceptions could be made in situations in which ORR policy does not require specific checks to be completed prior to a child's release (i.e., when a child is released with the result of an FBI fingerprint or child abuse and neglect check pending).

## **Develop a reference guide to help case managers better evaluate sponsors' identity**

In addition to steps ACF has taken to train case managers, ACF should develop a reference guide for all case managers to fully evaluate sponsor IDs. This guide should include the steps a case manager should take when reviewing a sponsor ID, such as standards for legibility and photo clarity; examples of acceptable submissions; potential indicators of fraud; and steps to take when case managers are unable to verify a sponsor ID. This guide could include a checklist for case managers to track their efforts when evaluating a sponsor ID and actions to take in response to any concerns that may be identified. ACF should provide this resource to all case managers during its training curriculum for the sponsor screening process.

## **Take additional steps to ensure that mandatory home studies are conducted when required**

ACF should implement additional oversight mechanisms to ensure that mandatory home studies are conducted to thoroughly vet sponsors, when required. These mechanisms could complement existing review protocols for reviewing children's case files.



## **Provide additional guidance for case managers on when to consider recommending discretionary home studies**

ACF should provide more robust guidance on when case managers should consider recommending discretionary home studies. To do this, ACF should issue guidance to assist staff reviewing children's cases by providing examples of circumstances in which a discretionary home study is advisable to determine whether sponsors are able to care for the children before releasing the children into sponsors' care.

## **Ensure that sponsors' records in the UC Portal accurately capture sponsorship history and information obtained after children's release regarding sponsors' suitability**

In addition to the steps that have already been initiated to improve ORR's case management system, ACF should ensure that sponsor records in the UC Portal accurately capture sponsorship history and contain complete information on the suitability of sponsors. This should include information obtained after children's release such as the results from pending background checks, or concerns identified during the Safety and Well-Being Follow Up Call or during the provision of post-release services.

## **Develop an effective monitoring mechanism to identify children who do not receive timely followup calls after their release to sponsors**

To complement its expansion of post-release services, ACF should develop and implement an effective monitoring mechanism to identify children who do not receive timely followup calls (to be replaced with "virtual check-ins") after their release to sponsors. This mechanism should identify children who have not been contacted within the required time frame following their release and alert staff that the contact has not yet been completed. ACF should also ensure that the outcome of the call or check-in (i.e., discussions with the child and sponsor and any necessary actions taken in response) is documented in each child's case file. This would enable any concerns that were identified during the call to be linked to the child's case file and the sponsor's record for consideration during future sponsor screenings.



## AGENCY COMMENTS AND RESPONSE

ACF concurred with all six of our recommendations. ACF provided additional context regarding the historic challenges that ORR faced during the period of review, and detailed steps that it has since taken to enhance services for unaccompanied children.

In response to our first recommendation—for ACF to implement additional safeguards to ensure that all safety checks are conducted and documented within each child's case file, as required, prior to children's release to sponsors—ACF stated that it had taken steps to implement additional safeguards in the sponsor screening and documentation process. These steps included digitizing sponsor assessment forms and enabling case managers to upload and track documents in the UC Portal. ACF stated that it is in the process of making improvements to an electronic release request form to confirm required documentation and document evidence for release decisions. We appreciate ACF's continued efforts to improve the sponsor screening and documentation process. When ACF operationalizes the proposed improvements to its electronic release request, we will review documentation of these changes in its final management decision, or annual status updates, to determine whether they fulfill the first recommendation.

In response to our second recommendation—for ACF to develop a reference guide for case managers to better evaluate sponsors' identity—ACF described actions it had taken to implement a new training curriculum for case managers on sponsor identity verification. ACF stated that the training material is continuously available as a resource guide via an online learning portal. ACF also described that it has conducted trainings with HHS OIG to ensure ORR staff, grant recipients, and contractors are equipped to apply best practices in the identification of ID fraud. We appreciate ACF's actions regarding sponsor identity verification and believe that these actions fulfill this recommendation.

In response to our third recommendation—for ACF to take steps to ensure that mandatory home studies are conducted when required—ACF noted that it has updated policies, procedures, guidance, and training. These updates include policies to ensure timely home study referrals and clarify requirements for mandatory home studies. ACF also added requirements to review previous sponsor or address flags and document how they were addressed. ACF also stated that it developed and delivered trainings to case managers, grant recipients, and post-release services providers on home study requirements, recommendations, referrals, and procedures. We appreciate ACF taking these actions to ensure mandatory home studies are conducted when required and believe that these actions fulfill this recommendation.

In response to our fourth recommendation—for ACF to provide more robust guidance on when case managers should consider recommending discretionary home studies—ACF shared actions it had taken to update procedures and trainings. ACF

stated that it had clarified requirements for home studies and offered instances in which a case may be elevated or in which a discretionary home study may be appropriate. We appreciate ACF's efforts to update guidance related to discretionary home studies and believe that its actions fulfill this recommendation.

In response to our fifth recommendation—for ACF to ensure that sponsor records in the UC Portal accurately capture sponsorship history and information obtained after children's release—ACF stated that it had implemented updates to the UC Portal, sponsor vetting processes, and training modules. ACF described efforts to ensure accurate sponsor records that can be cross-referenced; a requirement for case managers to conduct searches for existing records before adding a new sponsor to the system; a standardization project to deduplicate records; and updated sponsor flagging capabilities. ACF stated that post-release services documents are now uploaded to UC Portal case files to capture information obtained after children's release from care and to allow tracking, flagging, and reporting of safety concerns. ACF also noted that updated training modules cover requirements for sponsor records to include sponsorship history and information obtained after children's release from care. We ask that ACF provide documentation supporting the updates it made to the UC Portal in its final management decision.

In response to our sixth recommendation—for ACF to develop and implement an effective monitoring mechanism to identify children who do not receive timely followup calls after their release to sponsors—ACF described actions it has taken and plans to take to improve the UC Portal in ways that make it easier to upload, access, and track information about followup calls. We appreciate these improvements to the Portal, which could support ACF in monitoring and ensuring that these calls occur timely. We ask that ACF provide more information in its final management decision about how it will leverage these Portal improvements to monitor and ensure that calls occur timely.

For the full text of ACF's comments, see Appendix K.

# DETAILED METHODOLOGY

## Sample selection

We obtained a list of all children released from ORR care to sponsors between March 1, 2021, and April 30, 2021. To ensure that the sample included all sponsor categories and facility types, we stratified our sample selection by facility type (i.e., (1) a standard network facility/foster care, or (2) EIS/ICF facility) and sponsor category (i.e., (1) Category 1–2A/B, or (2) Category 3 sponsors). We randomly selected a total of 343 children, distributed across each stratum. The percentages included in this report are weighted to reflect the population from which the strata were selected. One child was ineligible for our review, which left a final sample size of 342 children. See Exhibit 10 for a detailed breakdown of the sample selection.

**Exhibit 10: Population and final sample size of children in each stratum.**

No. of Children in Each Stratum	Standard Network Facility or Foster Care	Emergency Intake Facility or Influx Care Facility
<b>Sponsor Category 1–2A/B</b>	12,020 (n=100)	3,507 (n=100)
<b>Sponsor Category 3</b>	1,188 (n=99) <sup>1</sup>	75 (n=43)

<sup>1</sup> One child was ineligible for review in this stratum, for a final stratum size of 99 children.

## Data sources

We obtained from ORR policies and guidance on sponsor screening and followup calls, case file documentation, and supplemental data. Specifically, we obtained all policies and guidance from ORR related to sponsor screening and followup calls that were in effect in March and April 2021. This included the ORR UC Program Policy Guide, The UAC Manual of Procedures, field guidance, the UC Portal User Manual, and other sources. For children in our sample, we requested all case file documentation from ORR related to these processes. This included documentation for sponsors, and when applicable, household members, for proof of identity, proof of relationship, the Family Reunification Application, the Sponsor Assessment, address checks, background checks, home studies, followup calls, case management notes, and, when available, closure reports from post-release services. We also requested supplemental documentation of dates of care for children and followup calls when they were not otherwise available in case file documentation.

We conducted a pre-inspection site visit to the ORR EIS at Fort Bliss, which included interviews with more than 30 ORR and facility staff involved with the case

management process. During the site visit, we participated in an orientation to the UC Portal.

## Data analysis

**ORR Policies.** We reviewed all the policies and guidance applicable to sponsor screening and followup calls in effect during our period of review. We followed up with ORR to confirm our understanding of the policies and guidance to obtain answers to any additional questions we had.

**Case File Review.** We reviewed each child's case file documentation (i.e., documentation from the UC Portal and, when provided, scanned copies of the child's physical case file) to determine whether all steps of the sponsor screening process were completed according to ORR policy and applicable field guidance.

*Sponsor Application.* We determined whether each case file contained the required documents for each sponsor, and, as applicable, household member (i.e., a Family Reunification Application, proof of identity, proof of relationship, and a Sponsor Assessment).

*Sponsor IDs.* We reviewed the images of IDs submitted by the sponsor to determine whether they contained a legible photo and information.

*Safety Checks.* For required sponsor safety checks (i.e., address and background checks), we determined whether children's case files contained: (1) any documentation that indicated required safety checks were conducted (e.g., case notes or other references to a check) and, when applicable, (2) ORR-required documentation verifying that each check was completed (e.g., a PDF or screenshot containing the results of a check). We determined which background checks were required for each sponsor on the basis of the sponsor category and any special circumstances indicated in the case file, such as a home study referral. We did not determine whether all safety checks were completed for a sponsor's adult household members.

Specifically, for required sponsor address checks, we looked for any documentation in the child's case file that indicated the address checks were conducted. We also determined whether the case files contained ORR-required documentation verifying that each check was completed.

For required sponsor public background checks (i.e., internet criminal public records checks and sex offender registry name and address checks), we looked for any documentation in the child's case file that indicated the checks were conducted. We also determined whether the case files contained ORR-required documentation verifying that each check was completed.

For required sponsor FBI fingerprint and State child abuse and neglect registry checks, we looked for any documentation in the child's case file that indicated

that the checks were conducted. We also looked for the results of these checks, when available.

We shared with ORR a list of safety checks that were missing documentation. For some cases, ORR provided supplemental data and documentation for these missing checks. We reviewed these data and documentation and updated our data on a case-by-case basis.

*Safety and Well-Being Follow Up Call.* We assessed whether a followup call was conducted for all sponsors and children. We reviewed each child's case file for any documentation indicating that the call occurred. If a call occurred, we reviewed the outcome of the call. For the children without documentation of a followup call in their case file, we used supplemental data ORR provided with dates and additional details regarding the call.

*Other Safety Concerns.* We reviewed children's case files for other safety concerns. This included reviewing available information contained in case notes, home study documentation, and reports from post-release service providers. We did not analyze the number of children who received mandatory and discretionary home studies.

*Screening Timeline.* We attempted to analyze the timeliness of the sponsor screening process and any delays that may have occurred. We identified dates regarding each child's length of stay in care and, when available, dates when specific steps in the sponsor screening process occurred (e.g., receipt of sponsor documentation or completion of a safety check). The dates obtained from case file documentation were incomplete and did not allow us to obtain a complete picture of the sponsor screening timeline or delays that may have occurred.

# APPENDICES

## Appendix A: Background Checks for Sponsor Categories

The table below reports the background checks that ORR policy requires for each sponsor category.

Check	Criteria for Check
Internet Criminal Public Records Check	Always required for all sponsors.
Sex Offender Name and Address Registry Check	Always required for all sponsors.
FBI National Criminal History (Fingerprint) Check	<p><b>Category 1 and 2A Sponsors:</b> Required only if:</p> <ul style="list-style-type: none"> <li>• a public records check reveals possible disqualifying factors,</li> <li>• there is a documented risk to the safety of the child,</li> <li>• the child is especially vulnerable, and</li> <li>• the case is being referred for a home study.</li> </ul> <p><b>Category 2B and 3 Sponsors:</b> Always required.</p>
State Child Abuse and Neglect Registry Check	<p>For all sponsors, required only if:</p> <ul style="list-style-type: none"> <li>• the case requires a home study and</li> <li>• a special concern is identified.</li> </ul>
State Criminal History Repository Check and/or Local Police Check	For all sponsors, required on a case-by-case basis only when there is an unresolved criminal arrest or issue that is still in process.
Source: <b>The UAC Manual of Procedures (version 5.0), section 2.5.1</b> , February 2021; <b>ORR UC Program Policy Guide, section 2.5.1</b> , June 18, 2019.	

## Appendix B: Release of a Child With Pending Results for an FBI Fingerprint or Child Abuse and Neglect Check

ORR may release a child to a sponsor before receiving the results of an FBI fingerprint or child abuse and neglect check in the following circumstances:

### Release pending results of FBI fingerprint check

1. The sponsor is Category 2B, which ORR defines as an immediate relative such as an aunt or a first cousin who was not previously the unaccompanied child's primary caregiver.
2. A public records check did not reveal possible disqualifying factors.
3. There is no documented risk to the safety of child and the child is not considered especially vulnerable.
4. The case is not being referred for a home study.
5. All applications, assessments, documents, and other required background check results needed to approve a safe release have been received and reviewed by the case manager.
6. The FBI fingerprint check was requested following ORR procedures.
7. Receipt of the FBI fingerprint check results is the only step preventing a release recommendation.

### Release pending results of State child abuse and neglect registry check<sup>1</sup>

1. All applications, assessments, documents, and other required background check results needed to approve a safe release have been received and reviewed by the case manager.
2. Receipt of the child abuse and neglect check results is the only item delaying release.
3. The child abuse and neglect check was not requested because a special concern was identified.

Source: **The UAC Manual of Procedures (version 5.0), section 2.5.1**, February 2021.

<sup>1</sup> ORR policy notes that ORR may choose to release a child when results of a child abuse and neglect registry check are pending if there are no significant child welfare concerns associated with the sponsor, an adult in the sponsor's home, or with the child or other children; the policy does not explicitly define significant child welfare concerns. **ORR UC Program Policy Guide, section 2.5.2**, June 18, 2019.

## Appendix C: Related OIG Work

Information on OIG's work on this topic can be found on our Unaccompanied Children [webpage](#). Below is a list of OIG reports on unaccompanied children.

Title	Report No.	Date Issued
<a href="#">The Office of Refugee Resettlement Needs To Improve Its Oversight Related to the Placement and Transfer of Unaccompanied Children</a>	A-06-20-07002	May 2023
<a href="#">The Office of Refugee Resettlement Needs To Improve Its Practices for Background Checks During Influxes</a>	A-06-21-07003	May 2023
<a href="#">Operational Challenges Within ORR and the ORR Emergency Intake Site at Fort Bliss Hindered Case Management for Children</a>	OEI-07-21-00251	September 2022
<a href="#">Office of Refugee Resettlement's Influx Care Facility and Emergency Intake Sites Did Not Adequately Safeguard Unaccompanied Children From COVID-19</a>	A-06-21-07002	June 2022
<a href="#">HHS Should Improve Internal Coordination Regarding Unaccompanied Children</a>	OEI-BL-20-00670	May 2022
<a href="#">Office of Refugee Resettlement Generally Ensured That Selected Care Provider Facilities for Its Unaccompanied Children Program Complied With Federal Emergency Preparedness Requirements</a>	A-04-20-02025	February 2022
<a href="#">Characteristics of Separated Children in ORR's Care: June 27, 2018–November 15, 2020</a>	OEI-BL-20-00680	November 2021
<a href="#">OIG Toolkit: Insights from OIG's Work on the Office of Refugee Resettlement's Efforts To Care for Unaccompanied Children</a>	OEI-09-21-00220	May 2021
<a href="#">The Office of Refugee Resettlement Did Not Award and Manage the Homestead Influx Care Facility Contracts in Accordance With Federal Requirements</a>	A-12-20-20001	December 2020
<a href="#">Office of Refugee Resettlement Ensured That Selected Care Providers Were Prepared To Respond to the COVID-19 Pandemic</a>	A-04-20-02031	November 2020
<a href="#">Youth For Tomorrow—New Life Center, Inc., an Administration for Children and Families Grantee, Did Not Comply With All Applicable Federal Policies and Requirements</a>	A-03-16-00250	September 2020



<a href="#"><u>Southwest Key Programs Failed To Protect Federal Funds Intended for the Care and Placement of Unaccompanied Alien Children</u></a>	A-06-17-07004	September 2020
<a href="#"><u>Unaccompanied Alien Children Program Care Provider Facilities Do Not Include All Required Security Measures in Their Checklists</u></a>	OEI-05-19-00210	June 2020
<a href="#"><u>The Office of Refugee Resettlement's Incident Reporting System Is Not Effectively Capturing Data To Assist Its Efforts To Ensure the Safety of Minors in HHS Custody</u></a>	OEI-09-18-00430	June 2020
<a href="#"><u>Communication and Management Challenges Impeded HHS's Response to the Zero-Tolerance Policy</u></a>	OEI-BL-18-00510	March 2020
<a href="#"><u>Care Provider Facilities Described Challenges Addressing Mental Health Needs of Children in HHS Custody</u></a>	OEI-09-18-00431	September 2019
<a href="#"><u>Unaccompanied Alien Children Care Provider Facilities Generally Conducted Required Background Checks but Faced Challenges in Hiring, Screening, and Retaining Employees</u></a>	A-12-19-20001	September 2019
<a href="#"><u>Southwest Key Did Not Have Adequate Controls in Place To Secure Personally Identifiable Information Under the Unaccompanied Alien Children Program</u></a>	A-18-18-06001	August 2019
<a href="#"><u>Southwest Key Programs Did Not Always Comply With Health and Safety Requirements for The Unaccompanied Alien Children Program</u></a>	A-06-17-07005	August 2019
<a href="#"><u>The Children's Village Inc., an Administration for Children and Families Grantee, Did Not Always Comply With Applicable Federal and State Policies and Requirements</u></a>	A-02-16-02013	April 2019
<a href="#"><u>Lincoln Hall Boys' Haven, an Administration for Children and Families Grantee, Did Not Always Comply With Applicable Federal and State Policies and Requirements</u></a>	A-02-16-02007	February 2019
<a href="#"><u>Separated Children Placed in Office of Refugee Resettlement Care</u></a>	OEI-BL-18-00511	January 2019
<a href="#"><u>BCFS Health and Human Services Did Not Always Comply With Federal and State Requirements Related to the Health and Safety of Unaccompanied Alien Children</u></a>	A-06-17-07007	December 2018
<a href="#"><u>The Tornillo Influx Care Facility: Concerns About Staff Background Checks and Number of Clinicians on Staff</u></a>	A-12-19-20000	November 2018

<a href="#"><u>Florence Crittenton Services of Orange County, Inc., Did Not Always Claim Expenditures in Accordance With Federal Requirements</u></a>	A-09-17-01002	October 2018
<a href="#"><u>Heartland Human Care Services, Inc. Generally Met Safety Standards, but Claimed Unallowable Rental Costs</u></a>	A-05-16-00038	September 2018
<a href="#"><u>Florence Crittenton Services of Orange County, Inc. Did Not Always Meet Applicable Safety Standards Related to Unaccompanied Alien Children</u></a>	A-09-16-01005	June 2018
<a href="#"><u>BCFS Health and Human Services Did Not Always Comply With Federal Requirements Related to Less-Than-Arm's-Length Leases</u></a>	A-06-16-07007	February 2018
<a href="#"><u>Office of Refugee Resettlement Unaccompanied Alien Children Grantee Review—His House</u></a>	A-04-16-03566	December 2017
<a href="#"><u>HHS's Office of Refugee Resettlement Improved Coordination and Outreach To Promote the Safety and Well-Being of Unaccompanied Alien Children</u></a>	OEI-09-16-00260	July 2017
<a href="#"><u>Division of Unaccompanied Children's Services: Efforts To Serve Children</u></a>	OEI-07-06-00290	March 2008

## Appendix D: Children's Case Files Lacking Any Documentation Indicating That Sponsor Safety Checks Were Conducted

The table below reports the number of children's case files that did not contain any documentation that indicated one or more required sponsor address or background checks were conducted. These case files did not contain any notes or other references in the case file that indicated the check was conducted.

Safety Check	No. of Case Files	Point Estimate	95% Confidence Interval
UC Portal Address Check	40 of 342	10.5%	7.4%–14.7%
SmartyStreets	5 of 342	1.0%	0.4%–2.4%
Google Earth/Google Maps <sup>1</sup>	4 of 342	0.6%	0.2%–1.9%
<b>Missing Address Check Total<sup>2</sup></b>	43 of 342	10.9%	7.8%–15.1%
Internet Criminal Public Records Check	1 of 342	0.2%	0.03%–1.4%
Sex Offender Name Check	1 of 342	0.7%	0.1%–4.9%
Sex Offender Address Check	13 of 342	4.2%	2.0%–8.7%
FBI Fingerprint Check	0 of 189 <sup>3</sup>	0%	0.0%–13.9%
Child Abuse and Neglect Registry Check <sup>4</sup>	0 of 23 <sup>3</sup>	N/A	N/A
<b>Missing Background Check Total<sup>5</sup></b>	15 of 342	5.1%	2.6%–9.8%
<b>Missing Address and Background Checks Rollup<sup>6</sup></b>	55 of 342	15.6%	11.3% 21.0%

Source: OIG review of ORR case files, 2022. N/A = Not applicable.

<sup>1</sup> Our analysis counted any documentation that indicated either a Google Earth or Google Maps check was conducted as complete documentation. Numbers reported are of individuals missing any documentation of both checks.

<sup>2</sup> Missing address check totals include the number of sponsors missing one or more address check.

<sup>3</sup> FBI fingerprint checks and child abuse and neglect registry checks are not required for all children's sponsors.

<sup>4</sup> We are unable to reliably project the proportion of children's cases lacking child abuse and neglect registry checks due to the small sample size.

<sup>5</sup> Missing background check totals include the number of sponsors missing one background check.

<sup>6</sup> Missing address and background checks rollup includes the number of sponsors missing one or more address and/or background checks.

## Appendix E: Children’s Case Files Lacking ORR-Required Documentation Verifying That the Sponsor Safety Checks Were Completed

The table below reports the number of children’s case files missing ORR-required documentation verifying the sponsor safety checks. These checks were noted in the children’s case files but did not include the required documentation verifying that these checks were completed (e.g., screenshots or PDFs with the results or outcomes of the checks). At the time of this review, ORR policy required case managers to upload documentation to ORR’s case management system, the UC Portal, verifying the results of address checks (i.e., UC Portal Address Check, SmartyStreets, and Google address check) and public background checks (i.e., Internet Criminal Public Records Check, Sex Offender Name Check, Sex Offender Address Check).<sup>1, 2, 3</sup>

Safety Check	No. of Case Files	Point Estimate	95% Confidence Interval
UC Portal Address Check <sup>2</sup>	187 of 342	61.6%	54.6%–68.1%
SmartyStreets	2 of 342	0.8%	0.1%–4.6%
Google Earth/Google Maps <sup>4</sup>	2 of 342	0.9%	0.2%–4.4%
Internet Criminal Public Records Check	1 of 342	0.2%	0.03%–1.4%
Sex Offender Name Check	4 of 342	0.4%	0.1%–1.2%
Sex Offender Address Check	5 of 342	0.5%	0.2%–1.3%

Source: OIG review of ORR case files, 2022. N/A = Not applicable.

<sup>1</sup> ORR, **The UAC Manual of Procedures (version 5.0), section 2.2.4 and 2.5.1**, February 2021.

<sup>2</sup> ORR shared that only some facilities take a screenshot of the results of the check of the UC Portal address search and upload the results to the child’s case file in the UC Portal. As of March 2023, ORR does not require case managers to upload documentation of the UC Portal address check to the UC Portal. ORR, **The UAC Manual of Procedures (version 8.1), section 2.2.4**, March 2023.

<sup>3</sup> ORR policy does not require case managers to upload the results of FBI fingerprint or State child abuse and neglect checks to the UC Portal. ORR, **The UAC Manual of Procedures (version 5.0), section 2.5.1 and appendix 2.14**, February 2021.

<sup>4</sup> Our analysis counted documentation verifying either a Google Earth or Google Maps check as complete documentation. Numbers reported are of case files missing documentation verifying both Google checks.

## Appendix F: Children’s Case Files That Were Not Updated With the Results of FBI Fingerprint or Child Abuse and Neglect Checks After Their Release

The table below reports the number of children whose sponsor required an FBI fingerprint or child abuse and neglect registry check and whose case files did not contain the results of these checks after the child’s release. ORR policy allows for children to be released to sponsors without the results of an FBI fingerprint or child abuse and neglect registry check under certain conditions<sup>1</sup>; however, the results were never updated in children’s case files after their release. Although ORR policy does not require that these results be added to case files, these results then may not be available for consideration by facility staff during future sponsorships. OIG followed up with ORR regarding the status of these pending checks and, as of January 2024, ORR reported that the checks were completed for 23 of the 26 children whose cases we had flagged. However, ORR did not provide documentation indicating that these children’s case files were updated with the results.

Metric	No. of Case Files	Point Estimate	95% Confidence Interval
Case files that were not updated with the results of FBI fingerprint or child abuse and neglect registry checks after children’s release	26 of 189	19.0%	11.1%–30.7% <sup>2</sup>

Source: OIG review of ORR case files, 2022.

<sup>1</sup> **The UAC Manual of Procedures (version 5.0), section 2.5.1**, February 2021.

<sup>2</sup> The 95-percent confidence intervals for projected proportions exceed our standard of 10-percent absolute precision.

## Appendix G: Children’s Case Files With Sponsor Identity Documents That Have Legibility Concerns

The table below reports the number of children’s case files with scanned images of sponsor identity documents (IDs, e.g., photo IDs, birth certificates, and legal documents) that had legibility issues including images that were overly dark, light, blurry, or grainy. Facility staff are required to ensure that copies of sponsor-submitted IDs are readable, including a legible photo and information.<sup>1</sup>

<b>Metric</b>	<b>No. of Case Files</b>	<b>Point Estimate</b>	<b>95% Confidence Interval</b>
Children’s case files with sponsor IDs that contained legibility concerns	124 of 342	35.1%	28.4%–42.4%

Source: OIG review of ORR case files, 2022.

<sup>1</sup> ORR, **The UAC Manual of Procedures (version 5.0), section 2.2.4**, February 2021.

## Appendix H: Sponsor Records in ORR's Case Management System That Were Not Updated With Child Welfare Outcomes or Sponsorship History

The table below reports the total number of children's case files in which sponsor records within ORR's case management system, the UC Portal, were not updated with child welfare outcomes identified after children's release or sponsors' history of sponsorship.

<b>Metric</b>	<b>No. of Case Files</b>	<b>Point Estimate</b>	<b>95% Confidence Interval</b>
Sponsor records within ORR's case management system not updated with sponsorship history or outcomes	26 of 342	4.8%	2.6%–8.8%

Source: OIG review of ORR case files, 2022.

## Appendix I: Safety and Well-Being Follow Up Calls That Occurred Later Than 37 Days

For Safety and Well-Being Follow Up Calls that were conducted later than 37 days after children's release, the table below reports the median number of days the call took place after children's release. ORR policy instructs staff to conduct a followup call with a child and their sponsor 30 to 37 days after a child's release.<sup>1</sup>

No. of Followup Calls Conducted Later Than 37 Days After Children's Release	Point Estimate of Median (Days)	95% Confidence Interval of Median (Days)
93 of 342	121.6	72.8–170.4 <sup>2</sup>

Source: OIG review of ORR case files, 2022.

<sup>1</sup> **ORR, The UAC Manual of Procedures (version 5.0), section 2.8.4**, February 2021.

<sup>2</sup> The 95-percent confidence intervals for projected proportions exceed our standard of 30-percent relative precision.



## Appendix J: Safety and Well-Being Follow Up Calls, by ORR Facility Type

The table below reports the number of followup calls that occurred later than 37 days after children's release and the number of case files that lacked documentation of the followup calls, by ORR facility type. For case files which did not contain documentation of a call, ORR shared a data file that contained dates on which the followup calls occurred and limited details on the outcomes of the calls.

Facility Type	No. of Followup Calls	Point Estimate	95% Confidence Interval
<b>No. of Late Followup Calls</b>			
Standard Network Facility	18 of 169	8.5%	4.5%–15.5%
Foster Care <sup>1</sup>	14 of 31	N/A	N/A
Influx Care Facility	1 of 66	0.2%	0.04%–0.6%
Emergency Intake Site	60 of 76	80.5%	69.8%–88.0% <sup>2</sup>
<b>Late Followup Calls Total</b>	93 of 342	21.5%	17.0%–26.8%
<b>No. of Case Files Lacking Documentation of a Followup Call</b>			
Standard Network Facility	21 of 169	12.6%	7.4%–20.6%
Foster Care <sup>1</sup>	9 of 31	N/A	N/A
Influx Care Facility	5 of 66	7.2%	2.0%–22.7% <sup>2</sup>
Emergency Intake Site	35 of 76	47.2%	36.1%–58.5% <sup>2</sup>
<b>Missing Documentation Total</b>	70 of 342	18.1%	13.5%–23.8%

Source: OIG review of ORR case files, 2022. N/A = Not Applicable.

<sup>1</sup> We are unable to reliably project rates for children released from foster care due to the low sample size.

<sup>2</sup> The 95-percent confidence intervals for projected proportions exceed our standard of 10-percent absolute precision.

## Appendix K: Agency Comments

Following this page are the official comments from ACF.



ADMINISTRATION FOR  
**CHILDREN & FAMILIES**

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December 29, 2023

Ms. Juliet T. Hodgkins  
Principal Deputy Inspector General  
U.S. Department of Health and Human Services  
330 Independence Avenue, SW  
Washington, D.C. 20201

Dear Ms. Hodgkins:

I am writing to provide the Administration for Children and Families' (ACF) response to the Office of Inspector General's (OIG) draft report, *Gaps in Implementation of Sponsor Screening and Follow-up Calls Raise Concerns About the Safety of Unaccompanied Children*, (OEI-07-21-00250), which contains recommendations for the Office of Refugee Resettlement (ORR). Your report reviews March through April 2021, during one of the most challenging periods in ORR's history amid a historic number of unaccompanied children placed in ORR care, the largest and fastest expansion of emergency capacity, and at the height of the COVID-19 pandemic. As ORR worked quickly to respond to this unprecedented emergency, and with limited resources, it prioritized the safety and well-being of children at every step. We appreciate the opportunity to review and comment on the report. Below please find our comments on the report findings and our specific response to each recommendation.

### **ACF Response to Recommendations**

**Recommendation 1:** ACF implement additional safeguards to ensure that all safety checks are conducted and documented, as required, prior to approving the release of a child to their sponsor.

**ACF Response:** ACF concurs with this recommendation and has already taken action to address this recommendation. ORR continually reviews its processes and procedures and makes additions and enhancements as needed based on these reviews to strengthen the Unaccompanied Children (UC) Program. Since the time period of OIG's review, March through April 2021, ORR has taken several actions to implement additional safeguards in the sponsor screening and documentation process to ensure that all safety checks are conducted and documented. ORR has implemented UC Portal updates and developed additional trainings and resources to assist ORR field staff—who bear the responsibilities to ensure all sponsor vetting documentation is uploaded to the UC Portal and all vetting processes are followed in accordance with ORR policies and procedures.

ORR has made several important improvements to the UC Portal in an effort to better document sponsor vetting and prevent identify fraud. Since OIG reviewed ORR's implementation of sponsor screening and follow-up calls for children released to sponsors in

March and April 2021, for example, and interviewed staff at the now demobilized ORR Emergency Intake Site at Fort Bliss in June 2021, ORR has implemented several updates to the UC Portal to ensure that sponsors' records are accurately and comprehensively obtained and accessible. In December 2021, ORR added data points to the sponsor profile in the UC Portal so a case manager could see information such as previous addresses, other sponsors using that address, the number of sponsorships the sponsor has attempted as a "potential" sponsor, and the number of children who have been actually sponsored by this sponsor in a single place on the UC Portal. In February 2022, ORR created a feature in the UC Portal where a case manager vetting a sponsor who has previously sponsored another child can view the full case file of the previous child, regardless of the shelter at which the previous child was cared for. Before this new feature, ORR programs had to email a request to the other program, which then had to compile and email the files to the requesting program. This new feature in UC Portal resolved a time-intensive process, greatly expediting field staff's ability to view and evaluate necessary case information. As a function of this new feature, case managers and other users are not able to add a "new sponsor" without first using the UC Portal search functions to determine if the sponsor is already in the system.

Additionally, in May 2022, ORR digitized the sponsor assessment, which was previously only available in paper form to be uploaded as a new document in the UC Portal, making it easier for field staff to complete after speaking directly to sponsors and for case managers to review. In September 2022, ORR's Technology team introduced the concept of "UC document categories," which allows case managers to upload notes, reports, and notices. This makes it significantly easier for field staff to differentiate between documents, identify if any and what remaining documents are yet to be uploaded, and ensure a child's file includes all relevant documents. Further, in November 2022, ORR significantly enhanced how addresses are standardized when entered into the UC Portal by leveraging Smarty Streets, an address validation utility that references United States Postal Service address data, to verify and standardize each address that is entered into the UC Portal. By March 2023, the ORR Data team had standardized over one million addresses in the UC Portal, replacing unstandardized addresses. The UC Portal team is continuing this address standardization project to identify and deduplicate existing sponsor records.

As part of its effort to provide additional staff training on sponsor vetting and identifying document fraud, ORR collaborated with OIG to conduct training sessions for ORR staff, grant recipients, and contractors. In June 2022, ORR's Special Projects team, composed of federal field specialists, began collaborating with OIG's Office of Investigations (OI) to develop and implement these trainings. In 2023, ORR hosted trainings in El Paso and Houston, Texas; Los Angeles and San Francisco, California; Miami and Tampa, Florida; Portland, Oregon; and Seattle, Washington. Approximately 1,900 ORR staff, grant recipients, and contractors attended these trainings. ORR and OIG will continue to collaborate to identify future opportunities to host these trainings and provide vetting tools case managers can use post-training in 2024. Beginning in February 2023, ORR's Training and Technical Assistance Center began rolling out newly developed case manager curriculum modules, to equip all case managers with the same foundation of knowledge and understanding of thorough sponsor screening and effective case management practices. Case managers receive this training in

their first year of employment, with the majority of the training completed within 30 days of the case manager's assignment. Curriculum modules that address sponsor vetting requirements include "Category 3 Sponsor Assessment," "UC Portal Sponsor Assessment," "Assessing and Preparing Sponsors for Home Study," and "Sponsor Fingerprinting: Service Providers and Procedures 1.0." Case managers are also required to receive additional periodic trainings when policy updates are made, and trainings can be accessed any time as refreshers, as needed, in an online learning center. "UC Safe Release" was the most recent training module refreshed in November 2023 to address policy updates to the UC Program Policy Guide Section 2 regarding safe and timely release of children from ORR care. In addition to the above trainings, ORR continues to require critical safeguards when vetting a sponsor. Every sponsor receives public records and sex offender background checks. ORR also conducts interviews with sponsors, sponsor assessments, and completed family reunification applications with supporting documents.

ORR is also in the process of developing further resources, including advancing improvements to the electronic Release Request form that would require case managers, case coordinators, and federal field specialists (FFS) to describe what evidence they relied on for their release decision-making. The new form is also anticipated to include check-boxes to quickly confirm that all materials are present for the case. On August 7, 2023, ORR published a Federal Register notice pursuant to the Paperwork Reduction Act requesting public comments on the new Release Request form.<sup>1</sup>

In December 2023, ORR began issuing several policy updates to further strengthen the sponsor assessment and identification verification process. In early 2024, ORR will require parents and legal guardian (Category 1 sponsors) to provide documentation to verify their addresses, aligning them with the existing requirement for all other sponsors. This change will help to ensure consistency in the vetting process across all categories of sponsors and seeks to both enhance the accuracy of sponsor information and reduce the risk of fraudulent activities.

**Recommendation 2:** ACF should develop a reference guide to help case managers better evaluate sponsors' identity.

**ACF Response:** ACF concurs with this recommendation and has already taken action to address this recommendation. As mentioned in the response to Recommendation 1, in February 2023, ORR implemented a new case manager training curriculum, which includes training on evaluating and confirming a sponsor's true identity and serves as a critical resource guide for case managers.

ORR is consistently engaging in efforts to ensure that all staff, including case managers, understand and can appropriately implement its policies and procedures regarding sponsor

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<sup>1</sup> U.S. Department of Health and Human Services, Office of Refugee Resettlement, *Request for public comment*, 88 FR 52167 (Aug. 7, 2023) [www.federalregister.gov/documents/2023/08/07/2023-16795/proposed-information-collection-activity-release-of-unaccompanied-children-from-office-of-refugee](https://www.federalregister.gov/documents/2023/08/07/2023-16795/proposed-information-collection-activity-release-of-unaccompanied-children-from-office-of-refugee).

identity verification. The case manager training curriculum was disseminated by ORR's Training and Technical Assistance Center and serves as a critical resource guide for case managers. The curriculum includes training on evaluating and confirming a sponsor's true identity; steps case managers should take when reviewing sponsor identification; and guidance on how to determine if sponsor identification is authentic. The curriculum training is continuously available to case managers via an online learning portal. Case managers receive this training in their first year of employment, with the majority of the training completed within 30 days of the case manager's assignment.

Further complementing the case manager training curriculum as additional guidance, also mentioned in Recommendation 1, as began in June 2022, ORR's Special Projects team and OIG OI are continuing their collaboration to develop and implement additional trainings to ensure ORR staff, grant recipients, and contractors understand and can apply best practices and become better equipped to identify identification fraud.

The case manager training curriculum, which serves as a foundational reference guide both during trainings and is continuously accessible via the online learning portal, as well as ORR's as partnership with OIG to provide best practices training on sponsor identification provides the needed guidance to help case managers evaluate a sponsor's identity.

**Recommendation 3:** ACF take additional steps to ensure that mandatory home studies are conducted when required.

**ACF Response:** ACF concurs with this recommendation and has already taken action to address this recommendation. As part of ORR's efforts to ensure that mandatory home studies are conducted when required, ORR has published several updates to the UC Program Policy Guide and UC Manual of Procedures (MAP) Section 2 to clarify requirements for home studies, review of sponsors, and steps to address sponsor and address flags in the UC Portal.

On January 30, 2023, to help ensure more timely home study referrals, ORR added a new requirement in the UC Program Policy Guide (Section 2.4.2) that within three calendar days of the home study referral, the home study provider must accept the referral and staff the case with a case manager. Effective March 28, 2023, ORR also updated the UC Program Policy Guide in the same section to reformat the ORR mandatory home study policy requirements into bullet points for clarity and to state that final authority for approving discretionary home studies to ORR's FFS supervisors

Home study referrals are made by FFS and complex cases, such as cases with confirmed fraud, cases where the sponsor is the partner of the child, cases where the sponsor resides in a flagged area, and cases with concerns regarding multiple sponsorships by the same sponsor, are elevated to FFS supervisors. If a case includes criteria triggering a mandatory home study and does not already have a home study referral, the reviewing FFS and FFS supervisor, if necessary, ensure that the home study referral is made. After the home study, reports are shared with the FFS and the case manager through the UC Portal. Home study reports must be uploaded to close home

study referrals in the UC Portal. The Home Studies Post-Release Services Project Officer team monitors the closure of home study referrals utilizing Tableau and collaborates with the Child Services team to follow-up as necessary to ensure that home studies are completed.

ORR policy and procedures clarify that if an address has been flagged by ACF's Office of Trafficking in Persons (OTIP), a home study mandated by the Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA) is required. Under no circumstances should a sponsor identified by OTIP as having subjected a minor to trafficking be approved. Per ORR policy (UC Policy Guide Section 2.4.2), a sponsor is required to undergo a mandated home study if the child (1) meets mandatory TVPRA categories specified in UC Program Policy Guide Section 2.4.2 Home Study Requirement; (2) is 12 years of age or under and is being released to an unrelated sponsor; or (3) is being released to an unrelated sponsor who is seeking to sponsor multiple unrelated children or has previously sponsored or sought to sponsor additional unrelated children. In addition, the UC MAP Section 2 updated in January 2023, clarifies that a home study is required if an address has been flagged by OTIP, though under no circumstances should a sponsor identified by OTIP as having subjected a minor to trafficking be approved.

Beginning in January 2023, ORR made several updates to UC MAP Section 2: Safe & Timely Release from ORR Care, to clarify home study requirements for addresses used in numerous sponsorship applications if there is a safety concern. The UC MAP Section 2.2.2 updated in January 2023, now states that case managers must also cross-reference the address against a list of previous flags in the UC Portal to see if the sponsor or address has been flagged during a previous case. In the event that the sponsor or address has been previously flagged, the case manager must elevate all prior and current flags to the FFS by notating the concern(s) and how any previous flag(s) were addressed in the Release Request form.

In addition, ORR's Training and Technical Assistance Center developed a training for case managers and other grant recipients on both discretionary and mandatory home studies. The mandatory live training for case managers, leads, clinicians, program directors, and assistant directors was delivered live in April 2023 and a recorded version of the training was provided as a required training course for individuals who could not attend the live sessions. The training was focused on how to prepare sponsors for home studies. It covered TVPRA home study requirements and referrals as well as home study recommendation and referral requirements. Along with this training, the Project Officer team developed a script disseminated for residential care case managers to use when preparing sponsors for a home study. This document is accessible as a resource available to all case managers attached to the Assessing and Preparing Sponsors for Home Study training.<sup>2</sup>

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<sup>2</sup> U.S. Department of Health and Human Services, Administration for Children and Families, Home Study Preparation Guide, [http://lsidcdev.com/ORR/ORR/QRGs/Assessing\\_and\\_Preparing\\_Sponsors\\_for\\_Home\\_Study\\_Preparation\\_Guide.pdf](http://lsidcdev.com/ORR/ORR/QRGs/Assessing_and_Preparing_Sponsors_for_Home_Study_Preparation_Guide.pdf)



On July 11, 2023, the UC Program Policy Unit developed and issued *Frequently Asked Questions (FAQ) #11: Assessing and Preparing Sponsors for Home Study*, to the Care Provider Network, which is also uploaded to the UC Portal for continued reference. The FAQ addresses questions from the April 2023 training including information on the following topics:

- Identifying potential sponsors
- TVPRA home study requirements and referrals to OTIP
- Home study recommendation and referral requirements
- Home study case acceptance
- Preparing a sponsor for home study
- Home study process
- After the home study, including the process to request a home study addendum and timing of release recommendation

Additionally, in October and November 2023, ORR's Training and Technical Assistance Center delivered mandatory live trainings on how to conduct home studies to home study and post-release services (PRS) providers regarding ORR standardized procedures for completing a home study. Further, in December 2023, the FFS Academy released Standard Operating Procedures (SOP) to FFS on home studies.<sup>3</sup> Aligned with ORR policy and procedures, the SOP provides step-by-step instructions to guide ORR field staff on when and how to perform home studies in a consistent manner.

Since OIG's March–April 2021 evaluation period, ORR has updated its policy and implemented robust guidance, procedures, and trainings provide more safeguards into the process for determining whether to conduct a home study. Collectively, these actions help ensure home studies are conducted when required and provide guidance for when home studies are mandatory or when a discretionary home study may be advised.

**Recommendation 4:** ACF provide additional guidance for case managers on when to consider recommending discretionary home studies.

**ACF Response:** ACF concurs with this recommendation and has already taken action to address this recommendation. ORR has made several policy and guidance updates since OIG's evaluation period, particularly related to sponsor address flags and search protocols, notations, and standardization, as well as UC Portal improvements and trainings.

As referenced in Recommendation 3 above, beginning in January 2023, ORR made several updates to UC MAP Section 2: Safe & Timely Release from ORR Care, to clarify home study requirements for addresses used in numerous sponsorship applications if there is a safety concern. the UC MAP Section 2.2.2. states the process for case managers to cross-reference addresses against a list of previous flags in the UC Portal. These cases are elevated

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<sup>3</sup> This is an ORR funded grant recipient (GDIT) that works with FFS to identify training needs and develop and deliver training in coordination with FFS and other ORR stakeholders. The FFS Academy provides FFSs with a collaborative learning experience to ensure unaccompanied children have the best opportunity for a safe and secure future.



and may receive discretionary home studies. In addition, the UC MAP Section 2.2.3 now states that a consultation with OTIP and a discretionary home study may be appropriate if there are concerns about a particular address. For instance, if an exact address has been used repeated times to sponsor or request to sponsor unrelated children, the case manager, case coordinator, and FFS may refer the case for a discretionary home study. Further, ORR refined UC MAP Section 2 guidance for identifying an address, checking for address flags, flagging concerns from trusted stakeholders, and determining when a home study is required or appropriate.

ORR has recently completed multiple initiatives to improve sponsor data integrity and search protocols, with additional initiatives planned in 2024. To assist on when to consider recommending discretionary home studies, FFS are required to elevate to their supervisors all cases that have issues that may trigger discretionary home studies. As mentioned in the response to Recommendation 3 above, ORR's Training and Technical Assistance Center developed a training for case managers and other grant recipients on both mandatory and discretionary home studies. This was followed by the UC Program Policy Unit's development and issuance of the *Frequently Asked Questions (FAQ) #11: Assessing and Preparing Sponsors for Home Study*, to the Care Provider Network. Also, as previously mentioned, in December 2023, the FFS Academy released Standards Operating Procedures to FFS on home studies. These initiatives ensure case managers' ability to consider recommending discretionary home studies.

Further, ORR has implemented UC Portal improvements on sponsor flagging throughout fiscal years (FYs) 2022 and 2023, including improvements released on August 23, 2023, which enhance a user's ability to search for a sponsor in the UC Portal to increase the likelihood of finding a sponsor's record with limited information. As discussed in response to Recommendation 1 above, in November 2022, ORR also significantly enhanced how addresses are standardized when entered into the system by leveraging Smarty to verify and standardize each address that is entered into the UC Portal. By March 2023, the ORR Data team had standardized over one million addresses in the UC Portal, replacing unstandardized addresses. If a search in Smarty or the UC Portal raises a flag, depending on the totality of the conditions surrounding the case, the flag may lead to a discretionary home study. ORR's efforts to strengthen UC Portal sponsor flagging capabilities will continue throughout 2024.

**Recommendation 5:** ACF should ensure that sponsors' records in the UC Portal accurately capture sponsorship history and information obtained after children's release regarding sponsors' suitability.

**ACF Response:** ACF concurs with this recommendation and has already taken action to address this recommendation. As detailed in Recommendations 1 and 4 above, ORR has implemented multiple updates to the UC Portal and the sponsor vetting process to ensure that sponsors' records are accurately and comprehensively obtained and accessible to staff. ORR conducts monitoring to ensure that case files are updated appropriately with relevant records.

Additionally, the UC Safe Release 1.2 training module, published on November 8, 2023, covers ORR's policy requirement that sponsor records be added to the UC Portal to accurately capture sponsorship history and information obtained after children's release from ORR care. The Multi-Discipline Technical Assistance Team also delivers training and technical assistance to ORR care providers on the Safe and Timely Release process. This in-person technical assistance and training covers topics related to all documents and assessments required for the unification process, including sponsorship assessment background investigations and the safety and well-being process, as outlined in UC Program Policy Guide Section 2. As of December 2023, more than 100 ORR care providers have received this technical assistance and training.

To ensure that a child's records accurately capture information obtained after a child's release from ORR care and custody, beginning in September 2023, PRS documents, such as PRS reports and concerns identified during the provision of PRS have been added to the UC Portal case file. PRS providers are able to upload the home study report and the PRS closing report. In addition, in line with the UC Portal improvements, PRS providers are now able to upload all PRS event reports (based on each PRS visit) and Notice of Concern reports into the UC Portal when closing out the referral. The addition of these PRS-related materials will further enable a feedback loop of information allowing for potential issues or safety concerns to be flagged immediately and reported as applicable to the appropriate authorities. Sponsors, for instance, can be flagged post-release by the PRS providers in the UC Portal if sponsors do not fulfill their obligations. Notably, the UC Program Policy Guide Section 6.8.6 requires reporting issues to the appropriate authorities in certain circumstances such as suspected human trafficking, abuse, and disappearances.

To assist PRS providers, in June 2023, the ORR Technology team updated the UC Portal to allow PRS providers to better document and track their reports. Specifically, the available UC Documents categories were expanded to include "Case Management Notes," "PRS Report," and "Notification of Concern." Further, in September 2023, ORR contracted with a new partner to advance plans to implement new tools on what will eventually be a new state-of-the-art platform which replaces the original UC Portal.

Finally, ORR's UC Monitoring team utilizes a standard checklist when reviewing case files during monitoring visits (i.e., monitors verify that there is documentation indicating that this call has been made and/or that attempts to contact the sponsor and/or child have been made). The ORR UC Monitoring team will continue to work with the Project Officer team to enhance monitoring tools to reflect new home study and PRS policies.

**Recommendation 6:** ACF develop an effective monitoring mechanism to identify children who do not receive timely follow-up calls after their release to sponsors.

**ACF Response:** ACF concurs with this recommendation and has already taken action to address this recommendation. From June to July 2022, ORR conducted a 30-day improvement sprint to identify barriers and improve outcomes in four key sponsor screening process and case manager interaction indicators across 50 focused care provider programs.

This effort focused on provider performance and staff supervision to ensure cases were processed appropriately. As mentioned in response to Recommendation 5 above, in June 2023, the ORR Technology team updated the UC Portal to allow PRS providers to better document and track their reports by expanding the available UC Documents categories to include “Case Management Notes,” “PRS Report,” and “Notification of Concern.” Further, in September 2023, ORR issued a contract to advance plans to implement new tools on what will eventually be a new state-of-the art platform to replace the original UC Portal. ORR will continue to implement additional improvements that will assist in the effective and timely follow-up for unaccompanied children, within the bounds of ORR’s authority, after their placement with a vetted sponsor as the new platform is operationalized and rolled out. The effort to continually identify and improve provider performance, staff supervision, and implement UC Portal advancements will further ensure effective monitoring mechanisms to timely support to children following their placement with sponsors.

Thank you for the opportunity to review and comment on this draft report. Please direct any follow-up inquiries to Amanda Barlow, Director of the Office of Legislative Affairs and Budget, at (202) 401-5009.

Sincerely,

A handwritten signature in dark ink, appearing to read 'J. Hild', is positioned above the printed name.

Jeff Hild  
Acting Assistant Secretary  
for Children and Families

# ACKNOWLEDGMENTS AND CONTACT

## Acknowledgments

Haley Lubeck and Dana Squires served as the team leaders for this study. Caroline Filbrun and Mollee Sultani served as research analysts for this study. Additional staff who contributed to this study include Joe Chiarenzelli, Christina Price, Sarah Smith, Andrea Hofstetter, and Jordan Swoyer. Office of Evaluation and Inspections headquarters staff who provided support include Althea Hosein, Jessica Swanstrom, and Sara Swisher.

This report was prepared under the direction of Brian Whitley, Regional Inspector General for Evaluation and Inspections in the Kansas City regional office, and Abbi Warmker, Deputy Regional Inspector General.

## Contact

To obtain additional information concerning this report, contact the Office of Public Affairs at [Public.Affairs@oig.hhs.gov](mailto:Public.Affairs@oig.hhs.gov). OIG reports and other information can be found on the OIG website at [oig.hhs.gov](http://oig.hhs.gov).

Office of Inspector General  
Department of Health and Human Services  
330 Independence Avenue, SW  
Washington, DC 20201

# ABOUT THE OFFICE OF INSPECTOR GENERAL

## Office of Inspector General

<https://oig.hhs.gov>

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# ENDNOTES

<sup>1</sup> ORR, UC Program Policy Guide (ORR Policy Guide): Introduction. Available at <https://acfmain-stage.acf.hhs.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide-introduction>. Accessed on Dec. 2, 2021. During our review period, the (Policy Guide) was known as ORR Guide: Children Entering the United States Unaccompanied.

<sup>2</sup> ORR Policy Guide: Guide to Terms. Available at <https://www.acf.hhs.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide-guide-terms>. Accessed on Mar. 23, 2022.

<sup>3</sup> ORR Policy Guide, section 2.1, June 18, 2019. Available at <https://www.acf.hhs.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide-section-2>. Accessed on Apr. 21, 2021.

<sup>4</sup> ACF, About the Program, Apr. 29, 2021. Available at <https://www.acf.hhs.gov/orr/programs/ucs/about>. Accessed on Feb. 22, 2022.

<sup>5</sup> 6 USC § 279(g)(2).

<sup>6</sup> 8 USC § 1232(b)(3).

<sup>7</sup> 8 USC § 1232(c)(2).

<sup>8</sup> ORR Policy Guide: Introduction. Available at <https://acfmain-stage.acf.hhs.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide-introduction>. Accessed on Dec. 2, 2021.

<sup>9</sup> ORR Policy Guide: Introduction. Available at <https://acfmain-stage.acf.hhs.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide-introduction>. Accessed on Dec. 2, 2021.

<sup>10</sup> Facility types in ORR's licensed care provider network include shelters; foster care or group homes; staff-secure or secure facilities; and residential treatment centers. ORR Policy Guide, section 1.1, Jan. 27, 2015. Available at <https://www.acf.hhs.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide-section-1>. Accessed on Sept. 16, 2022.

<sup>11</sup> ORR Policy Guide: Introduction. Available at <https://acfmain-stage.acf.hhs.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide-introduction>. Accessed on Dec. 2, 2021.

<sup>12</sup> ACF, About the Program, Apr. 29, 2021. Available at <https://www.acf.hhs.gov/orr/programs/ucs/about>. Accessed on Feb. 22, 2022.

<sup>13</sup> ORR terminology previously referred to standard network facilities as shelter facilities.

<sup>14</sup> ORR Policy Guide: Guide to Terms. Available at <https://www.acf.hhs.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide-guide-terms>. Accessed on Mar. 23, 2022.

<sup>15</sup> ORR may activate and open an Influx Care Facility when ORR's net bed capacity at State-licensed shelters and transitional foster care programs is at or exceeds 85 percent for a period of 3 days. ORR Policy Guide, section 7.2.2, Sept. 18, 2019. Available at <https://www.acf.hhs.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide-section-7>. Accessed on Apr. 21, 2021.

<sup>16</sup> As of May 2023, ORR does not operate any EISs. ORR closed its last EIS in June 2022.

<sup>17</sup> As of January 2024, ORR plans to update the term "influx care facility or emergency intake site" with the term "emergency or influx facility."

<sup>18</sup> Influx Care Facilities generally provide the same services as ORR standard network facilities. ORR details minimum required services for Influx Care Facilities in section 7.5.1 of the ORR Policy Guide, Sept. 18, 2019. Available at <https://www.acf.hhs.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide-section-7#7.5.1>. Accessed on Apr. 21, 2021.

<sup>19</sup> ORR field guidance, ORR Field Guidance #13, Emergency Intake Sites (EIS) Instructions and Standards, Apr. 30, 2021. Available at <https://www.acf.hhs.gov/sites/default/files/documents/orr/FG-13%20EIS%20Instructions%20and%20Standards%202021%2004%2030.pdf>. Accessed on June 16, 2021.

<sup>20</sup> ORR Field Guidance #13, issued April 30, 2021, required EISs to provide case management services, “as soon as possible and to the extent practicable,” for the safe and timely release of children to sponsors. However, because EISs were established as temporary stopgap facilities, prior to the issuance of ORR Field Guidance #13, they were not initially intended to provide the full range of services offered at ORR’s licensed facilities (e.g., case management for the safe and timely release of children). The rapid increase of unaccompanied children referred to ORR care from February through April 2021, combined with physical distancing protocols recommended to reduce the spread of COVID-19, caused a severe shortage of beds in ORR’s licensed care provider network. This meant that many children could not be transferred from EISs to licensed ORR facilities and needed to be released directly from EISs to sponsors. As a result, ORR and its contractors had to establish services for the safe and timely release of children from EISs.

<sup>21</sup> Settlement Agreement, *Flores, et al. v. Reno*, Case No. CV 85-4544-RJK (C.D. CA, 1997), § 6, par. 14.

<sup>22</sup> ORR Policy Guide, section 2.1, June 18, 2019. Available at <https://www.acf.hhs.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide-section-2>. Accessed on Apr. 21, 2021.

<sup>23</sup> 8 U.S.C. § 1232(c)(3).

<sup>24</sup> ORR Policy Guide, section 2.2.1, June 18, 2019. Available at <https://www.acf.hhs.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide-section-2>. Accessed on Apr. 21, 2021.

<sup>25</sup> ORR Policy Guide, section 2.3, June 18, 2019. Available at <https://www.acf.hhs.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide-section-2>. Accessed on Apr. 21, 2021.

<sup>26</sup> During our period of review (March and April 2021), EISs were staffed by Federal detailees and contracted case managers given the urgent need to increase ORR’s network capacity.

<sup>27</sup> ORR Field Guidance #13, Emergency Intake Sites (EIS) Instructions and Standards, Apr. 30, 2021. Available at <https://www.acf.hhs.gov/sites/default/files/documents/orr/FG-13%20EIS%20Instructions%20and%20Standards%202021%2004%2030.pdf>. Accessed on June 16, 2021.

<sup>28</sup> As of Mar. 22, 2021, children to be released to their parent or legal guardian sponsor were eligible for expedited release if they met criteria specified under ORR Field Guidance #10. A child is not eligible for expedited release if: (1) the child is determined to be especially vulnerable, (2) the child is subject to a mandatory TVPRA home study, or (3) there are red flags present in the child’s case. This field guidance modified assessments and procedures of the sponsor screening process to accelerate the release of eligible children to their sponsors. ORR Field Guidance #10, Expedited Release for Eligible Category 1 Cases, Mar. 22, 2021. Available at <https://www.acf.hhs.gov/sites/default/files/documents/orr/FG-10%20Expedited%20Release%20for%20Eligible%20Category%201%20Cases%202021%2003%2022.pdf>. Accessed on June 8, 2021.

<sup>29</sup> The applicable policies and guidance related to the sponsor screening process in effect during our period of review (March and April 2021) included the ORR UC Program Policy Guide, section 2 (January 2015), The UAC Manual of Procedures (version 5.0), section 2 (February 2021), ORR Field Guidance #10 (March 2021), and ORR Field Guidance #11 (March 2021).

<sup>30</sup> ORR Policy Guide, section 2.2, June 18, 2019. Available at <https://www.acf.hhs.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide-section-2>. Accessed on Apr. 21, 2021.

<sup>31</sup> ORR, The UAC Manual of Procedures (version 5.0), section 2.2.2, February 2021.

<sup>32</sup> Sponsors are required to complete the Family Reunification Application as one component of The Family Reunification Packet. The packet consists of documents a potential sponsor must complete before a release decision can be made, including an Authorization for Release of Information, a Family Reunification Application, and a Sponsor Care Agreement. Documents in the Family Reunification Packet were updated following our period of review. See <https://www.acf.hhs.gov/orr/policy-guidance/unaccompanied-children-program>.

<sup>33</sup> ORR Policy Guide, section 2.2.4, July 3, 2019. Available at <https://www.acf.hhs.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide-section-2>. Accessed on Apr. 21, 2021.



<sup>34</sup> ORR, The UAC Manual of Procedures (version 5.0), section 2.2.4, February 2021.

<sup>35</sup> ORR, The UAC Manual of Procedures (version 5.0), sections 2.2.3 and 2.2.4, February 2021.

<sup>36</sup> ORR Policy Guide, section 2.4, Mar. 15, 2016. Available at <https://www.acf.hhs.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide-section-2>. Accessed on Apr. 21, 2021.

<sup>37</sup> ORR, The UAC Manual of Procedures (version 5.0), section 2.4.1, February 2021.

<sup>38</sup> ORR Policy Guide, section 2.5, June 18, 2019. Available at <https://www.acf.hhs.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide-section-2>. Accessed on Apr. 21, 2021.

<sup>39</sup> ORR, The UAC Manual of Procedures (version 5.0), section 2.2.4, February 2021.

<sup>40</sup> On March 31, 2021, ORR Field Guidance #11 waived requirements for background checks of household members of Category 2 sponsors, unless: (1) the child is especially vulnerable, (2) the child is subject to a mandatory TVPRA home study, or (3) there are red flags present in the case. This field guidance remains active as of April 2023. ORR Field Guidance #11, Temporary Waivers of Background Check Requirements for Category 2 Adult Household Members and Adult Caregivers, March 31, 2021. Available at <https://www.acf.hhs.gov/sites/default/files/documents/orr/FG-11%20Temporary%20Waiver%20of%20Background%20Check%20Requirements%202021%2003%2031.pdf>. Accessed on June 16, 2021.

<sup>41</sup> SmartyStreets is an internet address verification platform.

<sup>42</sup> ORR, The UAC Manual of Procedures (version 5.0), section 2.2.4, February 2021.

<sup>43</sup> The UAC Manual of Procedures had been updated since the date of this review and, as of March 2023, ORR does not require case managers to upload documentation of the UC Portal address check to the UC Portal. ORR, The UAC Manual of Procedures (version 8.1), section 2.2.4, March 2023.

<sup>44</sup> ORR, The UAC Manual of Procedures (version 5.0), section 2.5.1, February 2021.

<sup>45</sup> ORR Policy Guide, section 2.5, June 18, 2019. Available at <https://www.acf.hhs.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide-section-2>. Accessed on Apr. 21, 2021.

<sup>46</sup> ORR, The UAC Manual of Procedures (version 5.0), section 2.5.1, February 2021.

<sup>47</sup> HHS Program Support Center, Division of Children's Services conduct all FBI fingerprint and State child abuse and neglect registry checks on behalf of ORR. ORR, The UAC Manual of Procedures (version 5.0), section 2.5, February 2021.

<sup>48</sup> ORR, The UAC Manual of Procedures (version 5.0), section 2.5.1 and appendix 2.14, February 2021.

<sup>49</sup> If there is nonconcurrence between the case manager's recommendation and the case coordinator's recommendation on the performance of a home study, the case coordinator elevates the case to the Federal field specialist, who will make a determination on whether or not to conduct a home study. ORR, The UAC Manual of Procedures (version 5.0), section 2.4.2, February 2021.

<sup>50</sup> ORR, The UAC Manual of Procedures (version 5.0), section 2.4.2, February 2021.

<sup>51</sup> ORR Policy Guide, section 2.4.2, Jan. 9, 2017. Available at <https://www.acf.hhs.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide-section-2>. Accessed on Apr. 21, 2021.

<sup>52</sup> When a child is released to a sponsor who received a home study, that child is referred for post-release services. ORR also refers for post-release services in cases in which a child is released to a non-relative sponsor, or the child and sponsor would benefit from ongoing assistance from a community-based service provider. Post-release services are provided to promote the safety and well-being of children and to provide access to services that support the child and sponsor. ORR Policy Guide, section 6.2, Sept. 11, 2017. Available at <https://www.acf.hhs.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide-section-6#6.2>. Accessed on May 28, 2021.

<sup>53</sup> For the purposes of a TVPRA-mandated home study, the physical or sexual abuse must be perpetrated by a parent, legal guardian, caregiver, or other adult with a special relationship to the child.



<sup>54</sup> ORR Policy Guide, section 2.4.2, Jan. 9, 2017. Available at <https://www.acf.hhs.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide-section-2>. Accessed on Apr. 21, 2021.

<sup>55</sup> ORR Policy Guide, section 2.4.2, Jan. 9, 2017. Available at <https://www.acf.hhs.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide-section-2>. Accessed on Apr. 21, 2021.

<sup>56</sup> ORR, The UAC Manual of Procedures (version 5.0), section 2.4.2, February 2021.

<sup>57</sup> ORR Policy Guide, section 2.4.2, Jan. 9, 2017. Available at <https://www.acf.hhs.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide-section-2>. Accessed on Apr. 21, 2021.

<sup>58</sup> ORR, The UAC Manual of Procedures (version 5.0), section 2.4.2, February 2021.

<sup>59</sup> If a case manager recommends a discretionary home study, they are required to document in children's case files what additional information the home study will be able to provide, other than what has already been gathered via the sponsor assessment process. If a case manager does not recommend a discretionary home study, ORR policy does not require case managers to document their decision process. ORR, The UAC Manual of Procedures (version 5.0), section 2.4.2, February 2021.

<sup>60</sup> ORR's guide, The UAC Manual of Procedures, contains only the following specific example of when a discretionary home study should not be conducted: concerns related to moving violations and DUIs or DWIs (unless there are multiple charges in a relatively short period) unconnected to a well-founded child welfare concern are not to be used as the underlying basis for a discretionary home study. ORR, The UAC Manual of Procedures (version 5.0), section 2.4.2, February 2021.

<sup>61</sup> The case manager and case coordinator must agree on a release recommendation to the ORR Federal field specialist. If they cannot agree they may refer the case directly to an ORR Federal field specialist for guidance on how to proceed. ORR, The UAC Manual of Procedures (version 5.0), section 2.7, February 2021.

<sup>62</sup> ORR Policy Guide, section 2.7, June 29, 2018. Available at <https://www.acf.hhs.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide-section-2>. Accessed on Apr. 21, 2021.

<sup>63</sup> As of April 2023, ORR is transitioning away from Safety and Well-being Follow Up Calls to expand post-release services to all children released from care. ORR reported that under this new framework, each child should receive, at a minimum, a virtual or in-person visit at 7, 14, and 30 days after release to confirm the child is residing with their sponsor; is enrolled in school; is aware of upcoming court dates; and is healthy and safe.

<sup>64</sup> Facility staff are required to conduct Safety and Well Being Follow Up Calls with children and their sponsors after children are released from care. However, because of staffing challenges, ORR shared that staff at the ORR National Call Center also conducted followup calls for children in our sample and their sponsors.

<sup>65</sup> The care provider facility staff must make a minimum of three attempts to speak with both the sponsor and the child unless the telephone is disconnected. The facility staff must make all call attempts within the 7 days following the 30-day mark of the child's release. The facility staff must not begin making calls prior to that 30-day mark and must make the call even if the sponsor or the child has already reached out to them independently. The results of the call are documented in the case management notes of the child's case file. ORR, The UAC Manual of Procedures (version 5.0), section 2.8.4, February 2021.

<sup>66</sup> If the care provider believes that the child is unsafe, the care provider must comply with mandatory reporting laws, State licensing requirements, and Federal laws and regulations for reporting to local child protective agencies and/or law enforcement. ORR Policy Guide, section 2.8.4, Mar. 14, 2016. Available at <https://www.acf.hhs.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide-section-2>. Accessed on Apr. 21, 2021.

<sup>67</sup> ACF, UAC Portal User Manual (version 1.2), September 2017.

<sup>68</sup> OIG, *Operational Challenges Within ORR and the ORR Emergency Intake Site at Fort Bliss Hindered Case Management for Children*, OEI-07-21-00251, September 2022.

<sup>69</sup> OIG, *HHS's Office of Refugee Resettlement Improved Coordination and Outreach To Promote the Well-Being of Unaccompanied Alien Children*, OEI-09-16-00260, July 2017.

<sup>70</sup> As a result of our pre-inspection interviews and reports on case management and child safety at the ORR EIS at Fort Bliss, we initiated a second evaluation focused on operational challenges at the facility. For that work, we conducted 66 interviews

with individuals who were directly or indirectly involved in case management at the ORR EIS at Fort Bliss. For additional information, the final report can be accessed at <https://oig.hhs.gov/oei/reports/OEI-07-21-00251.asp>.

<sup>71</sup> Some sponsors may be required to receive an FBI fingerprint or State child abuse and neglect registry check depending on the sponsor's relationship to the child and other factors specified in ORR Policy. ORR, UAC Manual of Procedures (version 5.0), sections 2.2.4 and 2.5.1, February 2021.

<sup>72</sup> Three case files were missing any documentation of both an address check and a background check.

<sup>73</sup> During our period of review, ORR policy required case managers to upload documentation of the results of each address check and public background check in the UC Portal. However, ORR shared separately that only some facilities take a screenshot of the results of the UC Portal address search and upload the results to the child's case file in the UC Portal. ORR, The UAC Manual of Procedures (version 5.0), section 2.2.4, February 2021.

<sup>74</sup> The denominator for this analysis changes because only 189 of the 342 children's sponsors were required to receive an FBI fingerprint check and/or a child abuse and neglect registry check.

<sup>75</sup> ORR policy does not explicitly define all conditions (e.g., cases in which a special concern is identified) that would disqualify a child from release to a sponsor when the results of a safety check are pending. Therefore, our analysis did not determine whether children with pending FBI fingerprint or child abuse and neglect checks were released in accordance with ORR policy.

<sup>76</sup> ORR Policy Guide, section 2.5.2, June 18, 2019. Available at <https://www.acf.hhs.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide-section-2>. Accessed on Apr. 21, 2021.

<sup>77</sup> ORR, The UAC Manual of Procedures (version 5.0), section 2.2.2, February 2021.

<sup>78</sup> ORR Policy Guide, section 2.8.2, June 18, 2019. Available at <https://www.acf.hhs.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide-section-2>. Accessed on Apr. 21, 2021.

<sup>79</sup> ORR provided training to its staff on safe releases in February 2022.

<sup>80</sup> ORR's Manual of Procedures, section 2.4.2, states that if a sponsor has sponsored an unrelated child and later wishes to sponsor a related child who is not their own child (e.g., a niece or first cousin), then the sponsor is required to undergo a home study. ORR, The UAC Manual of Procedures (version 5.0), section 2.4.2, February 2021.

<sup>81</sup> In ORR's Policy Guide, section 2.4.2, a TVPRA-mandated home study is required for a child who 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. For the purposes of a TVPRA-mandated home study, the abuse must come from a parent, legal guardian, caregiver, or other adult with a special relationship to the child. ORR Policy Guide, section 2.4.2, Jan. 9, 2017. Available at <https://www.acf.hhs.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide-section-2>. Accessed on Apr. 21, 2021.

<sup>82</sup> If a case manager recommends a discretionary home study, they are required to document in children's case files what additional information the home study will be able to provide, other than what has already been gathered via the sponsor assessment process. If a case manager does not recommend a discretionary home study, ORR policy does not require case managers to document their decision process. ORR, The UAC Manual of Procedures (version 5.0), section 2.4.2, February 2021.

<sup>83</sup> ORR's UAC Manual of Procedures contains only the following specific example of when a discretionary home study should not be conducted: concerns related to moving violations and DUI/DWIs (unless there are multiple charges in a relatively short period) unconnected to a well-founded child welfare concern are not to be used as the underlying basis for a discretionary home study. ORR, The UAC Manual of Procedures (version 5.0), section 2.4.2, February 2021.

<sup>84</sup> ORR, The UAC Manual of Procedures (version 5.0), section 2.2.3, February 2021.

<sup>85</sup> ORR shared with OIG that it considers its Policy Guide, section 2.8.4, which requires care providers to conduct a followup call with a child and their sponsor 30 days after the release, to be a best practice. ORR also considers the timeline specified in The UAC Manual of Procedures (version 5.0), section 2.8.4, which requires care providers to make a minimum of three attempts to speak with both the sponsor and the child within 7 days following the 30-day mark of a child's release, to be a best practice.

<sup>86</sup> If a check for previous sponsorship indicates that a potential sponsor has previously sponsored or previously attempted to sponsor an unaccompanied child in ORR care, the case manager assesses the sponsor's compliance for successful sponsorships by obtaining the records from the care provider where the previously sponsored child was in care, including the Safety and Well-Being Follow Up Call notes. The case manager reviews the information provided and compares the information to the current case noting any discrepancies or red flags and then documents the findings in the UC Case Review. ORR, *The UAC Manual of Procedures* (version 5.0), section 2.2.2, February 2021.

<sup>87</sup> These percentages reflect adjusted rates based on the population and sample size of children released from each facility type. Our sample included 169 children released from standard network facilities and 76 children released from EISs. The difference in the proportion of calls that were late for children released from standard network facilities compared to those for children released from EISs was statistically significant ( $p < 0.001$ ).

<sup>88</sup> OIG, *Operational Challenges Within ORR and the ORR Emergency Intake Site at Fort Bliss Hindered Case Management for Children*, (OEI-07-21-00251), September 2022.

<sup>89</sup> ORR, *Update on Efforts to Mitigate Child Labor Exploitation and Internal Audit on Placement Process Used to Transfer Custody of Unaccompanied Children to Vetted Sponsors*, June 2, 2023. Available at <https://www.acf.hhs.gov/sites/default/files/documents/orr/update-on-efforts-to-mitigate-child-labor-exploitation-internal-audit-placement-process.pdf>. Accessed on June 27, 2023.

# **EXHIBIT B**



# ADMINISTRATION FOR CHILDREN & FAMILIES

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

February 4, 2025

To: File  
From: Office of the Director, Office of Refugee Resettlement  
Re: Recommendations to Combat Sponsor and UAC Fraud

Melissa B.  
Harper -S2

Digitally signed by Melissa  
B. Harper -S2  
Date: 2025.02.06 13:38:10  
-05'00'

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## EXECUTIVE SUMMARY

Under the Biden Administration, the Office of Refugee Resettlement (ORR) became a conduit for child exploitation, sexual predators, and human trafficking. They failed to protect these vulnerable children by ignoring safety risks, prioritizing their quick release over their safety even when presented with facts from the HHS Office of the General Counsel (OGC). President Trump will no longer allow ORR to facilitate the exploitation of unaccompanied children. President Trump is committed to protecting children. ORR will now be combating pervasive fraud in the UAC Program which enabled child trafficking, abuse, and unsafe conditions for vulnerable children. Our goal is to protect these children from continued exploitation.

In June 2022, at the request of Florida Governor Ron DeSantis, the Supreme Court of Florida impaneled a statewide grand jury to investigate the impact of illegal immigration on Florida. One of its reports, published in March 2023, outlined over 100 allegations concerning deficiencies in ORR's administration of the Unaccompanied Children (UAC) Program. Allegations included sponsor vetting failures, identity verification lapses, instances of child trafficking, and fraud in the sponsorship process.

In response to these allegations, the OGC conducted an internal investigation, confirming significant issues in sponsor vetting and broader programmatic vulnerabilities. Findings included instances of sponsors submitting fraudulent documents, sponsors with multiple aliases and addresses, children being released into overcrowded or unsafe living conditions, and sponsors extorting or exploiting children. OGC also identified rising concerns about age fraud, where adults masqueraded as minors, leading to serious safety risks.

Following OGC's findings, ORR established an Integrity & Accountability (I&A) Team in mid-2023 to detect and prevent fraud. The I&A Team corroborated OGC's findings, identifying additional instances of fraudulent sponsorship applications, document falsifications, and patterns of human trafficking and exploitation. Despite mounting evidence, ORR's data revealed that less than 1% of sponsorship applications were denied over recent years, highlighting systemic gaps in oversight. OGC briefed Secretary Becerra's Chief of Staff and the Deputy Secretary about this matter and political leadership took no meaningful steps to address the issue. This was a heinous dereliction of duty by the Biden Administration and must be immediately rectified in order to protect vulnerable children."

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To address these challenges, ORR proposes immediate changes to improve sponsor vetting, programmatic oversight, and interagency collaboration. Key recommendations include:

- **Strengthening Sponsor Vetting:** Implement fingerprinting, DNA testing, and stricter document verification requirements, including immigration status, for all sponsor categories.
- **Enhancing Oversight:** Expand ORR's I&A Team, increase background checks for care provider staff, and ensure compliance with internal audit policies.
- **Technology Upgrades:** Introduce facial recognition, fraud tracking tools, and a centralized case management database to improve the data collection, sponsor adjudication process, post-release sponsor monitoring and document security.
- **Interagency Coordination:** Work with federal partners, including DOJ, USCIS, and DHS, to improve information sharing and expedite legal proceedings for UAC cases.
- **Legislative Proposals:** Advocate for a stronger national child abuse database, biometric data collection for minors, and changes to appropriations language to allow better collaboration between ICE and ORR.

These actions aim to mitigate fraud, protect UAC from exploitation, and improve the integrity of the UAC Program. By addressing systemic vulnerabilities, ORR seeks to create a safer and more accountable framework for children that come through its custody and support administrative and criminal investigations to eliminate child trafficking.

## BACKGROUND

In June 2022, the Supreme Court of Florida at the request of Governor Ron DeSantis opened a statewide grand jury investigation into the impact of illegal immigration on the State of Florida. See Order Directing Impanelment of a Statewide Grand Jury, Case No. SC22-796, available at: [https://efactssc-public.flcourts.org/casedocuments/2022/796/2022-796\\_disposition\\_155909\\_d04i.pdf](https://efactssc-public.flcourts.org/casedocuments/2022/796/2022-796_disposition_155909_d04i.pdf) (last visited January 24, 2025). The Florida statewide grand jury issued several reports, including a report that was published on March 29, 2023 (hereinafter "March report").<sup>1</sup> The March report contained over 100 allegations related to the Office of Refugee Resettlement and how it administers the Unaccompanied Children (UAC) Program. The allegations covered a variety of issues including insufficient sponsor vetting, lax verification of sponsor and UAC identities, gang affiliation of UAC, care provider fraud, deficiencies in hiring and training care provider staff, and UAC safety concerns while in ORR's custody. About one-third of the allegations focused on deficiencies in the sponsorship vetting process. The March report alleged that the process of identifying UAC and their sponsors creates multiple perverse

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<sup>1</sup> The statewide grand jury reports are available here: <https://acis.flcourts.gov/portal/court/68f021c4-6a44-4735-9a76-5360b2e8af13/case/651d8f68-f322-4cd0-831f-74dc9b0d77a8> (last visited January 24, 2025).



incentives and tragic outcomes and cast ORR and other Federal agencies as “middlemen” in an ongoing child trafficking scheme.

In May 2023, the HHS Office of the General Counsel (OGC) conducted an internal investigation to identify “which allegations [in the March report related to sponsor vetting] can and cannot be substantiated, where policy was and wasn’t complied with, and where additional safeguards should be considered to continue to strengthen and improve the [UAC] program for the children [ORR] serve[s].”

#### **A. Fraud Identified by OGC during Internal Investigation**

As part of its investigation, OGC conducted about 20 hours of interviews with ORR staff and reviewed data, case files, videos, and other publicly available information. The investigation focused on whether allegations related to sponsor vetting in the grand jury’s March report were accurate. By and large, OGC found that most of the allegations in the March report were accurate. For instance, the grand jury alleged that potential sponsors were submitting fraudulent documents and photographs to ORR to sponsor multiple children simultaneously. OGC’s investigation uncovered multiple instances of sponsors submitting fraudulent photographs and documents.

For example, in 2022, a potential sponsor submitted to ORR Photograph 1 below to establish his relationship with the child’s mother.

**Photograph 1**



Even though this photograph was photoshopped, ORR released the child to the sponsor. The post-release services provider assigned to follow-up with the child and sponsor was unable to contact the sponsor or child and the case was closed.

About two months later, that same sponsor attempted to sponsor *another* child. He submitted Photograph 2 below to ORR to establish his identity.

### Photograph 2



As shown in Photograph 2, the sponsor holding the ID card in the photograph is not the same individual pictured in the Guatemalan identification card. ORR denied the sponsorship after an ORR Federal Field Specialist coincidentally remembered the sponsor from the first case.

Another allegation made by the Florida statewide grand jury was that 100 UAC were released to a “single family dwelling” in Texas. OGC was not able to find a single-family dwelling where 100 UAC were released but did find that between 2021 and 2023, about 240 UAC had been released to about 200 unique sponsors with addresses at four apartment complexes within a quarter mile of each other in Austin, Texas. To put this in perspective, these four addresses include about 565 total units (based on a Google search). During the two-and-a-half-year period reviewed, on average a UAC was released to nearly half of all units. While migrants from the same country often live near each other, there were several indications of suspicious activity at these addresses, including seven sponsors using the same apartment number. OGC also identified a sponsor who sponsored two UAC at two of these apartment buildings at nearly the exact same time.

Further, in April 2022, a sponsor attempted to sponsor a UAC at an address where nine people were already living. The apartment only had two bedrooms. The sponsor was already sponsoring another UAC living at that address. The UAC was sleeping in a small closet with no ventilation that was described as “very, very warm.” Although the home study provider did not



recommend release, ORR released the UAC to the sponsor knowing that ten people would be living in a two-bedroom apartment. After the UAC was released, the post-release services provider was unable to contact the sponsor or child.

Despite not being an objective of OGC's work, through the course of its investigation, OGC learned of age fraud in the Program. ORR staff indicated that they believed age fraud was on the rise. Some UAC are pretending to be children when in fact they are adults. In one high-profile case, a UAC (hereinafter "the defendant") was released to a sponsor in Jacksonville, Florida. Several months later, the defendant murdered the sponsor. After a law enforcement investigation, it was revealed that the defendant was actually 23 years old at the time of the murder, making him 23 years old when he was in ORR custody. Photograph 3 below is a photograph of the defendant when he was in ORR custody.



Multiple ORR incident reports reveal that the defendant made lewd comments to children and staff while in custody. One report stated that the defendant asked a child, "Usted quiere tener sexo?" meaning "You want to have sex?" Another incident report indicated that the defendant told a shelter staff that he was in love with her. The prevalence of adults living among children raises serious concerns about child safety in ORR's facilities.

During the investigation, ORR staff nearly unanimously stated that both sponsor and age fraud had increased, and some said the increase was dramatic. OGC was not able to quantify the increase in fraud, however, because ORR does not systematically track identified instances of fraud. But these documented instances of fraud corroborate what ORR Field staff reported. Among various other recommendations, ORR Field staff unanimously recommended fingerprinting all sponsors, no matter the sponsor's alleged relationship with the UAC, and also recommended stricter document verification policies for all sponsors. Additionally, multiple staff mentioned the possibility of using DNA testing more frequently to establish sponsor relationship with the child.

## **B. Fraud Identified by ORR's Integrity & Accountability Team**

Following OGC's findings, in June 2023, an Integrity and Accountability (I&A) Team was established within the Office of the ORR Director as an independent oversight body with defined responsibilities to detect, prevent, mitigate, and report fraud and exploitation perpetrated by stakeholders of the Unaccompanied Children Bureau, such as sponsors, parents, and UAC. Over the past 7 months, the I&A Team has conducted a review of suspected fraud incident reports and data analysis of fraud in the Program. In short, the I&A Team identified the same types of fraud that OGC found during its internal investigation.

For instance, the Team has identified instances of children and sponsors using altered birth certificates or unaltered birth certificates belonging to another person. The Team found that the fraud often involved collusion with other people, such as a family member in the Country of Origin (COO). For example, the I&A Team identified 10 UAC who were released to sponsors who committed intentional document fraud in October 2024. The Team believes, however, that this fraud is underreported. The volume of fraud is difficult to capture because the categories of sponsors require different levels of documentation and receive varying levels of scrutiny. For example, category 1 sponsors (parent or legal guardian) and category 2A (relative that has previously been a primary caretaker of the UAC) and 2B (relative that has not been a primary caretaker of the UAC) are less scrutinized than the category 3 sponsors (unrelated adult).

In one case, the I&A Team found a woman and her partner attempted to sponsor a total of 15 UAC by using multiple aliases over a five-year period. The woman used various aliases to attempt to sponsor eight UAC over five years, with four UAC having been released to her, and four unsuccessful attempts to sponsor other UAC. The aliases were only discovered when the sponsor was fingerprinted. Of the four successful sponsorships, three were Category 1 cases and one was a Category 2A case. ORR staff also determined that the woman's partner also sponsored multiple children at multiple addresses. ORR staff identified three attempted or successful sponsorships by the woman's partner. All three of these cases were associated with one of the addresses listed by the woman. The woman's partner successfully sponsored one child as a purported Category 1 sponsor. The other two attempted sponsorships by the woman's partner were unsuccessful. Still, the woman was listed as part of the care plan for one UAC at the address that the partner listed, and that was the same address listed in the several of the sponsor's cases. There were four sponsors who used one of the addresses used by the woman in an attempt to sponsor seven UAC. In all, 15 UAC were impacted by successful and potential sponsorships by these two individuals.

In another case that occurred in late February 2024, an individual sponsor using multiple identities and addresses to sponsor or attempt to sponsor multiple children in the Cleveland, Ohio area was discovered after an investigation of potential child abuse and trafficking. The individual successfully sponsored a 15-year-old female UAC whose allegations of sexual abuse and trafficking led to charges of rape against the sponsor. The sponsor successfully used multiple identifications as revealed by multiple images in the UC Portal holding different identification cards, posing as various relatives (mostly as a brother), resulting in numerous sponsor profiles. At least two different addresses were used by the same individual. In addition to the 15-year-old female UAC he also sponsored a 17-year-old male UAC and attempted to sponsor a second 16-

year-old female UAC, and a 15-year-old male UAC. The two attempts were unsuccessful due a UC Portal address flag.

After pulling all releases to sponsors in Cleveland, Ohio that occurred between July 1, 2023, through February 28, 2023, additional cases in the region were flagged with concerns. The cases uncovered another sponsor who was using different IDs, as well as different sponsor who lived with the first sponsor, and an overlap of addresses. This example and related cases indicate sponsors' use of multiple identities, and multiple sponsors using the same addresses to sponsor or attempt to sponsor multiple children, as well as the fluidity of sponsor movement from one address to another.

The I&A Team also identified several instances of attempted or successful extortion of sponsors and/or other individuals who were part of a UAC's case. In the cases reviewed over a 7-month period, an estimated \$63,900 was extorted. In several cases, an individual demanded payment to sponsor the UAC. One scheme consisted of 17 reported instances of successful extortion over 4 months, totaling \$27,694.

The I&A Team has developed many important recommendations for combatting fraud to prevent sex and labor trafficking, which are incorporated in the recommendations below.

### **C. ORR Sponsorship Denial Data**

Review of ORR's sponsorship data shows that almost no sponsorships have resulted in a denial, despite the mounting evidence of significant fraud in the Program. In Fiscal Year 2021, 108,352 UAC were released to a sponsor. Of those, 107,856 were released to a sponsor without a sponsorship denial. Therefore, less than 1% of sponsorships were denied. This pattern of nearly nonexistent denials has continued over the last four years. In FY 2024, 99,421 UAC were released to a sponsor. Of those, 98,866 were released without a sponsorship denial, or less than 1%. The nearly nonexistent sponsorship denials are concerning given that ORR's Field staff has repeatedly warned of an increase in sponsorship fraud and the I&A Team's and OGC's findings that fraud occurs at an alarming rate in the Program.

### **D. Congressional and Other Warnings About Increased Fraud**

The HHS Office of Inspector General released a report in February 2024 titled, "Gaps in Sponsor Screening and Follow Up Raise Safety Concerns for Unaccompanied Children."<sup>2</sup> The Report identified numerous deficiencies in ORR's screening process of potential sponsors. Notably, the OIG found that in 35% of children's case files, sponsor-submitted IDs contained legibility concerns.

Additionally, for years Congress has identified deficiencies in the sponsor vetting process. For instance, in January 2024, Senator Grassley wrote a letter to HHS identifying instances of sponsor fraud. See Letter from Sen. Grassley (dated January 23, 2024).<sup>3</sup> Senator

<sup>2</sup> The report is available here: <https://oig.hhs.gov/reports/all/2024/gaps-in-sponsor-screening-and-followup-raise-safety-concerns-for-unaccompanied-children/>

<sup>3</sup> The letter is available here: <https://www.grassley.senate.gov/news/news-releases/grassley-alerts-dhs-fbi-to-evidence-of-human-trafficking-calls-for-immediate-action-to-locate-and-rescue-migrant-children>.

Grassley indicated that he had evidence of suspicious sponsors and summarized several instances of apparent sponsor fraud, including a case of “a male subject who provided questionable documents to sponsor a young female. Although he claimed to be one of the girl’s close relatives, he later posted photographs of the female on social media showing himself touching her in a suggestive manner.”

In 2021, the Senate Committee on Finance published an Investigative Report titled, “Exposing the Risks of Deliberate Ignorance: Years of Mismanagement and Lack of Oversight by the Office of Refugee Resettlement, Leading to Abuses and Substandard Care of Unaccompanied Alien Children.”<sup>4</sup> The report stated, “After examining data largely from 2014 to 2020, the congressional investigation found that HHS, via ORR, fails to provide the basic oversight needed to ensure the safety of children in its care due to extensive record-keeping deficiencies and the lack of a clear framework for taking action when serious incidents occur.” The report provided a number of recommendations, many of which are reflected below.

Recent media reports have reported that UAC, including young girls, have been released to homes where they live with multiple unrelated men, yet ORR has not taken any steps to identify these individuals (i.e., household members of sponsors) or to confirm that they are not sex offenders or convicted felons.<sup>5</sup> In one reported case, a sponsor sponsored two UAC at two different addresses simultaneously.<sup>6</sup> The sponsor admitted to a reporter that there were five men living at one of the addresses. ORR took no steps to identify those men to confirm that it was safe to release a child to the residence. In another reported case, a young female UAC was living with four adult men, whose identities and backgrounds were never checked by ORR. Other young children in the same apartment complex were interviewed by the reporter. They said that the young girl was not living with her parents, but with some “men.” Finally, in another reported case, a young female UAC admitted to a reporter that her sponsor—her alleged “aunt” whom the UAC had never met—was using her for “sex work.”

## RECOMMENDATIONS

ORR must immediately shift from a culture of accommodation and sympathy to a firm commitment to identify and address fraud, particularly among those attempting to sponsor vulnerable UACs and adults fraudulently presenting themselves as UACs at the border. Over the past 12 months, ORR’s I&A team has developed a robust analytical process to detect and validate fraud. It is imperative that I&A is positioned at the forefront of ORR’s mission, with their work being prioritized to clearly communicate to all ORR staff—both federal and contracted—that fraud is tantamount to trafficking and must be treated as such. Implementation of the recommended immediate actions, discussed below and recommended by the I&A Team, may lengthen the sponsor adjudication process; however, ensuring child safety and preventing trafficking must be the priority. We do not anticipate that the length of care will dramatically increase if these recommendations are implemented. Currently, the average length of care is 25.8 days, which is exceedingly fast, suggesting that only a cursory review of sponsor applications is

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<sup>4</sup> The report is available here: [https://www.grassley.senate.gov/imo/media/doc/finance\\_committee\\_report\\_-\\_orr\\_unaccompanied\\_children\\_program.pdf](https://www.grassley.senate.gov/imo/media/doc/finance_committee_report_-_orr_unaccompanied_children_program.pdf).

<sup>5</sup> See Project Veritas undercover report, available here: [https://www.youtube.com/watch?v=1B-L\\_wfbhXc](https://www.youtube.com/watch?v=1B-L_wfbhXc)

<sup>6</sup> This claim in the media was confirmed by OGC.

occurring along with very few enhanced safety measures like fingerprinting, home studies, and DNA testing.

In terms of fingerprinting, ORR has a contract with Fieldprint for sponsor fingerprints. ORR staff has said that fingerprint results are consistently returned in 24-48 hours. Fieldprint also has thousands of fingerprint sites throughout the United States, making it convenient for sponsors to be fingerprinted. For instance, based on a search of the Fieldprint website, it appears they have 18 fingerprint sites in Houston, Texas alone. Therefore, requiring fingerprints of all sponsors and household members should not have a dramatic effect on length of care, though it may slow releases by a day or two as the results are evaluated.

ORR is currently at 42% capacity and has an additional 6,000 beds on cold status. The UAC population that is likely to enter ORR custody (non-Mexican and Mexican age 13 or less) encounter average for the last 7 days is 96. Therefore, if implementation of increased fraud detection measures results in a small increase in the average time in care, there is existing capacity to absorb the increased population in licensed facilities.

Accordingly, we are recommending the following:

**Immediate Sponsor Process and UAC Encounter Enhancements to Address Trafficking Concerns**

- Initiate ICE's "Super Sponsor" enforcement operation with high visibility video and media communications demonstrating the Administration's commitment to child safety and intolerance for sponsor fraud.
- Assign ORR I&A analysts and HHS OIG agents to human trafficking task forces to address UAC-related trafficking concerns.
- Implement fingerprinting requirements for all sponsor categories to conduct comprehensive criminal background checks.
- Implement fingerprinting requirements for all household members of sponsors to ensure that children are not released to a household with an adult whose criminal history indicates they may pose a threat to the UAC.
- Introduce *mandatory* rapid DNA testing for all Category 1, 2A, and 2B sponsors.
- Formalize the sponsorship application and associated documents as an official federal document, imposing legal penalties for fraudulent statements.
- Reassess the use of secondary documents (e.g., foreign marriage certificates, foreign driver's licenses, baptismal certificates) that cannot be reliably verified as proof of identity.
- Remove sponsor processes, application packets, and internal ORR policies and procedures from public-facing platforms to reduce the risk of system exploitation by bad actors.
- Require sponsors to present original identification documents in person to the grantee or contractor.



- Mandate that all sponsorship applications, whether completed or not, receive a finalized decision—either approval or denial—to ensure accurate data collection and prevent indefinite case statuses and withdrawals without explanation.
- Request that CBP be directed to increase investigative scrutiny of alleged UAC that appear likely to be adults. This should include BITMAP data, extensive interviewing, and document validation.
- Enhance requirements to conduct additional home studies in certain circumstances.

#### **Programmatic Changes to Enhance UAC Safety and Prevent Exploitation**

- Reallocate vacant positions to expand the ORR Integrity and Accountability (I&A) Team, including adding an intelligence component.
- Conduct a comprehensive review of all Memoranda of Agreement (MOAs) and internal policies that limit information-sharing with federal law enforcement agencies.
- Increase background clearance standards for care provider staff to enhance child safety.
- Strengthen interagency collaboration to develop tools that improve the verification of foreign documents.
- Review the federal staffing levels for Federal Field Specialists to ensure a manageable ratio of children to Specialist to ensure a workload that allows for child safety and fraud prevention.
- Examine the current sponsorship circumstances that require a home study be conducted prior to placement to identify current compliance with the requirements and if the circumstances that trigger the requirement should be expanded.
- Evaluate the potential transition of care provider programs from grant-based models to fully contracted systems, with explicit child safety requirements in Notices of Funding Opportunity.
  - Mandate abuse prevention training and reporting protocols aligned with ORR policies.
  - Include internal and external auditing and compliance programs.
- Enforce ORR's adherence to internal policies regarding care provider oversight, including audits and corrective action plans.

#### **Technological Advancements for Fraud Prevention and Accountability**

- Review and enhance the UAC Portal with the following features:
  - Facial recognition technology to cross-check submitted identification documents against prior applications, law enforcement databases, and social media.
  - Smart technology for address verification, property records, and geospatial and satellite imagery.

- A dedicated module for tracking and identifying sponsor fraud and abuse.
  - Mandatory data fields critical to child safety and abuse investigations to ensure compliance with child safety and abuse prevention practices.
  - Compatibility with current and expected technology improvements by examining the current centralized sponsor vetting contract with The Providencia Group (TPG). TPG currently identifies 3x (3% overall vs. less than 1%) the amount of fraud detected by care providers and federal staff.
- Develop an interactive case management database for care providers to manage all sponsorship-related communications and documents. Currently, communications through personal devices and WhatsApp are not preservable.
  - Examine the scope and compliance of ORR's post-release responsibilities, including:
    - Legal obligations and potential expansions or transfers to other agencies.
    - Accountability measures and consequences for sponsors involved in child safety violations and sponsors who do not respond to post-release contacts.

### **Interagency Efforts**

- Collaborate with the DOJ/Executive Office of Immigration Review to establish UAC-specific dockets with expedited court timelines to ensure timely legal proceedings.
- Partner with USCIS and DOJ to revise policies so that UAC status is no longer applicable for immigration benefits upon reunification with a parent or legal guardian. Additionally, link all family members' immigration cases pending with EOIR.
- Revamp Age Redetermination MOU with ICE mandating ORR refer every redetermination case to ICE for comprehensive investigation to combat UAC fraud.
- Implement with State and DHS international and domestic "It's a NEW DAY" communication campaign warning aliens not to send their children to the US and that UAC and sponsor fraud is not going to be tolerated and will be fully prosecuted.

### **Legislative Recommendations**

- Oppose the continuation of the Appropriations language that restricts information sharing between ICE and ORR and limits enforcement of federal law.
- Review the Foundational Rule IFR to identify information sharing limitations that can contribute to victimization of UACs and interferes with enforcement of federal law.
- Advocate for the automating the National Child Abuse and Neglect Data System (NCANDS) and integrating it into the National Crime Information Center (NCIC) to provide quick and centralized access to child welfare data.
- Require DHS to collect biometrics, such as fingerprints or retinal scans, for all minors encountered (minimum age to be determined), in alignment with international refugee standards.

# EXHIBIT C





ADMINISTRATION FOR  
**CHILDREN & FAMILIES**

330 C Street, S.W., Washington, DC 20201 | [www.acf.hhs.gov](http://www.acf.hhs.gov)

**DATE:** March 7, 2025

**TO:** Angie M. Salazar, Acting Director, Office of Refugee Resettlement (ORR)

**FROM:** Toby Biswas, Director of Policy, Unaccompanied Alien Children (UAC) Bureau

**SUBJECT:** **DECISION** – Revisions to ORR UACB Policy Guide Sections 2.2.4, 2.7.4, and 5.8.2, and accompanying procedures, – Improving the Sponsor Vetting Process in Order to Mitigate Fraud and Enhance UAC Protections

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**ACTION REQUESTED**

We request updates to the ORR UACB Policy Guide Sections 2.2.4, 2.7.4 and 5.8.2, and associated procedures, regarding acceptable documents used in support of a *Sponsor Application*; related denials of sponsorship applications due to fraud concerns; and, clarification of fraud reporting requirements.

**RECOMMENDATION**

I recommend that you approve the attached proposed revisions.

**EXECUTIVE SUMMARY**

In alignment with ORR's statutory and regulatory requirements (*see* 8 U.S.C. § 1232(c)(3)(A) and 45 C.F.R. § 410.1202), the Division of UAC Policy (DUACP) proposes several policy updates to strengthen ORR's sponsor vetting process. This memo discusses the UAC Policy Guide revisions (**Attachments A, B**) proposed to strengthen safeguards against fraud in the sponsorship process, combat trafficking, and enhance the identification verification procedures for the sponsorship of children. Fraud in the sponsorship process poses significant risk to child safety, potentially contributing to human trafficking, exploitation, and unsafe placements. These updates reinforce ORR's zero-tolerance approach to fraud, provide guidance on how to better identify fraud, and clarify the process for re-categorizing sponsors when potential fraud is detected in the sponsorship application process. HHS' own internal investigations, have revealed documented cases of criminals who have used fraudulent foreign documents in support of *Sponsor Applications* where former UAC became victims of crimes by their sponsor, including incidents of trafficking and sexual assault and have resulted in prosecutions.

Notable Timing Factors and Administration Priorities:

ORR Leadership has requested expedited approval of these UAC Bureau Policy Guide updates to combat ongoing fraud and trafficking concerns.

Novel Elements to Consider:

None.

**BACKGROUND**

To address identified gaps in the reporting of fraud incidents to HHS Office of the Inspector General (HHS/OIG), UACB published new policies on February 9, 2024. The previous policy updates were designed to clearly delineate fraud types, provide examples of various fraud types, and clarify the process for reporting fraud concerns.

Fraud within the UAC program and UAC sponsorship applications undermines the integrity of ORR's UAC Bureau sponsorship vetting process and poses significant safety risks to the unaccompanied alien children in the Bureau's care and custody. ORR has identified cases of misrepresentation by sponsors during the application process, including:

- Submission of falsified identity or relationship documents, and address information;
- Sponsors failing to disclose criminal history, prior sponsorships, or gang affiliation; and,
- Potential risks for trafficking and exploitation linked to fraudulent schemes.

Given these identified concerns, enhanced fraud detection measures are critical. These policy updates establish clear protocols for detecting, documenting, and responding to fraud, preventing fraudulent actors from exploiting the UAC Bureau and unaccompanied alien children for trafficking or other forms of exploitation.

ORR's written policies have required sponsors to submit documents in support of their applications to sponsor unaccompanied alien children. ORR has traditionally accepted foreign documents. Current ORR policy permits certain documents to be used which do not include picture identification when coupled with other documents. Additionally, ORR's policies have permitted submission of copies of identification documents but did not provide precise specifications for authenticating documents aside from liaising with Consulates and Embassies to confirm proper issuance. *See* ORR UAC Bureau Policy Guide Section 5.4.7.

**DISCUSSION**Proof of Identity

ORR regulations require that sponsors of unaccompanied alien children submit supporting documentation, including identity documents, with a *Sponsor Application*<sup>1</sup>, see 45 C.F.R. § 410.1203(c). Historically, ORR's policies implementing the regulation, permit acceptance of a wide variety of identity documents, including many foreign issued documents. ORR has had difficulty authenticating foreign issued documents, especially in a timely manner, and is aware of reports of widespread fraud with the use of such documents. ORR has relied on foreign consulates and embassies, often liaising with the support of the Department of State, to authenticate documents issued outside the United States, a process complicated by international relations and the stability of certain foreign states. HHS' own internal investigations, have revealed documented cases of criminals who have used fraudulent foreign documents in support of *Sponsor Applications* where former UAC became victims of crimes by their sponsor, including incidents of trafficking and sexual assault and have resulted in prosecutions.

Based on concerns related to the ability to authenticate foreign identity documents used in support of the *Sponsor Application*, ORR believes aligning identity document requirements to the DHS/USCIS I-9 required documentation will provide a safer framework for proving and authenticating identity. These are documents that the federal government relies on to establish identity for both citizens and non-citizens. ORR will also focus efforts to ensure that those reviewing identity documents have an easy way to view them, as well as the pictures on the documents, to determine that the individual submitting the identity document is in fact the *holder* of the identity document.

#### Proof of Address

Further, ORR has had past instances of suspected fraudulent addresses or addresses that did not include the apartment number of the residence. As a result, children were released to locations that may not have been actual residences or for which the specific unit of a residence was unknown. To combat this and ensure more transparency in the process ORR will require more limited types of acceptable address documentation which must be recent (for acceptable mail - within the past 30 days). Confirmation of address information is further authorized by rule. See 45 C.F.R. 410.1202(b).

#### Denial of Sponsor Application

ORR also proposes clarifying, where a sponsor has engaged in fraud in the sponsorship process, that there be a presumption that the sponsorship be denied under ORR UAC Bureau Policy Guide Section 2.7.4. Current policy provides that applications *may* be denied for fraud, and also were not listed as a reason for denial in Section 2.7.4 (but instead in Section 2.2.4) which may have led to confusion. Therefore, we are proposing that ORR explicitly state that a rationale for denial for fraud in the application process be clearly delineated in Section 2.7.4.

Additionally, we propose that sponsors or adult household members who refuse or who do not timely present themselves for fingerprinting be a basis for denying release. The rationale is two-fold. First, refusal to come forward for fingerprinting may be an indication that the sponsor (or other adult) is trying to conceal known biometrics that will help to uncover the subject's true identity. Second, refusal to come forward may be to conceal criminal history. In either case, this

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<sup>1</sup> Division of UAC Policy is in process of updating references to the former "Family Reunification Application" to the "Sponsor Application" throughout ORR policy, procedures, and field guidance.

could be grounds to deny a sponsorship, and in both instances ORR is well positioned to justify biometrics as a common-sense approach to weed out bad actors. ORR already requires universal biometric fingerprint checks under Field Guidance #26, so corresponding policies related to denial for failure to present oneself for fingerprinting is sufficiently justified. ORR affords due process protections for most relative sponsors. Specifically, parents or other close relatives who are denied sponsorship are provided written notice of the reasons for the denial and are provided an opportunity to pursue an administrative appeal. *See* 45 C.F.R. 410.1206; *see also*, ORR UAC Bureau Policy Guide, Sections 2.7.7 and 2.7.8.

#### Reporting Fraud

DUACP advises that more guidance regarding what constitutes fraud or suspected fraud, and further guidance on how ORR care providers report these concerns in the sponsor application (ORR UAC Policy Guide Section 2.2.4) and incident reporting (ORR UAC Policy Guide Section 5.8.2). Proposed policy guidance further flushes this out in ORR's significant incident reporting policies that would amend ORR UAC Policy Guide Section 5.8.2. The proposed public facing policy will also provide further notice on how such reports are reported to Federal law enforcement.

#### Summary of Proposed Policy Updates

The proposed policy updates (**Attachments A, B**) include the following:

#### **UAC Policy Guide Section 2.2.4 Required Documents for Submission with the Application for Release**

- Expired documents are no longer acceptable documents and only unexpired, high-resolution, legible, or digital scans of government issued identification documents will be accepted.
- The list of acceptable sponsor identification documents has been revised to reflect the USCIS I-9 (From List A Documents that “Establish Both Identity and Employment Authorization,” and List B “Documents that Establish Identity”). For Category 1 only, any deviation from this requirement must be supported by clear justification and exceptions may be made on a case-by case basis by HHS ORR Headquarters.
- Reducing the types of documents that may be used for proof of address, and reducing the timeframe from which those documents may be dated in some instances from 60 days to 30 days.
- Reducing the types of documents that may be used to prove a relationship with a child.
- (Technical) removing reference to Category 2A sponsorships (rendered moot by the issuance of Field Guidance #26).
- ORR will now require that requests for release be denied if it is determined that fraudulent documents were submitted during the application of release process. Any deviation from this requirement must be supported by clear justification and exceptions may be made on a case-by case basis by HHS ORR Headquarters.

#### **UAC Policy Guide Section 2.7.4 Deny Release Request**

- The refusal or unwillingness of a sponsor or household member to submit to a mandatory fingerprint check will result in a denial of sponsorship.

- Providing false information, committing perjury, or submitting fraudulent documentation is now explicitly included as a basis for ORR to deny release of an unaccompanied alien child.

### **UAC Policy Guide Section 5.8.2 Significant Incidents**

- Coordinating incident reporting with DHS;
- Reportable Significant Incident Reports types have been updated to include the following:
  - Providing false information or suspected perjury;
  - Providing false documents related to address or place of residence;
  - Failure to disclose prior placement as an unaccompanied child in the custody of ORR; and ,
  - A sponsor failing to disclose history of gang affiliation.

### **ANTICIPATED STAKEHOLDER REACTION**

We anticipate some stakeholders, particularly *Flores* plaintiffs counsel and other advocates (and their Congressional supporters), will express concern that the policies hinder ORR's ability to release children without unreasonable delay. These parties are also likely to claim ORR's restrictions place barriers on sponsors, in particular parents, to the principles of family unity. Further, these advocates are likely to argue that ORR's identity document requirements are particularly burdensome on the ability of undocumented or out of status aliens to sponsor children. On the other hand, we expect immigration enforcement advocates and their supporters in Congress along with anti-trafficking organizations and child protection organizations to support actions which eliminate fraud and combat trafficking in ORR's sponsorship process.

### **ROLLOUT**

Upon receiving the ORR Director's approval to make the recommended revisions, DUACP will coordinate with ORR's Communication Team to publish updates to the [UAC Policy Guide](#) and its [Record of Posting and Revision Dates](#), and distribute a message to ORR's UAC Care Provider Network through the UAC Policy Inbox. After publishing the updates, DUACP will coordinate with stakeholders across the UAC Program to determine whether any additional training and technical assistance on the new guidance is required. providers, and ORR/UAC Bureau staff and support contractors.

### **RECOMMENDATION**

I recommend that you approve the attached UAC Policy Guide revisions.

TOBY R.  
BISWAS -S

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BISWAS -S  
Date: 2025.03.07 14:34:36  
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Toby Biswas  
Director  
Division of UAC Policy  
UAC Bureau

Attachments

Attachment A- 2.2.4 2.7.4 5.8.2 Strengthening Fraud Accountability (Clean)

Attachment B - 2.2.4 2.7.4 5.8.2 Strengthening Fraud Accountability (Redline)

Attachment C – Examples of Fraudulent Identity Documents (03-06-2025)

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**DECISION**



Approve/Agree



Disapprove/Disagree



Briefing and/or More Information Needed

Additional Comments:



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Angie M. Salazar  
Acting Director, ORR

Date

# EXHIBIT D



ADMINISTRATION FOR  
**CHILDREN & FAMILIES**

Office of the Assistant Secretary | 330 C Street, S.W., Suite 4034  
Washington, D.C. 20201 | [www.acf.hhs.gov](http://www.acf.hhs.gov)

**DATE:** April 1, 2025

**TO:** Andrew Gradison, Acting Assistant Secretary for Children and Families

**Through:** Linda Hitt, Executive Secretary

**FROM:** Angie Salazar, Acting Director, Office of Refugee Resettlement

**SUBJECT:** DECISION – Sub-Regulatory Guidance; Revisions to the Unaccompanied Children Bureau Policy Guide and Manual of Procedures Revisions to Require Sponsors to Provide Proof of Income

**ACTION REQUESTED**

The Office of Refugee Resettlement's (ORR) Unaccompanied Alien Children Bureau (UACB), Division of Unaccompanied Alien Children Policy (DUACP) requests approval to publish sub-regulatory guidance updates to the Unaccompanied Alien Children (UAC) Policy Guide and UAC Manual of Procedures (MAP). These updates are intended to strengthen the sponsor vetting process by requiring potential sponsors to provide documentation verifying their ability to financially support the unaccompanied children they seek to sponsor.

**BLUF**

To support child safety and mitigate the risk of human trafficking, ORR proposes to publish new sponsor vetting requirements related to income verification, to ensure that sponsors can support children financially. ORR proposes to publish updates that require case managers to assess whether potential sponsors can financially support the children they seek to sponsor in the UAC Policy Guide and UAC MAP by requesting certain documentation as proof of income. These updates also highlight existing UACB tools for verifying income as part of the Sponsor Assessment process.

**TARGET RELEASE DATE**

Upon approval.

**RATIONALE FOR EXPEDITED RELEASE**

These revisions support administration priorities related to Executive Order 14165 "Securing Our Borders," specifically regarding human trafficking.



## **RECOMMENDATION**

ORR recommends approval of the publication of UAC Policy Guide and UAC MAP revisions.

## **EXECUTIVE SUMMARY**

### **Foundational Rule**

The Foundational Rule at [45 CFR 410.1202\(c\)](#) requires a suitability assessment to include all needed steps to determine that the potential sponsor is capable of providing for the child's physical and mental well-being, including verification of the employment, income, or other information provided by the potential sponsor as evidence of the ability to support the child.

### **Comparison to Domestic Child Welfare Standards**

In the domestic child welfare system, parents, legal guardians, and close kin must demonstrate the ability to provide financially for a child's needs if the child is returned to their care. However, financial stability requirements vary widely between jurisdictions. Non-related foster parents typically undergo stricter financial screening, including income verification and expense reporting. Some states, such as California and New York, explicitly prohibit denying foster care applications solely due to low income, even for individuals seeking to become foster parents. Given this precedent, denying a Category 1 sponsor (parent/legal guardian) solely based on financial hardship could pose a litigation risk for ORR and does not align with standard child welfare practices in the United States. This procedural distinction (with a carve out for parents/legal guardians) ensures a balanced approach, protecting parental rights while maintaining child safety protections against trafficking and labor exploitation.

### **Sponsor Exploitation and Labor Trafficking**

By requiring submission of proof of income information and supporting documentation, case managers and Federal Field Specialists (FFS) will be able to better assess whether there are indicators that a sponsor is being subjected to labor trafficking or labor exploitation. The Office on Trafficking in Persons has found that parents and other family members have been subjected to human trafficking and/or labor exploitation and had similar debts as the children they sponsored. The information obtained during employment and income verification can inform the safety assessment, safety planning, decision to refer a case for a home study or not, and level of Post-Release Services to recommend.

### **Proposed Revisions**

The following section describes ORR's proposed UAC Policy Guide and UAC MAP revisions to strengthen sponsor vetting by ensuring potential sponsors can financially support the children they seek to sponsor.

#### **[UAC Policy Guide Section 2.2.4 Required Documents for Submission with the Application for Release](#)**

- Clarifies that proof of sponsor income is part of the sponsor application process.
- Provides a short list of required documents that must be submitted along with the Sponsor Application.

**UAC Policy Guide Section 2.4.1 Assessment Criteria**

- Updates key terminology to align with ORR leadership directives and UACB authorizing statutes (6 U.S.C. 279 (g)2).
- Specifies that the case manager enters information in the Sponsor Assessment and emphasizes that a sponsor's financial stability is a key consideration in sponsor vetting.
- Emphasizes that having an order of removal that is outstanding, failure to attend any hearings or legal proceedings, or a sponsor's gang involvement is considered significant aggravating factor in determining if a sponsor can provide a stable home for a child.
- Directs case managers to request documentation regarding a sponsor's income, current assets, and supporting documentation (e.g., previous year's tax filings in the United States, pay stubs for at least the past 60 days, etc.) to assess financial stability.

**UAC MAP Section 2.2.4 Required Documents for Submission with the Application for Release**

- Outlines what proof of income documents are required in sponsor vetting process, to align with [Section 2.2.4](#).

**UAC MAP Section 2.4.1 Assessment Criteria**

- Case managers are now directed to assess the sponsor by reviewing the required documentation, which includes proof of income.

**UAC MAP Section 2.7.4. Deny Release Request**

- Specifies that in a Recommendation to Deny Release, the FFS must complete the section summarizing the findings and cite the sponsor's proof of income as an example.
- Updates division terminology to align with ORR leadership directives and UACB authorizing statutes (6 U.S.C. 279 (g)2).

**Notable Timing Factors and Administration Priorities:**

These revisions support administration priorities related to Executive Order 14165 "Securing Our Borders", specifically regarding human trafficking.

**Novel Elements to Consider:**

N/A

**Legal Authority:**

The Foundational Rule at [45 CFR 410.1202\(c\)](#) requires a suitability assessment to include all needed steps to determine that the potential sponsor is capable of providing for the child's physical and mental well-being, including verification of the employment, income, or other information provided by the potential sponsor as evidence of the ability to support the child. Further, the Trafficking Victims Protection Reauthorization Act of 2008 requires that the Secretary of the Department of Health and Human Services establish policies to "ensure that unaccompanied alien children in the United States are protected from traffickers and other persons seeking to victimize or otherwise engage such children in criminal, harmful, or exploitative activity" (8 U.S.C. 1232 (c)(1)). It is imperative that ORR request documentation of income in order to ensure the assessment of a potential sponsor's suitability is comprehensive, in keeping with its regulatory and statutory requirements

**OPTIONS AND DISCUSSION**

**Option 1:** Publish revisions to UAC Policy Guide and UAC MAP to require certain income

verification documents as part of the sponsor vetting process.

### **Discussion:**

Current UACB tools collect limited information about a sponsor's proof of income, employment history and related information.

1. The Sponsor Application (formerly known as the 'Family Reunification Application') asks the sponsor about their financial information in Question #13: "How will you financially support the child(ren)? Include all sources and amounts of your income (for example, the amount you are paid each week) as well as explaining any financial support from others who will help financially support the child(ren)."
2. [UAC MAP Appendix 2.5 Sponsor Assessment](#) includes the following questions regarding the sponsor's employment, expenses, income, and financial stability:
  - Does the sponsor have a job?
  - What is the sponsor's work schedule?
  - Is the sponsor able to meet their monthly expenses with their income?
  - Income: Provide documents in support of income.
  - Additional Information: Document any additional information, including your assessment of the sponsor's ability to support and financially provide for the child while in their care.
3. [UAC MAP Appendix 2.4 Sponsor Assessment Interviewing Guidance](#) includes the following employment related questions to assess the sponsor's ability to support and financially provide for the child while in their care:
  - Does the sponsor have a job?
  - Does the sponsor have financial needs?

Based on ORR's legal authorities and opportunity for further parity with domestic child welfare, discussed above, ORR is recommending further revisions to its sub-regulatory guidance to require specific documentation as part of the sponsor application. This documentation would include:

- Previous year's tax return if in the United States during the prior year;
- Copy of paystubs for at least the past 60 days continuously; or
- An original letter from the sponsor's employer verifying their employment information, signed within the past 60 days. The letter must be on company letterhead and contain verifiable contact information for the employer and supervisor. An ORR representative must speak with the supervisory or company Human Resources division to verify the information in the letter.

### **Key Pros:**

- Requiring proof of income documentation will support decisions made by ORR staff to release children to vetted sponsors.
- Clarifying which documents are appropriate to provide for proof of income verification creates a streamlined standard across all cases, minimizing discretion and variability.
- Proof of income is a standard practice in domestic child welfare for assessing if an individual is able to care for the physical well-being of a child.

### **Key Cons:**

- Potential sponsors may not have appropriate documents and may not be able to complete their sponsorship application or may go to more extreme lengths to fake documents in order

to sponsor children.

**Option 2:** Do not publish revisions to UAC Policy Guide and UAC MAP to require certain income verification documents as part of the sponsor vetting process.

**Key Pros:**

- Maintaining the existing income assessment tools will minimize confusion and will not require new training.

**Key Cons:**

- Without clarification of documents required to show proof of income, there will be a great variability across release decisions, in determining sponsor appropriateness.

**Outstanding Questions:**

ORR is preparing a new Affidavit of Support form that will require sponsors to provide proof of income and commit to being able to provide financially for a child as part of the Sponsor Application Packet. DUACP will seek clearance from the Office of Management and Budget (OMB) under the Paperwork Reduction Act before disseminating this form. Upon approval from OMB, as part of dissemination, DUACP may further update its sub-regulatory guidance to explicitly require the Affidavit of Support to include more instructions for case managers and FFS on sponsors showing proof of income. These instructions will further clarify how case managers must assess and whether a sponsor would expect children to work to contribute to basic household necessities.

**ANTICIPATED STAKEHOLDER REACTION**

As some manner of income verification is typical in domestic child welfare contexts, stakeholders from the domestic child welfare context are not likely to negatively react to the requirements specified in this update. Immigrant rights advocates are likely to note that the majority of potential sponsors engaging with UACB do not have work authorization and may not be able to provide documentation required under this update to ORR's sub-regulatory guidance. This could result in longer lengths of stay for children in ORR custody, which could be a litigation risk to ORR; although the requirement to provide documentation of income to financially provide for a child is not, in and of itself, a litigation risk.

**ROLLOUT**

Upon approval, ORR will publish the revisions contained herein of the UAC Policy Guide and UAC MAP.

**For questions, please contact:** Toby Biswas at [Toby.Biswas@acf.hhs.gov](mailto:Toby.Biswas@acf.hhs.gov) or (202) 205-4440.

/s/

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**DECISION**

ORR recommends approval of the publication of UAC Policy Guide and UAC MAP revisions.

Approved [ ☒ ]

Disapproved [ ☐ ]

Briefing Needed [ ☐ ]

Additional Comments:

**ANDREW K. GRADISON -S**

Digitally signed by ANDREW K. GRADISON -S  
Date: 2025.04.01 19:05:14 -04:00

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Andrew Gradison

Date

**Attachments**

TAB A: UAC Policy Guide Section 2.2.4, 2.4.1, and 2.7.4

TAB B: UAC MAP Section 2.2.4 and 2.4.1

TAB C: Crosswalk on Proof of Income

TAB D: Communications Plan