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May 9, 2019

The Honorable Lynn A. Johnson
Assistant Secretary for Children and Families
Administration for Children and Families
Department of Health and Human Services
330 C Street, S.W.
Washington, D.C. 20201

Dear Assistant Secretary Johnson,

As you are aware, federal law requires the U.S. Department of Health and Human Services (HHS) to provide shelter and care for each unaccompanied alien child, defined as a child under the age of 18 who has no lawful immigration status in the United States, and for whom there is no parent or legal guardian in the United States.¹ This responsibility ends only when the Department's Office of Refugee Resettlement (ORR) releases a child to a suitable sponsor, the Department of Homeland Security (DHS) removes the child upon completion of immigration adjudication, or the child reaches the age of 18. Until that time, however, ORR – a division of the Administration for Children and Families (ACF) – must place each child “in the least restrictive setting that is *in the best interest of the child*,” (emphasis added) as a part of the Unaccompanied Alien Children (UAC) program.²

According to HHS data, for the first nine years of the UAC program, ORR served fewer than 8,000 children annually. The number of UAC referred by other agencies to ORR for care, which includes both children who enter the country without a parent or legal guardian and those who were separated from their parent or legal guardian, has increased dramatically. As of Fiscal Year 2018, the number of referrals to ORR reached 49,100.³

Although ORR bears responsibility for providing shelter and care, a number of federally funded grantees operate facilities that house unaccompanied children. We write to you today about this relationship between ORR and its grantees, and the alleged conduct of several grantees. Recent reports detail horrific and intolerable allegations of excessive compensation, self-dealing, and sexual abuse perpetrated by these taxpayer-funded grantees. These allegations raise serious questions about how some grantees have used federal funding, and whether ORR has failed to uphold its statutory duties to ensure the health and safety of children within their care.

¹ 6 USC § 279(g)(2).

² 8 USC § 1232(b)(2).

³ Office of Refugee Resettlement, Facts and Data, <https://www.acf.hhs.gov/orr/about/ucs/facts-and-data>.

Internal documents received by Axios in February show that HHS and the Department of Justice have received *thousands* of allegations of sexual abuse, including almost two hundred contractor staff-on-minor allegations of sexual assault.⁴ In some instances, employees of grantees have been indicted or convicted of abuse.⁵ This information also indicates that the amount of time children spend in the care of ORR grantees has increased significantly, including time spent in facilities where the alleged misconduct has occurred.⁶ The extended lengths of stay in grantee facilities heightens our concerns about the safety and well-being of the unaccompanied alien children.

Recent reports and HHS Office of Inspector General (OIG) audits raise additional serious questions concerning the financial and operational accountability of ORR grantees. According to public reports, for example, Southwest Key paid managers and its chief executive—Juan Sanchez—excessive salaries, and engaged in self-dealing regarding property and leases in Conroe and Brownsville, Texas.⁷ The Texas Tribune also reported on the same self-dealing by Southwest Key and its officers in September 2018.⁸ Although Mr. Sanchez and the organization’s chief financial officer have both recently resigned, it appears systemic problems remain unresolved.⁹

Congress must evaluate ACF’s and ORR’s management and oversight of grantee activity, and whether those efforts are sufficient to ensure grantee accountability and to fulfill statutory requirements to safeguard the health and safety of children housed at grantee facilities.

⁴ Caitlin Owens, Stef W. Knight, Harry Stevens, *Thousands of migrant youth allegedly suffered sexual abuse in U.S. custody*, Axios (February 26, 2019), <https://www.axios.com/immigration-unaccompanied-minors-sexual-assault-3222e230-29e1-430f-a361-d959c88c5d8c.html>; Office of Refugee Resettlement, *Unaccompanied Alien Children Program Sexual Abuse Allegations Reported to DOJ Fiscal Year 2015 through 2018*, <https://assets.documentcloud.org/documents/5751021/NadUAC1213-Sexual-Assaults-by-Date-of-Incident.pdf>.

⁵ Bree Burkitt, *Jury finds Southwest Key employee guilty of molesting unaccompanied minors at Mesa shelter*, Arizona Republic (September 10, 2018), <https://www.azcentral.com/story/news/politics/immigration/2018/09/10/southwest-key-worker-convicted-abusing-minors-arizona-migrant-shelter/1258594002/>.

⁶ Edgar Walters, Ryan Murphy, Darla Cameron, *Even after Tornillo tent city's closure, more than 5,600 migrant kids are living in Texas shelters*, Texas Tribune (June 20, 2018), <https://apps.texastribune.org/features/2018/texas-migrant-children-shelters/>; Garance Burke, Martha Mendoza, *More migrant kids held in mass shelters, AP investigation finds*, Associated Press (December 19, 2018), <https://www.pbs.org/newshour/nation/more-migrant-kids-held-in-mass-shelters-ap-investigation-finds>.

⁷ Kim Barker, Nicholas Kulish, Rebecca R. Ruiz, *He's Built An Empire, With Detained Migrant Children as the Bricks*, New York Times (December 2, 2018), <https://www.nytimes.com/2018/12/02/us/southwest-key-migrant-children.html>.

⁸ Shannon Najmabadi, Jay Root, *Southwest Key CEO has financial stake in property leased by migrant shelter operator*, Texas Tribune (September 29, 2018), <https://www.texastribune.org/2018/09/29/sanchez-part-owner-property-leased-southwest-key-programs-eller-said-a/>.

⁹ Nicholas Kulish, Kim Barker, Rebecca Ruiz, *Top Officials Resign From Southwest Key, Shelter Provider for Migrant Children*, New York Times (March 11, 2019), <https://www.nytimes.com/2019/03/11/us/southwest-key-migrant-shelters-resignations.html>.

Grantee, Facility, and Census Data

1. Please 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 present. Please include 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.
2. Provide data on the number children referred to ORR for care each month for each year from Fiscal Year 2014 to present.
3. Reports indicate that ORR is housing up to two dozen UACs in need of "highly specialized care" at "out of network" shelters, separate from its other shelters that house migrant children.¹⁰
 - a. What ORR rules and regulations permit the use of "out of network" shelters?
 - b. Please identify all "out of network" shelters currently or previously utilized by ORR, including the providers and/or grantees that operate these facilities from Fiscal Year 2014 to present. Please include the name and location of each shelter, the 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.
 - c. Please describe the contracts and/or grants awarded and care provided to children housed at these shelters.
 - d. Please describe ORR's policies and procedures as they pertain to conducting oversight over these "out of network" shelters and placements.
4. On January 11, 2019, the Washington Post reported that ORR intended to close the Tornillo, Texas influx facility by the end of January.¹¹ On Monday, April 1, 2019, we were notified that ORR plans to expand bed capacity at the Homestead, Florida temporary influx shelter from 2,350 to 3,200 beginning in mid-April of 2019.
 - a. Please describe the status of the Tornillo facility. Include in your response the following information:
 - i. whether the facility is still operational;
 - ii. if and when the agency intends to close the facility;
 - iii. the number of UAC who were still housed at the facility as of its last month of operation, or last month if it remains operational;
 - iv. the number of UAC released from the facility; and
 - v. how many were transferred to other facilities. Please detail the names and locations of the facilities where ORR transferred those UAC.
 - b. Please describe the status of the Homestead shelter and its current and planned population.

¹⁰ Aura Bogado, Patrick Michels, *Government acknowledges 15 to 20 migrant children held in 'out of network' facilities*, Reveal News (March 19, 2019), <https://www.revealnews.org/blog/government-acknowledges-15-to-20-migrant-children-held-in-out-of-network-facilities/>

¹¹ Maria Sacchetti, *Trump administration removes all migrant teens from giant Tornillo tent camp*, Washington Post (January 11, 2019), https://www.washingtonpost.com/local/immigration/trump-administration-to-shutter-texas-tent-city-for-migrant-teens/2019/01/11/c914356e-1510-11e9-b6ad-9cfd62dbb0a8_story.html?utm_term=.334f409fa9b0

- c. Please describe ORR's policies and procedures for conducting oversight of "influx" shelters.
5. On April 1, 2019, ORR announced it is conducting exploratory assessments of vacant properties in Texas, Arizona, and Georgia for potential future state-licensed permanent shelter locations.
 - a. Please describe ORR's plans for these additional shelters, the agency's operation and licensing process, and their expected dates of operation and population.
 - b. Please describe ORR's policies and procedures for conducting oversight of state-licensed shelters.

Incident Reporting and Grantee Performance Assessment

6. ORR's public information on its desk monitoring efforts states that the agency conducts regular reviews of records and reports—such as quarterly program reports, Significant Incident Reports (SIRs), reports about the use of the UAC Portal Database, and financial reports.
 - a. Please describe and provide copies of each type of report used to monitor ORR grantees. In the description of each report, include the frequency with which ORR generates the reports (e.g. weekly, quarterly, etc.), who reviews the reports, and how the agency uses information from these reports to inform and influence decision-making, including but not limited to grantee reauthorization, renewals, and expansions.
7. Provide data on the number of Significant Incident Reports (SIRS) that ORR received annually from Fiscal Year 2014 to present. Please break out the annual numbers by grantee, facility, and incident type and severity.
8. Provide copies of any and all SIRS and SIR Addenda ORR received from Fiscal Year 2014 to present from:
 - a. all shelter facilities operated by Southwest Key, by facility
 - b. the Tornillo influx shelter
 - c. the Homestead influx facilities; and
 - d. all other facilities not listed above
9. Please provide copies of any and all corrective action plans from Fiscal Year 2014 to present for:
 - a. all shelter facilities operated by Southwest Key, by facility
 - b. the Tornillo influx shelter
 - c. the Homestead influx facilities; and
 - d. All other facilities not listed above
10. ORR's public information states that it may discontinue funding, halt placements and remove children from a facility, and/or close programs that fail to address the need for corrective action in a timely and effective manner.

- a. How does ORR determine whether to apply such actions to a grantee as a whole or to a specific facility?
- b. How often does ORR discontinue grantees' funding, issue disallowances, or issue temporary suspensions/debarments?
- c. Has ORR ever issued a government-wide suspension/disbarment of a grantee? If so, please identify them. Please identify all grantees and facilities that have been suspended or debarred, and the reasons for them.
- d. Additionally, please identify all grantees and facilities to whom disallowances have been issued and the terms of those disallowances.

Sexual Abuse Prevention and Enforcement

11. In your December 12, 2018, report to Sen. Wyden, you stated that “[i]n FY 2017, according to ORR’s Sexual Abuse Significant Incident Reports (SIR) reports, care providers reported 264 allegations of sexual abuse to the FBI. Of those 264 allegations, 53 allegations involved an adult.” Please provide the number of sexual abuse reports and allegations from FY 2014 to the present by grantee and by facility, as well as the number of substantiated reports and criminal prosecutions for each.
12. What protections are grantees required to have in place to protect children housed in ORR facilities from sexual and other abuse? How does ORR ensure that facilities have these protections in place? And what, if anything, is done when facilities are found to lack proper protections, e.g., when a staff member conducts bed checks alone?
13. Please explain the states’ asserted legal basis for refusing to allow federal access to state registries typically used for background checks, such as child abuse and neglect (CAN) checks. Additionally, please provide documentation of ORR’s requests to each state for access to such registries or the results from such state-run checks, as well as each state’s response.
14. Given that ORR does not obtain CAN checks for staff at shelters located on federal property, how does ORR ensure that staff do not have a history of convictions that could put children’s health and safety at risk?
15. What types of waivers from its operational requirements does ORR provide to its grantees? How many waivers has ORR issued to grantees and for what specific reasons? Please include information for all waivers granted from FY 2014 to present.
16. As noted above, in 2018, Arizona moved to revoke all of Southwest Key’s 13 state licenses for its widespread failure to meet background check requirements, and to disclose and remedy any problems. What action has HHS taken with regard to Southwest Key’s failure to meet background check requirements, including but not limited to those raised by the State of Arizona?
17. Levian Pacheco, a Southwest Key employee, was convicted last year on 10 counts of sexual abuse involving multiple migrant boys at one of the provider's facilities in

Arizona.¹² Additional reporting further describes allegations of abuse by Southwest Key employees, including Oscar Trujillo and Fernando Magaz Negrete.¹³ Please describe what actions ORR has taken against Southwest Key in response to these convictions and arrests, and to address any other health and safety violations.

State Regulation and Oversight

18. With the exception of ORR influx facilities, ORR relies upon state-licensed facilities to provide shelter capacity. Recently, the State of California found that one of Southwest Key's San Diego facilities failed to provide adequate food.¹⁴ In 2018, The Texas Tribune reported that over the past 3 years, Southwest Key shelters in that state had incurred 298 state violations.¹⁵ In August 2018, the State of Arizona moved to revoke the licenses of each of the 13 facilities Southwest Key operated in that state. In October 2018, the State of Arizona entered in a Settlement Agreement with Southwest Key, fining the organization \$73,000 and requiring the organization to surrender two licenses.
- To what extent does ORR monitor licensee compliance with state requirements and resulting state enforcement actions? What corrective actions does ORR take as a result?
 - To what extent are the costs and fines associated with state licensing enforcement actions allowable costs under HHS grants to ORR grantees?
 - What actions did HHS take against Southwest Key for its state violations in Texas, California, and Arizona, respectively?
 - Is Southwest Key in compliance with its Arizona settlement? If not, what actions has ORR taken, or will it take, regarding compliance with the settlement?
 - To what extent are the costs and fines associated with this settlement, or any other state licensing enforcement actions incurred by Southwest Key, allowable costs?
19. In 2018, the San Diego Union-Tribune reported 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.¹⁶

¹² Bree Burkitt, *Jury finds Southwest Key employee guilty of molesting unaccompanied minors at Mesa shelter*, Arizona Republic (September 10, 2018), <https://www.azcentral.com/story/news/politics/immigration/2018/09/10/southwest-key-worker-convicted-abusing-minors-arizona-migrant-shelter/1258594002/>.

¹³ Agnel Philip, *Police reports tell of sexual abuse, harassment at Arizona facilities for migrant children*, Arizona Republic (July 25, 2018), <https://www.azcentral.com/story/news/local/arizona-investigations/2018/07/25/southwest-key-migrant-facilities-see-sex-abuse-harassment-allegations/742133002/>; Angela Forburger, *Southwest Key employee in Phoenix accused of sexually abusing 14-year old migrant girl*, Arizona Republic (August 1, 2018), <https://www.azcentral.com/story/news/local/phoenix-breaking/2018/08/01/phoenix-southwest-key-worker-fernando-negrete-accused-sex-abuse-14-year-old-migrant-girl/880778002/>.

¹⁴ Wendy Fry, *State cites immigrant shelter for minors over food service issues*, San Diego Union-Tribune (October 2, 2018), <https://www.sandiegouniontribune.com/news/watchdog/sd-me-shelter-food-20181002-story.html>.

¹⁵ *See n.3.*

¹⁶ Wendy Fry, *Migrant shelter for unaccompanied children reports more runaways to El Cajon police than to state officials*, San Diego Union-Tribune (November 19, 2018), <https://www.sandiegouniontribune.com/news/watchdog/sd-me-migrant-shelter-runaways-20181119-story.html>.

- a. To what extent does ORR monitor licensee reporting to local law enforcement and local government agencies, and compliance with local rules and regulations?
- b. What action did HHS take in response to the San Diego Union-Tribune reporting regarding Southwest Key?

Reunification Procedures and Practices

20. Describe the procedures required for parents and sponsors to obtain physical custody of children in ORR care, including the procedures for (a) ORR and (b) grantees for designating the timing and transportation of the children and credentialing of recipients. Please provide copies of all relevant regulations and guidance.
21. Recent public reporting and committee staff inquiries indicate that Southwest Key has repeatedly required parents and sponsors obtaining reunification with children in its care to utilize a specific travel agency — Copacabana Travel Management in Georgia.¹⁷ Furthermore, there are recent reports that some ORR grantees are requiring parents and sponsors pay significant amounts of money just for the release of children in ORR care.¹⁸
 - a. Please 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.
 - b. With regard to Southwest Key, please provide a description of the relationship between Southwest Key and Copacabana, including its duration, any ownership or financial arrangements, and the extent to which such arrangements are subject to audit and approval by ACF/ORR.
 - c. Please provide any audits, reviews, or investigation reports related to Southwest Key and its reunification practices, including but not limited to its relationship with Copacabana.

Local Oversight and Legal Basis for Limits for ORR Shelters

22. To what extent does ACF oversee or direct grantees' compliance with state and local regulatory requirements and enforcement? Can or does ORR direct or require its grantees to seek specific state or local facility classification or designation, e.g. health care facility?
23. In 2018, a Cameron County, Texas court ordered an investigation of the Southwest Key–Casa Padre shelter concerning child welfare at the facility. The facility is licensed by the State of Texas. The U.S. Department of Justice, on behalf of HHS and Secretary Alex Azar, moved to block this investigation and to block the county court from asserting jurisdiction over welfare of children at the shelter. In September 2018, the parties agreed

¹⁷ Katy Vine, *Why Are Separated Families Told They Must Use a Tiny Georgia Travel Agency to Reunite?*, Texas Monthly (March 1, 2019), <https://www.texasmonthly.com/news/southwest-key-separated-migrant-families-copacabana-reunite/>.

¹⁸ Tatiana Sanchez, *Mother's agonizing wait ends in SF: She's reunited with baby taken from father by U.S. officials at border*, San Francisco Chronicle (January 29, 2019), <https://www.sfchronicle.com/bayarea/article/Honduran-man-separated-from-1-year-old-at-the-13571776.php>.

to dismiss the state-ordered writ and the state investigation, leaving the jurisdictional issues unresolved.

- a. Please explain why HHS moved to block the state investigation of the shelter and the legal basis for this action.
- b. Please provide copies of all filings made on behalf of HHS in this matter before the County court and before the U.S. District Court for the Southern District of Texas, Brownsville Division (Civil Action No. 1:18-cv-00112).

Financial and Organizational Accountability

24. The HHS Office of Inspector General (OIG) has conducted a series of audits of ORR grantees for FY 2014 through FY 2016. Their report on one such grantee—Lincoln Hall—found a complete absence of accounting systems capable of tracking disbursement of grant funds or oversight of sub-grantees.¹⁹

- a. Describe the accounting systems and controls that ORR grantees are required to maintain to ensure funds provided by ACF are spent appropriately, including but not limited to subcontracted services and their costs. Please provide copies of all applicable guidance and regulations.
- b. What action has HHS taken against Lincoln Hall and any other grantee for their failure to maintain adequate financial controls, generally, and for subcontracted services specifically?

25. As noted above, The New York Times reported on December 2, 2018, that Southwest Key paid managers and its chief executive—Juan Sanchez—excessive salaries, and engaged in self-dealing regarding property and leases in Conroe and Brownsville, Texas.²⁰ The Texas Tribune also reported on self-dealing by Southwest Key and its officers in September 2018.²¹

- a. Please provide all financial audits or reviews HHS has conducted of Southwest Key since January 1, 2014, including but not limited to those addressing self-dealing and compensation issues raised in the aforementioned articles.
- b. Please describe any actions ACF has taken regarding deficiencies in Southwest Key's financial management.
- c. Please provide 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.

¹⁹ U.S. Department of Health and Human Services, Office of Inspector General, *Lincoln Hall Boys' Haven, an Administration for Children and Families Grantee, Did Not Always Comply with Applicable Federal and State Policies and Requirements*, (February 2019), <https://www.oig.hhs.gov/oas/reports/region2/21602007.pdf>.

²⁰ Kim Barker, Nicholas Kulish, Rebecca R. Ruiz, *He's Built An Empire, With Detained Migrant Children as the Bricks*, New York Times (December 2, 2018), <https://www.nytimes.com/2018/12/02/us/southwest-key-migrant-children.html>.

²¹ Shannon Najmabadi, Jay Root, *Southwest Key CEO has financial stake in property leased by migrant shelter operator*, Texas Tribune (September 29, 2018), <https://www.texastribune.org/2018/09/29/sanchez-part-owner-property-leased-southwest-key-programs-eller-said-a/>.

- d. Identify each subcontracted vendor retained by Southwest Key and provide a description of the service provided by that vendor and the costs of those services for all such subcontracts beginning in FY 2014.
26. In February 2018, ORR/ACF notified International Educational Services (IES) that it would not award additional funding under its grant. Please explain the basis for this decision and provide any related documentation, e.g. notification that the grant would not be extended, disallowance of costs, etc.
 27. We understand that ORR hired an accounting firm to review shelter grant recipients and provide a risk assessment that will help ORR determine where it should focus its oversight efforts.²² Please identify this firm and describe the nature of ORR's contract with this firm, including the project's scope, timeframes, and costs.
 28. In 2017, Comprehensive Health Services, Inc. settled a False Claims Act case with the U.S. Department of Justice for \$3.818 million with regard to fraudulently billing the IRS for medical services provided to IRS personnel.²³ The company operates the Homestead influx shelter and was recently granted an expansion of that work. In 2018, Comprehensive Health Services, Inc. took over three former IES shelters in Texas, under a new HHS grant.²⁴
 - a. On what basis did ACF/ORR deem Comprehensive Health Services, Inc. a qualified provider?
 - b. What measures did ACF/ORR put in place with regard to the Comprehensive Health Services, Inc. grant award to ensure financial accountability?
 - c. What measures did ACF/ORR put in place to ensure that any former employees of IES re-hired by Comprehensive Health Services were properly vetted?
 29. Has HHS referred any matters relating to Southwest Key, IES, or any other ORR grantee to the IRS? If so, please identify them.

Please provide a response to these questions by May 31, 2019. If you are unable to provide any of the data for any of the fiscal years requested, please provide a written explanation for why you are unable to do so.

²² *Ibid.*

²³ United States Attorney's Office, District of Maryland, *Health Services Contractor Agrees to Pay \$3.818 Million to Settle False Claims Act Allegations for Double-Charging and Mischarging Medical Services on Internal Revenue Service Contract*, (February 8, 2017), <https://www.justice.gov/usao-md/pr/health-services-contractor-agrees-pay-3818-million-settle-false-claims-act-allegations>.

²⁴ Kim Barker, Nicholas Kulish, *Inquiry into Migrant Shelters Poses Dilemma: What Happens to the Children?*, New York Times (January 5, 2019), <https://www.nytimes.com/2019/01/05/us/southwest-key-migrant-shelters.html>.

Should you have questions regarding this request, please contact DeLisa Ragsdale of Chairman Grassley's staff or David Berick of Ranking Member Wyden's staff at (202) 224-4515.

Sincerely,



Charles E. Grassley
Chairman
U.S. Senate Committee on Finance



Ron Wyden
Ranking Member
U.S. Senate Committee on Finance