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United States Senate

COMMITTEE ON FINANCE

WASHINGTON, DC 20510-6200

October 1, 2019

VIA ELECTRONIC TRANSMISSION

The Honorable Lynn Johnson
Assistant Secretary
Department of Health and Human Services
200 Independence Ave SW
Washington, D.C. 20201

Dear Assistant Secretary Johnson:

On May 9, 2019, our offices wrote to you asking for information concerning the management and oversight of shelters for unaccompanied children established and maintained by the Office of Refugee Resettlement (ORR). On June 27, 2019, almost a month after production of the information was requested to be delivered, we received a partial response from your office. This response was inadequate in two fundamental ways: 1) none of the attachments that your correspondence claimed to provide were actually present; and 2) a significant number of questions we asked in our letter remained unanswered in any form. On August 28, 2019, the Committee received a second response from HHS which contained a handful of documents in an attempt to fulfill our request. However, these documents were woefully incomplete, approaching the point of noncompliance.

This second submission failed to include portions of the documents produced, associated dates, names of organizations, locations, or any index to provide context for the documents. It also did not include a substantial number of outstanding documents that still had not been provided, including the attachments cited in the June 27th response. Instead, the submission included approximately 200 printed pages of the publicly available Title 45 of the Code of Federal Regulations without any explanation of the purpose for its inclusion. The August 28th production also did not include any further responses to the outstanding, unanswered questions.

Senate Committee on Finance staff have had multiple communications with HHS concerning the Department's inadequate response. With the exception of one of our questions concerning serious incident reports, HHS has still not provided any explanation regarding its failure to produce the requested information or the attachments that it identified, but failed, to produce.

Assistant Secretary Johnson
October 1, 2019
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Attached is an inventory of the outstanding information remaining from our May 9th request. Provide each item discussed below without further delay. Please also provide a corresponding explanation why each item has not yet been delivered. We expect these explanations by October 15, 2019.

If you or your staff have any questions concerning this request, please contact DeLisa Ragsdale and Dave Berick of our committee staffs at (202) 224-4515.

Sincerely,

Chuck Grassley
Charles E. Grassley
Chairman
Senate Committee on Finance

Ron Wyden
Ron Wyden
Ranking Member
Senate Committee on Finance

cc:

Alex Azar
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Status of Responses to Wyden-Grassley May 9, 2019 ORR Request

Question 1: Our original request asked you to identify each of the grantees and each of their facilities that have provided shelter services to ORR for each year from Fiscal Year 2014 to the present, the dates each facility began operating and, if no longer operating, the date operation concluded, each facilities' monthly census (number of children), and the annual cost of care provided by the facility.

On August 28th, HHS provided an attachment titled, “FY16-19 Initial Placements and Discharges by Program.” The response we received contained initial placements and discharges on an annual basis and only for FY16 through January 2019. It did not contain any data for FY14 and FY15, nor did it contain any monthly data, dates of operation, or cost of care as requested.

This information has still not been provided.

Question 2: Our original request asked you to provide data on the number children referred to ORR for care each month for each year from Fiscal Year 2014 to the present.

The June 27th response referenced an attachment titled “UAC Referrals by Month FY14-FY19” but this information was not attached and it was not included in the August 28th data production.

This information has still not been provided.

Question 3: Our original request asked for information on “out of network” shelters, including a monthly census (number of children)-both at present and in total-the average length of stay, and the reason for their placement in “out of network” shelters. It also asked for copies of contracts and/or grants awarded and care provided to children housed at these shelters and ORR policies and procedures as they pertain to conducting oversight of these “out of network” shelters and placements.

This information has not been provided.

Question 6: Our original request asked for copies of each type of report used to monitor ORR grantees. The response stated that examples were attached. They were not.

The August 28th document production included monitoring reports but the reports provided were nonresponsive to our request.

Question 9: Our original request asked for all corrective action plans from FY 2014 to the present for all shelter facilities.

The August 28th document production included corrective action plans but the plans were incomplete and nonresponsive to our request and did not include correction action plans for FY 2017, 2018 or 2019.

This information has not been provided

Question 10: Our original request asked ORR to identify all grantees and facilities to whom disallowances have been issued and the terms of those disallowances as a result of audit findings related to the UAC program.

The June 27th response indicates that ACF issued disallowances against seven entities as a result of audit findings related to the UAC program as well as two other disallowances based on findings of violations of compliance standards and regulations governing allowable costs under HHS awards. The response goes on to state that “documents pertaining to this are attached,” but this information was not attached and it was not included in the August 28th data production.

This information has not been provided.

Question 11: Our original request asked for the number of sexual abuse reports and allegations from FY 2014 to the present by ORR grantee and by facility, as well as the number of substantiated reports and criminal prosecutions for each.

This information was not provided in the June 27th response nor the August 28th document production.

Question 13: Our original request asked for documentation of ORR’s requests to each state for access to state registries typically used for background checks, such as child abuse and neglect (CAN) checks, the results from such state-run checks, as well as each state’s response.

This information was not provided in the June 27th response nor the August 28th document production.

Question 15: Our original request asked how many waivers from grantees’ operational requirements ORR has issued from FY 2014 to the present and for what specific reasons.

In the June 27th response, HHS indicated that ORR issued 4 waivers for child abuse and neglect checks. This response appears incomplete in lieu of findings published by the Office of the Inspector General on September 3, 2019, that indicated ORR granted six facilities a waiver from conducting CPS checks for employees with direct access to children (Audit (A-12-19-20001)).

Question 18: Our original request asked to what extent ORR monitors licensee compliance with state requirements and resulting state enforcement actions, as well as what corrective actions ORR takes as a result of state violations (in reference to actions the state of California, Arizona, and Texas have taken against Southwest Key facilities).

This information has not been provided.

Question 19: Our original request asked to what extent ORR monitors licensee reporting to local law enforcement and local government agencies, and compliance with local rules and regulations.

In particular, the request asked what action HHS took in response to the San Diego Union-Tribune reporting that Southwest Key had reported more runaway children from its shelter in San Diego to local police than it had reported to the California Department of Social Services, the state licensing entity for Southwest Key shelters in California.

This question has not been answered.

Question 21: Our original request asked ORR to describe and provide copies of any policies or regulations that address the cost to parents and sponsors of reunification, including whether ORR grantees may set those costs or require advance payments. The question also asked ORR to provide any audits, reviews, or investigation reports related to Southwest Key and its reunification practices, including but not limited to its relationship with Copacabana Travel Management in Georgia.

This question has not been answered, and none of the requested audit, reviews, or investigation reports related to Southwest Key and its reunification practices have been provided.

Question 23: Our original request asked ORR to provide copies of all filings made on behalf of HHS in the 2018 Cameron County, Texas court and the U.S. District Court for the Southern District of Texas, Brownsville Division (Civil Action No. 1:18-cv-00112).

In the June 27th response, ORR indicated “the filings are publicly available on the dockets of the courts.” The court filings are not publicly available despite what is indicated in the June 27th response letter, so we again ask for the filings to be provided.

Question 25: Our original response asked for all financial audits or reviews HHS has conducted of Southwest Key since January 1, 2014. We also asked for copies of all grant documentation associated with Southwest Key, not otherwise produced in response to other questions herein, including but not limited to grant awards, operations, and reimbursements.

In the June 27th response, ORR indicated “Document Submission: Providing copies of Single Audit Act audit reports for SWK from 2014 to 2018 (previously provided to Senate Finance Committee staff). Providing copy of Notice of Non-Compliance letter.” We have no knowledge of this document submission and again ask that we receive the Single Audit Act audit reports for Southwest Key.

The June 27th response also indicated that ORR was “providing copies of all applications, Notices of Award, and PMS drawdown activity for Southwest Key for all awards issued by ACF covering the period December 15, 2009, through September 29, 2018.” We did not receive copies of this documentation as it was not a part of the June 27th response or in the August 23rd document production.

This information has not been provided.

Question 26: Our original request asked for an explanation of the basis for determining that International Education Services (IES) would not be awarded additional funding under its grant, as well as any related documentation for that decision.

In the June 27th response, ORR indicated it was “providing Restricted Drawdown, NCC Withholding, and Disallowance letters.” We did not receive these documents as part of the June 27th response or August 23rd document production.

This information has not been provided.