

United States Senate
WASHINGTON, DC 20510-4504

February 21, 2024

VIA ELECTRONIC TRANSMISSION

Steven Bilby
President
Cherokee Federal

Mr. Bilby:

Due to the Biden Administration's failed policies, the number of unaccompanied alien children (UAC) entering the U.S. has skyrocketed to record-high levels since early 2021.¹ The Department of Health and Human Services' (HHS) Office of Refugee Resettlement (ORR) has outsourced care for these vulnerable children in most instances to contractors and grantees who are supposed to provide them with services and care. Cherokee Federal has received hundreds of millions of taxpayer dollars to support ORR over the past few years, and so it must provide an accounting to Congress and the American people for its handling of migrant children entrusted to its care.²

There's a critical need for this scrutiny given significant evidence that the safety and well-being of unaccompanied children has been compromised by HHS, ORR, and in some cases the contractors and grantees to whom these children were entrusted. My office has been informed through legally-protected whistleblower disclosures, including contractor records, showing children were sponsored without proper vetting or care, and at addresses that may be part of possible child-trafficking rings. Shockingly, children were placed by HHS and one of its contractors even where they were notified of likely MS-13 gang affiliation in the household.

¹ Congressional Research Service (CRS), *Increasing Numbers of Unaccompanied Children at the Southwest Border*, (Last updated June 28, 2023) (showing UC encounters at the U.S. border doubled from their highest points in the Trump administration to their numbers in the Biden administration, with 76,020 encounters in FY 2019 vs. over 152,000 in FY 2022), <https://crsreports.congress.gov/product/pdf/IN/IN11638#:~:text=In%20FY2021%2C%20total%20UC%20encounter%20s,CBP%20began%20publishing%20UC%20statistics>; see also Amelia Cheatham and Diana Roy, *U.S. Detention of Child Migrants*, Council on Foreign Relations (Last updated March 27, 2023), <https://www.cfr.org/background/us-detention-child-migrants#:~:text=Immigration%20authorities%20encountered%20more%20than,%2C%20an%20all%2Dtime%20high>.

² Cherokee Federal was awarded a single source contract, "to provide the full complement of services necessary to care for UC [unaccompanied alien children] in ORR [Office of Refugee Resettlement] custody including direct care and supervision, intake processing, clothing, hygiene kits, interior security, case management and medical service[es]." The contract shows obligated amounts to Cherokee Federal equaling \$706,894,848.17, which includes \$267,724,693.37 of COVID-19 funding, PIID: 75ACF121C00062, https://www.usaspending.gov/award/CONT_AWD_75ACF121C00062_7590_-NONE_-NONE- (last accessed: 2/20/24).

Given this disturbing information, on January 23, 2024, I alerted federal law enforcement agents from the Department of Homeland Security (DHS) and the Federal Bureau of Investigation (FBI) to evidence of suspected trafficking and called for immediate action to find and rescue as many children as possible.³ I expect your cooperation in this effort. It is our moral duty to do all we can to rescue children who may have endured sexual abuse or forced labor.

I'm grateful these brave whistleblowers have approached my office, and I encourage others to do so. Unfortunately, and despite clear federal law, HHS doesn't welcome or safeguard these whistleblowers or their vital efforts to improve the agency and encourage its safe handling of migrant children.⁴ Instead, the HHS Office of Inspector General (OIG), in a 2022 report detailing HHS's failures at its Fort Bliss Emergency Intake Site, uncovered alleged acts of whistleblower retaliation by ORR and facility leadership that may have discouraged staff from raising issues about child safety.⁵ HHS, its contractors, and federal grants recipients must do better. They must notify all employees of their rights under law to provide information to the inspectors general and to Congress and faithfully respect those rights when they are exercised.

HHS's Office of Inspector General (OIG) recently released a report that further supported my initial findings regarding the whistleblower records I received. It confirmed several issues regarding major flaws in the UAC vetting process. The OIG found children were released to sponsors before FBI fingerprint or state child abuse and neglect registry checks were completed and that nearly 1 in 5 of those files were never updated with the results. In one in six cases, one or more required sponsor safety checks either weren't conducted or documented. And even more troubling, in more than a third of cases, HHS and its contractors didn't ensure sponsor-provided identity documents were fully legible.⁶ If anything, the records in my possession, which cover a longer period of time and a far greater number of children than the OIG reviewed, paint an even more troubling picture of ORR's failure to protect the children entrusted to it. It's therefore clear that HHS still hasn't fixed the major flaws in ORR's procedures for safeguarding children that I've long identified in the nearly decade I've spent conducting oversight of UAC sponsor vetting.⁷

³ News Release, Senator Charles E. Grassley, *Grassley Alerts DHS, FBI to Evidence of Human Trafficking; Calls for Immediate Action to Locate and Rescue Migrant Children* (01/24/2024), <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>.

⁴ HHS Office of Inspector General. *Operational Challenges Within ORR and the ORR Emergency Intake Site at Fort Bliss Hindered Case Management for Children* (September, 2022), <https://oig.hhs.gov/oei/reports/OEI-07-21-00251.pdf>.

⁵ HHS Office of Inspector General. *Operational Challenges Within ORR and the ORR Emergency Intake Site at Fort Bliss Hindered Case Management for Children* (September, 2022), <https://oig.hhs.gov/oei/reports/OEI-07-21-00251.pdf>.

⁶ Dep't of Health and Human Servs., Off. of Inspector Gen., *Gaps in Sponsor Screening and Followup Raise Safety Concerns for Unaccompanied Children* (OEI-07-21-00250) (Feb. 2024), <https://oig.hhs.gov/oei/reports/OEI-07-21-00250.pdf>.

⁷ See, e.g., Letter from Senator Charles E. Grassley, Chairman, Senate Committee on the Judiciary, and Senator John Cornyn, Chairman, Subcommittee on the Constitution, to the Hon. Jeh Johnson, Secretary, Dep't of Homeland Security, and the Hon. Sylvia M. Burwell, Secretary, Dep't. of Health and Human Services (November 23, 2015), <https://www.grassley.senate.gov/news/news-releases/obama-administration-allegedly-releasing-unaccompanied->

So that Congress may conduct thorough and independent oversight of ORR and its facilities nationwide, and in order to support my longstanding investigation of ORR's failure to vet sponsors and care for children in its custody, please provide complete written responses to the following, along with the requested records,⁸ no later than March 6, 2024:

1. Provide a full list of facilities or services for UACs that Cherokee Federal supported either as a contractor, sub-contractor, or grantee, along with detailed information to describe your role, dates of work, and status of work as of the date of your response for all facilities or services. In your response, please distinguish between emergency intake sites (EIS) and other facilities and include the same information for all sub-contractors, entities, and facilities you are associated with.
 - a. For facilities where you are the primary award recipient, please provide a full list of sub-contractors and entities that supported your work. Please provide this information broken down by facility.
 - b. Please provide a full listing of services that you provided to care for UACs in ORR facilities, including, but not limited to: direct care and supervision, intake processing, clothing, hygiene kits, interior security, case management, and medical services. Include a description of services related to identifying and vetting sponsors and transporting children to their custody. Please provide this information broken down by facility.
 - c. Please provide all policies and procedures for vetting and background checks for employees, regardless of role, with physical access to UACs, as well as the number and location of any employees, sorted by date, who had physical access to UACs before their background checks or other vetting requirements were completed.
2. Provide unredacted copies of all contracts between Cherokee Federal, its associated entities and facilities with the U.S. government related to UAC services or care, along with a copy of all instructions received from HHS related to your performance under those contracts.

[minors-criminals-custody](#); see also U.S. Senate Committee on Finance, Investigative Report, Chairman Charles E. Grassley (116th Congress) and Chairman Ron Wyden (117th Congress), *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* (October 28, 2021), https://www.grassley.senate.gov/imo/media/doc/finance_committee_report_-_orr_unaccompanied_children_program.pdf

⁸ "Records" include any written, recorded, or graphic material of any kind, including letters, memoranda, reports, notes, electronic data (e-mails, email attachments, and any other electronically-created or stored information), calendar entries, inter-office communications, meeting minutes, phone/voice mail or recordings/records of verbal communications, and drafts (whether or not they resulted in final documents).

3. Provide a copy of all communications or records of any kind between and among Cherokee Federal, its associated entities, employees, facilities, and/or HHS, discussing or referencing in any way the length of any UAC's stay at any facility, the need to more quickly process any UACs, instructions from HHS related in any way to the timing of UAC placement, transportation, or processing, or the need to expedite or omit any aspect of UAC care or processing, including, but not limited to, fingerprinting, background checks, mental or physical health evaluations, public record searches, sex offender registry checks, or home studies.
4. For all EIS facilities, provide in unredacted and unedited form the first and last available census of the facility showing all UACs housed or cared for. In responding to this question, please provide a detailed explanation for the purpose of these census documents, how you prepare, maintain, and use them, as well as a list of any UACs deleted from the documents, along with the date and reasons for their deletion and the identity and title of those who ordered each deletion.
5. Please describe your process for identifying and vetting UAC sponsors, including all vetting steps, guidance, and standards followed in this process. In responding to this inquiry, please list and detail all instances where any UAC was placed with a category 2b or 3 sponsor without fingerprints being requested or received and/or the required background check being completed, as well as a list of all instances where any case manager or other contractor or HHS employee recommended placement with a sponsor be denied or a home study be conducted, along with details as to whether the child was still placed with a sponsor and whether the home study was conducted.
6. Please provide a list by facility and sorted by date of all children under your care who had or expressed, or where any HHS or contractor employee noted in any way, any actual or potential mental or physical disability of any sort, any actual or potential physical or sexual abuse of any kind, or where there was any indication of the potential sponsor actually or potentially presenting a risk of abuse, maltreatment, exploitation or trafficking, along with records documenting the outcome for each child, including whether the child was placed with the potential sponsors and whether home studies or post release services were requested and carried out.
7. Please provide a list by facility and sorted by date, of all children under your care where the potential sponsor of that child at any time sought to sponsor multiple children, where the potential sponsor had previously sponsored or sought to sponsor a child and sought to sponsor additional children, or where the child was 12 years of age or younger, along with information on whether home studies were conducted in those instances.

8. Please provide all policies and procedures related to home studies and all instructions received from HHS or distributed internally related to when and how those studies are to be conducted.
9. Please describe in detail how documents provided by potential sponsors are processed and verified as authentic, as well as any training for identifying fraudulent documents and verifying family relationships. In responding to this question, please include all records related to your procedures and training.
10. Please report any instances where Cherokee Federal, its employees, contractors, or associated entities or persons, through the process of identifying and vetting sponsors, along with transporting children to their custody, identified potential criminal activity, including potential cases of human trafficking. For each instance, please note whether potential criminal activity or signs of potential trafficking were referred to law enforcement and other appropriate government officials, and if so, to whom. In responding to this question, please list all cases where this potential criminal activity or signs of potential trafficking were identified, but not so referred, along with reasons for not referring the information.
 - a. In all such cases: what actions, if any, did you take to ensure that no children would be sponsored or placed in potential situations where there may be signs of criminal activity, including human trafficking?
 - b. Please provide a list of such instances and a detailed description of the outcome and placement of each child.
 - c. Please provide all policies and procedures for vetting and background checks for employees, regardless of role, with physical access to UACs, as well as the number and location of any employees, sorted by date, who had physical access to UACs before their background checks or other vetting requirements were completed.
11. Please provide all materials and information that you have provided to your employees in the past five years describing their legal rights to provide information to the inspectors general and to the U.S. Congress, as well as any training materials on that subject. In responding to this question, please verify who received the materials, information, or training and whether it was provided to employees working at facilities under contract with HHS.
12. Please describe how, if at all, the policies, processes, and procedures in the preceding questions differed at each facility based on location or date, and detail any changes made to those policies, processes, and procedures within the past five years.

13. Please provide organizational charts for Cherokee Federal for the past five years.
14. Please identify the individuals at Cherokee Federal responsible for overseeing government contracts related to UACs and identify whether the individual is a current or former employee. Please also identify the individuals at Cherokee Federal responsible for entering into and managing any subcontracts related to these programs.

It is essential that recipients of taxpayer money provide a full accounting to Congress and the American people with respect to how that money has been used. That requirement is particularly heightened regarding the critical issue of caring for children and preventing evil actors from turning their young lives into a living hell through human trafficking for sex or forced labor. I expect a full and complete response to my inquiry. Given what we anticipate will be a large volume of records produced in response to this request, my office will work with you as needed to facilitate their secure transfer. If you have any questions, please contact James Layne on my Budget Committee staff at (202) 224-0642.

Sincerely,



Charles E. Grassley
Ranking Member
Committee on the Budget