

Department of Health and Human Services

**OFFICE OF  
INSPECTOR GENERAL**

**THE OFFICE OF REFUGEE  
RESETTLEMENT NEEDS TO IMPROVE  
ITS PRACTICES FOR BACKGROUND  
CHECKS DURING INFLUXES**

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Inspector General

May 2023  
A-06-21-07003

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# Report in Brief

Date: May 2023

Report No. A-06-21-07003



## Why OIG Did This Audit

During the Federal fiscal year 2021, an unprecedented number of unaccompanied children began arriving at the U.S. southern border. The Office of Refugee Resettlement (ORR) had to act quickly to increase the number of shelter beds because additional capacity was needed to manage the increasing numbers of unaccompanied children referred by the Department of Homeland Security and to implement COVID-19 mitigation strategies. As a result, ORR reactivated 1 existing influx care facility (ICF) and opened 14 emergency intake sites (EISs).

Our objective was to determine whether ORR's ICF and EISs conducted required background checks on employees.

## How OIG Did This Audit

We conducted site visits at 1 ICF and 10 of the 14 EISs in 3 States in May and June 2021. The 11 sites were fully operational at the time of our audit start. Across the 11 sites, we reviewed background checks for 259 employees, and across the 10 EISs, we reviewed background checks for 89 detailed Federal employees to verify that required background checks were conducted.

In addition, we reviewed background checks for a sample of 10 drivers and 20 transportation specialists associated with a contract ORR entered into for transportation services.

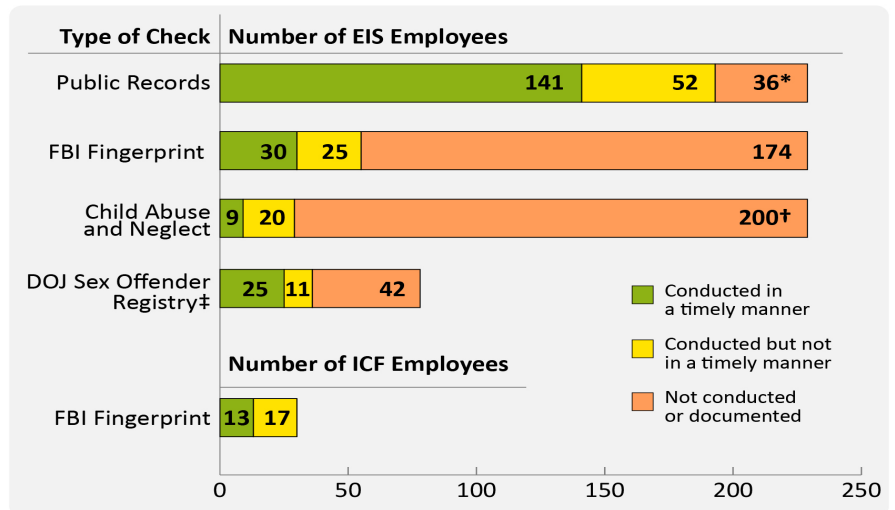
Finally, during our site visits of the ICF and 10 EISs, we assessed procedures in place to control access to the facilities.

## The Office of Refugee Resettlement Needs To Improve Its Practices for Background Checks During Influxes

### What OIG Found

For some employees, ORR's ICF and EISs did not conduct or document all required background checks or did not conduct the checks in a timely manner. In addition, ORR did not require the transportation services contractor we reviewed to conduct background checks on employees as required by ORR minimum standards. The figure summarizes facility compliance with employee background check requirements based on our judgmental sample.

**Figure: Summary of Compliance With Background Check Requirements**



\* For 6 of the 36 employees, an FBI fingerprint check was conducted prior to hire.

† For 51 of the 200 employees, ORR had waived the Child Abuse and Neglect (CA/N) check requirement.

‡ DOJ sex offender registry checks were only required for employees at the EISs for which ORR issued a waiver (78 employees).

Note: ICFs were not required to conduct public records checks, CA/N checks, or DOJ sex offender registry checks.

The issues we identified occurred primarily because the influx of unaccompanied children required ORR to rapidly set up new facilities in order to expand capacity as well as develop formal policies and procedures related to the EISs.



## **What OIG Recommends and Administration for Children and Families Comments**

We recommend that ORR take the following actions related to background checks: (1) ensure required background checks are conducted on current employees for whom checks were not conducted, (2) clarify and reissue guidance, (3) include a review of each facility's compliance as part of ORR's routine site visit monitoring, and (4) ensure that future awards and subawards for services that involve children include detailed information on required background checks. See the report for additional findings and more detailed recommendations.

In written comments on our draft report, the Administration for Children and Families (ACF), commenting on behalf of ORR, concurred with our recommendations and described the actions it has taken to address our findings. For example, ACF stated that ORR worked with both current ICFs (formerly EISs) to initiate required background checks on all employees whose checks were not completed prior to hire. ACF also stated that ORR clarified and reissued guidance on background checks required of EIS staff and volunteers should there ever be a need for future EISs. ACF stated that ORR created monitoring requirements for both ICFs and EISs that include reviewing compliance with all background check requirements and that ORR conducts quarterly on-site monitoring visits to the two, current ICFs.

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## INTRODUCTION

### WHY WE DID THIS AUDIT

The Office of Refugee Resettlement (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 Program (UC Program).<sup>1</sup> In Federal fiscal year (FY) 2021, an unprecedented number of unaccompanied children began arriving at the southern border of the United States. ORR had to act quickly to increase the number of shelter beds because additional capacity was needed to manage the increasing numbers of unaccompanied children referred by the Department of Homeland Security (DHS) and to implement COVID-19 mitigation strategies. As a result, ORR reactivated 1 existing influx care facility (ICF)<sup>2</sup> and opened 14 emergency intake sites (EISs).<sup>3</sup>

This report builds on the Office of Inspector General's (OIG's) previous oversight of ORR's efforts to protect children and is one of two audit reports that focus on health and safety at the ICF and EISs. This report specifically addresses the ICF and EISs' procedures to ensure that employee and volunteer background checks were conducted.<sup>4</sup> The first report addressed the procedures for COVID-19 testing and for protecting children and employees against the spread of COVID-19 at the ICF and EISs.<sup>5</sup>

### OBJECTIVE

Our objective was to determine whether ORR's ICF and EISs conducted required background checks on employees.

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<sup>1</sup> Unaccompanied children have no lawful immigration status in the United States and have no parent or legal guardian in this country, or do not have one available to assume custody and care for them in this country (6 U.S.C. § 279(g)(2)).

<sup>2</sup> During an influx, ORR may not have sufficient bed space available within its licensed care provider network to place unaccompanied children. In this situation, ORR arranges for the use of an ICF to provide supplemental bed capacity. See *ORR Guide: Children Entering the United States Unaccompanied* (ORR Guide): § 7.1., Sept. 18, 2019.

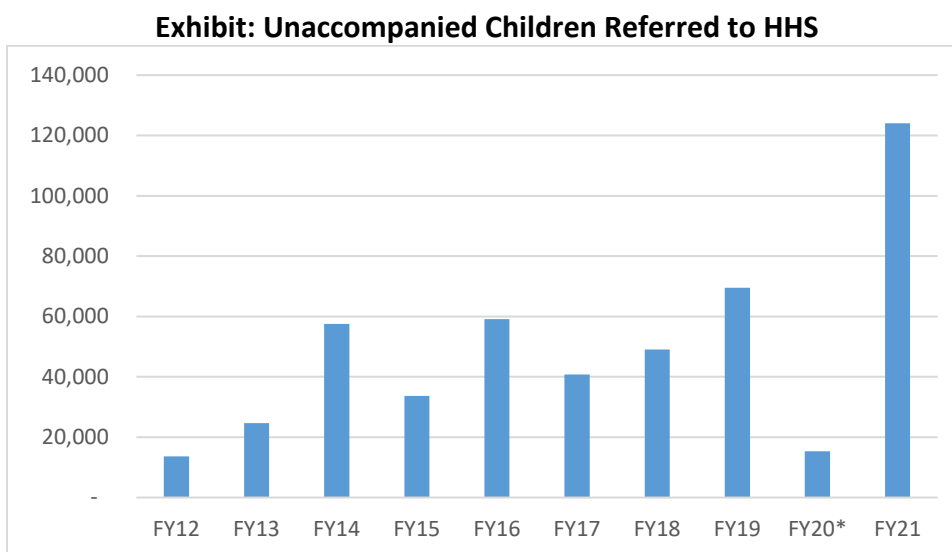
<sup>3</sup> EISs were first opened in early 2021 and were, according to ORR policy, designed to meet immediate sheltering needs for mass care with basic standards when there is a severe shortage of licensed facilities and ICFs. *ORR Field Guidance #13; Emergency Intake Sites (EIS) Instructions and Standards* (Field Guidance #13), Apr. 30, 2021.

<sup>4</sup> We use the term "employee" throughout this report when referring to employees and volunteers. Federal employees who served in voluntary deployment details are referred to as "detailed Federal employees" and are discussed separately from our review of "employees" in this report.

<sup>5</sup> OIG, *Office of Refugee Resettlement's Influx Care Facility and Emergency Intake Sites Did Not Adequately Safeguard Unaccompanied Children From COVID-19*, A-06-21-07002, June 2022. Available at <https://oig.hhs.gov/oas/reports/region6/62107002.pdf>.

## BACKGROUND

The number of children referred by DHS to ORR custody grew significantly from FY 2019 to FY 2021. In FY 2019, DHS referred 69,488 unaccompanied children to HHS. In FY 2020, the number of referrals fell to 15,381 because of a U.S. public health order responding to the COVID-19 pandemic—implemented in March 2020—to suspend entry of certain non-citizens at or near the U.S. borders, resulting in expulsions of most unaccompanied children upon attempting to enter the United States. Following a court injunction and a change in policy in mid-FY 2021 that exempted unaccompanied children from such expulsions, the number of unaccompanied children increased significantly. The total number of children referred to HHS in FY 2021 was 124,047, as shown in the following exhibit.



\* Referrals in FY 2020 were the lowest since FY 2012 because of the implementation of the COVID-19 public health order that limited entry at U.S. borders.

An increase in the number of unaccompanied children at the U.S. southern border—such as the unprecedented increase in FY 2021—presents several urgent challenges that ORR must address to protect the health and safety of children in its custody. These challenges include the need to quickly add bed capacity and ensuring that new facilities hire sufficient staff and train them appropriately.

### Office of Refugee Resettlement Care Provider Network

Federal law requires the safe and timely placement of children in the least restrictive setting that is in the child’s best interest.<sup>6</sup> To address the needs of children, ORR provides funds through cooperative agreements or contracts to several types of facilities in its care provider network, including shelters, transitional foster care, long-term foster care, and staff secure or

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<sup>6</sup> 8 U.S.C. § 1232(c)(2).

secure facilities.<sup>7</sup> In FY 2021, ORR provided funding to approximately 200 facilities and programs in 22 States. Most are licensed or accredited under the laws of their respective States. Because of large fluctuations in the numbers of children arriving throughout the year, ORR maintains a mix of standard beds that are available year-round at licensed care facilities and temporary beds, including those at ICFs, that can be added or removed as needed.<sup>8</sup> This bed management strategy allows ORR to accommodate changing flows in unaccompanied children referrals. A child typically remains in ORR's care until a vetted sponsor, who can assume custody, is located in the United States.

During the COVID-19 pandemic, ORR modified its operations to protect children from COVID-19 and to comply with Centers for Disease Control and Prevention guidelines, including quarantining and testing newly arrived children and adhering to physical distancing protocols in ORR care provider facilities. Although ORR had worked to build up its capacity to include more than 13,500 licensed beds (the highest number of standard beds in the UC Program's history), additional capacity was needed to manage the increasing numbers of unaccompanied children referred by DHS and to implement COVID-19 mitigation strategies.

Therefore, ORR reactivated one ICF and worked closely with the Federal Emergency Management Agency and other Federal partners to establish 14 EISs along the U.S. southern border and in the interior of the country as well as to engage service providers. Services were provided by a combination of the American Red Cross, Federal staff—including teams from the HHS Administration for Strategic Preparedness and Response and the U.S. Public Health Service Commissioned Corps—and various contractors.<sup>9, 10</sup> The EISs were intended to provide ORR with the needed capacity to accept children from DHS to facilities where the children could be safely processed, cared for, and either released to a vetted sponsor or transferred to an appropriate ORR shelter for longer term care. The EISs were intended for use as a temporary measure.

### **Influx Care Facilities**

ORR opens an ICF when its licensed care provider network does not have sufficient standard bed space available to provide shelter and services for children during an influx or

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<sup>7</sup> A staff secure facility maintains stricter security measures, such as higher staff-to-child ratios for supervision; a secure facility has a physical security structure and is the most restrictive placement option for children.

<sup>8</sup> Standard beds refer to beds at both State-licensed facilities and facilities whose State licenses were discontinued solely because a State took action to discontinue licensing ORR care providers (e.g., Florida and Texas).

<sup>9</sup> *Flores v. Barr*, No. CV 85-4544-DMG-AGR, ORR, "ORR Juvenile Coordinator Interim Report (Document 1104-2: 42935)," Apr. 9, 2021.

<sup>10</sup> On July 22, 2022, the office formerly known as the Office of the Assistant Secretary for Preparedness and Response was elevated from a staff division to an operating division and renamed the Administration for Strategic Preparedness and Response.

emergency.<sup>11, 12</sup> Because ICFs are intended to be a temporary response to an influx or emergency, they may not be licensed or may be exempted from licensing requirements by either State or local licensing agencies, or both.<sup>13</sup> However, ICFs must meet ORR policies and must comply to the greatest extent possible with State child welfare laws and regulations.<sup>14</sup> Among other things, ICFs must provide each child with proper physical care and maintenance, appropriate routine medical and dental care, an individual needs assessment, educational services appropriate to the child's level of development and communication skill, recreation and leisure activities, mental health services, and case management services designed to identify a sponsor who can take custody of the child.<sup>15</sup>

## **Emergency Intake Sites**

EISs are a new type of care provider facility that ORR quickly opened during March and April of 2021 to reduce the number of children in DHS custody while greatly expanding ORR's capacity. EISs are meant to be short-term facilities, generally opened for less than 6 months.<sup>16</sup> EISs are not licensed by the State and are opened in the event of a severe shortage of beds in ORR's licensed care provider network and ICFs. A severe shortage occurs when ORR is unable to accept referrals of children for placement in State-licensed facilities and ICFs, which would result in children remaining in DHS custody for more than 72 hours without a placement designation.<sup>17</sup> According to ORR, EISs must provide basic standards of care to ensure the child's physical safety, access to legal services information, and access to emergency clinical services. Additionally, ORR encourages EISs to offer case management services, educational services, and recreational time as practicable.

EISs have been the subject of multiple news articles and reports citing concerns and complaints from members of Congress, child advocates, and staff at the facilities. Most of the concerns and complaints involve ORR's management of the facilities, quality of care, living conditions, the length of time children remain in care before being released to a sponsor, and the waiving of Federal Bureau of Investigation (FBI) fingerprint checks for EIS staff. Four of the 14 EISs

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<sup>11</sup> ORR Guide § 7.1 (Sept. 18, 2019).

<sup>12</sup> ORR may activate and open an ICF when ORR's operational capacity equals or exceeds 85 percent for a period of 3 days. ORR Guide § 7.2.2 (Sept. 18, 2019).

<sup>13</sup> ORR Guide § 7.1 (Sept. 18, 2019).

<sup>14</sup> ORR Guide § 7.5 (Sept. 18, 2019).

<sup>15</sup> ORR Guide § 7.5.1 (Sept. 18, 2019).

<sup>16</sup> Field Guidance #13 (Apr. 30, 2021).

<sup>17</sup> DHS is required to transfer unaccompanied children to HHS within 72 hours except in exceptional circumstances (8 U.S.C. § 1232(b)(3)).

closed before we began our onsite visits, and 2 of the 14 EISs closed before their scheduled closure dates due to concerns about the children’s health, safety, and care.<sup>18</sup> As of September 23, 2022, two EISs we reviewed were in operation; however, the sites had transitioned to ICFs.<sup>19</sup> All 14 EISs were funded by contracts.

### **Background Check Requirements**

Federal regulations prohibit an ORR care provider facility<sup>20</sup> from hiring or enlisting the services of any individual who will have direct contact with children if the applicant has engaged in sexual abuse, sexual harassment, or any type of inappropriate sexual behavior.<sup>21</sup> To implement these safeguards, facilities must conduct background investigations on all

Description of Background Checks
A public records check is a name-based check that searches for an individual’s criminal history in public records. The search criteria can include additional personal identifiers such as date of birth and Social Security number.
An FBI fingerprint check is a fingerprint-based criminal history records check that draws from law enforcement information reported to the FBI by various Federal, State, and local jurisdictions. FBI fingerprint checks can be obtained from the FBI by authorized agencies. An identity history summary can be obtained by the individual who is the subject in these records.
A Child Abuse and Neglect (CA/N) check determines whether an individual has been reported in a specific State to have committed child abuse or neglect or has a record of substantiated maltreatment of a child, depending on the content of a State’s registry.
A Department of Justice (DOJ) sex offender registry check is a name-based check of a public website that provides access to the sex offender registries of the 50 States, District of Columbia, U.S. Territories, and Indian Country.
A State criminal history repository check determines, among other things, whether an individual has been convicted of a sex crime in that State, or an offense involving a child victim, or a drug felony.

<sup>18</sup> Kay Bailey Hutchinson Convention Center, Freeman Coliseum, National Association of Christian Churches (NACC), and Pennsylvania International Academy (PIA) closed before we began our site visits; NACC and PIA closed before their scheduled dates. See Appendix B for information about the care provider facilities OIG visited.

<sup>19</sup> The EISs transitioned to ICFs on May 30, 2022, and June 4, 2022.

<sup>20</sup> A care provider facility is any ORR-funded program that is licensed, certified, or accredited by an appropriate State or local agency to provide residential or group services to unaccompanied children, including a program of group homes or facilities for children with special needs or staff-secure services for children. Emergency care provider facilities are included in this definition but may or may not be licensed, certified, or accredited by an appropriate State or local agency (45 CFR § 411.5).

<sup>21</sup> 45 CFR § 411.16(a); ORR Guide § 4.3.4 (Mar. 11, 2019).



employees and contractors who may have contact with children in ORR care.<sup>22, 23</sup> Background checks must be conducted prior to being hired and gaining access to children or youth.<sup>24</sup> An emergency care provider facility must implement the standards in this rule, with some exceptions, within 15 days of opening. The Director of ORR, however, using “unreviewable discretion,” may waive or modify specific sections for a particular emergency care provider facility for good cause.<sup>25</sup> (See the section “Background Check Requirement Waivers” in this report.)

ORR officials explained to OIG that prior to issuing Field Guidance #13 Emergency Intake Sites (EIS) Instructions and Standards (Field Guidance #13) on April 30, 2021, EISs were expected to conduct public records criminal background checks on staff prior to being hired and on volunteers.

ORR issued Field Guidance #13 to clarify the applicable standards for EISs due to their emergency and temporary nature. According to the guidance, employees who provide direct care to unaccompanied children must pass a public records criminal background check prior to working at an EIS. Additionally, the guidance states that “ORR will ensure receipt of background checks required of influx care facilities for EIS staff within 30 days of an EIS opening” and that “[o]nly EIS [F]ederal personnel, or personnel who have been cleared through a fingerprint-based, [F]ederal background check, are permitted to supervise direct care staff.”<sup>26, 27</sup> Employees who provide direct care may not have unsupervised contact with unaccompanied children until all background checks have been conducted.<sup>28</sup>

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<sup>22</sup> 45 CFR §§ 411.16(c) and (d).

<sup>23</sup> The requirements in 45 CFR §§ 411.16(c) and (d) require facilities to “conduct” and “perform” a background investigation. The ORR Guide at § 4.3.3 requires that care provider facilities “complete” required background investigations before staff, contractors, and volunteers are hired. This report refers to the requirement to “conduct background checks.”

<sup>24</sup> 45 CFR § 411.16(c); ORR Guide § 4.3.3 (Mar. 11, 2019).

<sup>25</sup> 45 CFR § 411.10(c).

<sup>26</sup> ORR policy requires that ICFs conduct background checks that comply with individual State licensing requirements and ORR minimum standards, which include an FBI fingerprint-based check and a CA/N check and require that these checks be updated at least every 5 years. ORR Guide § 4.3.3 (Mar. 11, 2019).

<sup>27</sup> We verified that required background checks were conducted on employees; however, we did not obtain information on employees’ duties and whether they included supervising direct care staff.

<sup>28</sup> ORR updated Field Guidance #13 on Oct. 24, 2022, with respect to background checks to state that all staff and volunteers at an EIS must pass a public record criminal background check, a sex offender registry check, and an FBI fingerprint check. In addition, staff and volunteers who provide direct care services must pass a CA/N check and cannot have unsupervised, direct access to children until all background checks have been fully adjudicated. Only personnel who have cleared all background checks in accordance with ORR policy can supervise direct care staff and volunteers.

ORR officials explained that, based on Field Guidance #13, ORR expected FBI fingerprint checks to be conducted on all staff and volunteers within 30 days of an EIS opening.<sup>29</sup> Although not all staff and volunteers at EISs would have FBI fingerprint checks conducted before working directly with children, personnel supervising staff who have direct access or provide direct care to children are expected to have cleared an FBI fingerprint check prior to hire.

ORR officials made it clear to OIG that because the EISs and ICF were not State licensed, ORR did not have a mechanism in place to conduct Child Abuse and Neglect (CA/N) checks and, as such, did not expect the facilities to be able to obtain these check results.<sup>30</sup> In addition, each Federal employee detailed to the EISs was required to have an FBI fingerprint check and a State criminal history repository check.<sup>31</sup>

Federal regulations state that ORR must include in any new contracts, contract renewals, cooperative agreements, or cooperative agreement renewals the entity's obligation to adopt and comply with the regulatory standards to prevent, detect, and respond to sexual abuse and sexual harassment involving unaccompanied children.<sup>32</sup> Organizations that have a subaward with a care provider facility to provide residential services must adopt and comply with these standards, including the provisions related to background check requirements.<sup>33</sup> In addition, all new contracts, contract renewals, and grants must include provisions for monitoring and evaluation to ensure that the contractor, grantee, or subgrantee is complying with these provisions.<sup>34</sup>

### **Background Check Requirement Waivers**

ORR may waive or modify background check requirements for a particular emergency care provider facility for good cause. Good cause would be found only in cases in which the temporary nature of the emergency care provider facility makes compliance with the provision impractical or impossible, and the Director determines that the emergency care provider facility could not, without substantial difficulty, meet the provision in the absence of the waiver or

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<sup>29</sup> FBI fingerprint checks are initiated by the facility.

<sup>30</sup> Records are State-specific, and some States include all reports of child abuse or neglect, regardless of whether those reports are ultimately found to be substantiated. State officials conduct CA/N checks, which are also known as child protective services checks.

<sup>31</sup> In Mar. 2021, HHS solicited Federal employees to serve in volunteer deployment details to support efforts to care for unaccompanied children. Defense Counterintelligence and Security Agency personnel were responsible for ensuring that background checks were conducted on all Federal employees detailed to the EISs.

<sup>32</sup> 45 CFR §§ 411.12(a) and 411.13(a).

<sup>33</sup> 45 CFR § 411.12(b).

<sup>34</sup> 45 CFR § 411.12(c).

modification.<sup>35</sup> ORR issued waivers to three EISs, allowing them to hire employees without conducting FBI fingerprint checks and CA/N checks, and to the ICF, allowing it to hire expansion staff without conducting CA/N checks.<sup>36</sup> The waivers stated that the checks were being waived due to the difficulty in obtaining the results of those checks in a timely manner.

However, each waiver at the EISs required public records checks to be conducted based on an individual's biographical information and required a DOJ sex offender public website check.<sup>37</sup> The waiver for the ICF also required the ICF to conduct FBI fingerprint checks on all staff, including expansion staff, and noted that ORR was reviewing and adjudicating those checks. Additionally, the EIS waivers stated that, to the extent possible, ORR would ensure that all personnel supervising staff who have direct access to children have a cleared FBI background check.<sup>38</sup> Although Field Guidance #13 did not address waivers previously issued to the EISs, ORR officials explained to OIG that the guidance was intended to supersede the waivers with respect to the FBI fingerprint check, meaning that ORR expected each EIS with a waiver to conduct FBI fingerprint checks in compliance with Field Guidance #13. ORR's expectation, therefore, was that beginning on April 30, 2021, FBI fingerprint checks were required to be conducted on all EIS employees within 30 days of an EIS opening.

### **Related Office of Inspector General Work**

Since responsibility for unaccompanied children was transferred to HHS by the Homeland Security Act of 2002, OIG has examined various aspects of the UC Program, including whether ORR was prepared to take children into HHS custody, whether ORR-funded care provider facilities met safety standards for the care and release of children in their custody, and whether ORR recipients were addressing children's medical and mental health needs. In May 2021, OIG issued a toolkit providing insights largely drawn from audits and evaluations of the UC Program conducted since 2008, including reports that were issued following site visits at 45 facilities during the 2018 influx of children entering the UC Program.<sup>39</sup> A September 2022 OIG report

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<sup>35</sup> 45 CFR § 411.10(c).

<sup>36</sup> The original staff deployed to the ICF had CA/N checks conducted, so the waiver only applied to expansion staff.

<sup>37</sup> The DOJ sex offender registry check is not otherwise required for prospective employees at ORR care provider facilities.

<sup>38</sup> Our audit did not include identifying personnel who supervised staff who had direct access to children and did not include ensuring that each of those personnel had a cleared FBI background check.

<sup>39</sup> OIG, *Toolkit: Insights From OIG's Work on the Office of Refugee Resettlement's Efforts To Care for Unaccompanied Children*, OEI-09-21-00220, May 2021. Available at <https://oig.hhs.gov/oei/reports/OEI-09-21-00220.asp>.

examined reported experiences of staff at the Fort Bliss EIS.<sup>40</sup> In addition, OIG is currently examining the placement and transfer of children by ORR, and the safe and efficient release of children to sponsors.<sup>41</sup>

## HOW WE CONDUCTED THIS AUDIT

We conducted site visits at the 1 ICF and 10 of the 14 EISs in 3 States in May and June 2021. In total, we visited 11 sites that were fully operational at the time of our audit start. The remaining four sites were either closed or closing at the time of our audit start.

Across the 11 sites,<sup>42</sup> we reviewed background checks for 259 employees (30 at the ICF and 229 at the EISs),<sup>43</sup> and across the 10 EISs we reviewed background checks for 89 detailed Federal employees to verify that required background checks were conducted. Our sample size at each facility varied depending on the number of employees at each facility, but individuals were generally selected from employees who started employment between March 1 and May 31, 2021.<sup>44, 45</sup> For our sampled EIS employees requiring a name-based public records check, we conducted such checks via Accurant and compared the results to those of the public records checks conducted by the EISs' contractors for these employees.<sup>46</sup>

In addition, we reviewed background checks for a sample of 10 drivers and 20 transportation specialists (individuals who accompany children during transit) associated with a contract ORR entered into for transportation services. Finally, during our site visits of the ICF and 10 EISs, we assessed procedures in place to control access to the facilities.

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<sup>40</sup> OIG, *Operational Challenges Within ORR and the ORR Emergency Intake Site at Fort Bliss Hindered Case Management for Children*, OEI-07-21-00251, Sept. 2022. Available at <https://oig.hhs.gov/oei/reports/OEI-07-21-00251.asp>.

<sup>41</sup> OIG, current Work Plan items. *Audit of Office of Refugee Resettlement's Placement and Transfer of Children in the Unaccompanied Alien Children Program*. Available at <https://oig.hhs.gov/reports-and-publications/workplan/summary/wp-summary-0000429.asp>. *Safe and Efficient Release of Unaccompanied Children to Sponsors*. Available at <https://oig.hhs.gov/reports-and-publications/workplan/summary/wp-summary-0000589.asp>.

<sup>42</sup> See Appendix B for a list of the ORR sites we visited and their key characteristics.

<sup>43</sup> This included 12 volunteers at EISs who had access to children. ORR background check requirements apply to volunteers as well as employees. (45 CFR § 411.16(d)).

<sup>44</sup> See Appendix C for information on the judgmental selection for each facility.

<sup>45</sup> For purposes of our review, we used the employee's start date provided by the facility.

<sup>46</sup> Accurant is a web-based program that offers a search of individuals that includes, among other things, their criminal records.

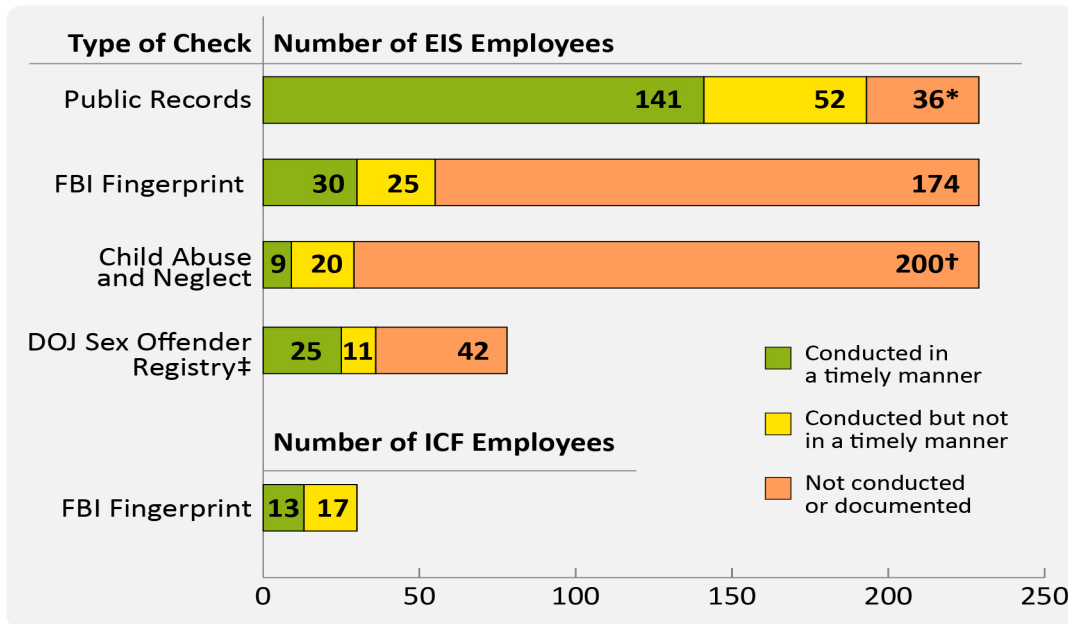
After completing our visits to the ICF and EISs, we met with ACF and ORR officials to alert them to our preliminary findings and observations because some findings could have had implications for the safety of children in ORR care at those facilities. Subsequent to the briefing, we provided ORR with a schedule that showed our preliminary findings and observations for each facility so that ORR could take action, as warranted.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. Appendix A contains the details of our audit scope and methodology.

### FINDINGS

For some employees, ORR’s ICF and EISs did not conduct or document all required background checks or did not conduct the checks in a timely manner.<sup>47</sup> The figure summarizes facility compliance with employee background check requirements based on our judgmental sample.

**Figure: Summary of Compliance With Background Check Requirements**



\* For 6 of the 36 employees, an FBI fingerprint check was conducted prior to hire.

† For 51 of the 200 employees, ORR had waived the CA/N check requirement.

‡ DOJ sex offender registry checks were only required for employees at the EISs for which ORR issued a waiver (78 employees).

Note: ICFs were not required to conduct public records checks, CA/N checks, or DOJ sex offender registry checks.

<sup>47</sup> “In a timely manner” indicates that the check was conducted within 30 days of the EIS opening or prior to hire, as applicable, based on the employee’s date of hire.

In addition: (1) ORR did not require the transportation services contractor we reviewed to conduct background checks on employees as required by ORR minimum standards, (2) ORR was not consistent with issuing waivers for FBI fingerprint checks and CA/N checks for employees at EISs, (3) public records checks used by EISs may not have been reliable, and (4) a few EISs did not ensure secure facility access.<sup>48</sup> However, we did note that ORR coordinated with Defense Counterintelligence and Security Agency (DCSA) personnel to ensure that required background checks on detailed Federal employees were conducted.

The issues we identified occurred primarily because the influx of unaccompanied children required ORR to rapidly set up new facilities in order to expand capacity as well as develop formal policies and procedures related to the EISs. ORR officials stated that while Field Guidance #13 was being developed, ORR was providing guidance through the contracting officer representative (COR) at each of the various sites and via dialogue on a case-by-case basis.<sup>49</sup> However, some site officials were confused about the waivers of background checks, Field Guidance #13, and the background checks the facilities were required to conduct. In addition, to operate EISs ORR contracted with several organizations that had little or no experience in providing shelter and services to children, and the contract statements of work did not always clearly specify the required background checks to be conducted. Finally, ORR did not effectively monitor facilities to ensure that required background checks were conducted, and several EISs did not have adequate procedures or were not following their procedures for ensuring secure access to the facilities. See Appendix D for a summary of findings by facility.

### **THE ICF AND EISs DID NOT CONDUCT OR DOCUMENT ALL REQUIRED EMPLOYEE BACKGROUND CHECKS OR DID NOT CONDUCT THEM IN A TIMELY MANNER**

Background checks are a critical component of the screening process for employees who work with children. The ICF and EISs did not fully comply with ORR's background check requirements; specifically, not all required public records checks, FBI fingerprint checks, CA/N checks, and DOJ sex offender registry checks were conducted, documented, or conducted in a timely manner.<sup>50</sup> The noncompliance primarily occurred because ORR was developing formal policies and procedures related to the EISs, and site officials had some confusion about the background checks the facilities were required to conduct. See Appendix E for a detailed summary of facilities that had one or more issues of noncompliance with conducting required employee background checks.

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<sup>48</sup> Seven of the sampled employee background checks included offenses that may have made the employee unsuitable to work with children in a child care setting. We provided a list of these employees to ORR for followup.

<sup>49</sup> Based on ACF's Contracting Officer's Representative Letter of Appointment, the COR's primary duty is to monitor the contractor's performance to ensure it meets the technical requirements, by the delivery date or within the period of performance and at the price or within the ceiling, stipulated in the contract.

<sup>50</sup> "In a timely manner" indicates that the check was conducted within 30 days of the EIS opening or prior to hire, as applicable, based on the employee's date of hire.

## Public Records Checks

Each EIS was required to conduct a public records check prior to hiring an employee who would provide direct care to children.<sup>51</sup> The ICF was not required to conduct public records checks but was required to conduct FBI fingerprint checks on employees prior to hire.

Seven of the 10 EISs were unable to provide documentation that public records checks were conducted for 36 of the 229 sampled employees; however, an FBI fingerprint check was conducted for 6 of these 36 employees prior to hire. In addition, nine EISs allowed employees who were undergoing public records checks to begin employment before results of these checks were received. For the 193 employees who had a public records check conducted, results for 52 of the employees were received after their start dates in violation of the prior-to-hire requirement.<sup>52</sup> Although 36 of these individuals were employed for fewer than 30 days before the EISs received public records check results, 8 were employed for more than 2 months before results were received. (See the section “Results From Some Accurant Public Records Checks Differed From Checks Conducted by EIS Contractors” in this report for additional audit work related to public records checks.)

## FBI Fingerprint Checks

The ICF was required to conduct FBI fingerprint checks prior to hire for employees who had direct contact with children.<sup>53</sup> The ICF provided documentation that an FBI fingerprint check was conducted for each of 30 sampled employees; however, the ICF received results of 17 of these checks after the employees’ start dates in violation of the prior-to-hire requirement. Each of these individuals was employed for fewer than 30 days before the ICF received the FBI fingerprint check result; most of these individuals were employed for fewer than 7 days.

Each EIS was required to conduct FBI fingerprint checks within 30 days of an EIS opening for employees who had direct contact with children.<sup>54</sup> Ten EISs did not conduct FBI fingerprint checks—or were unable to provide documentation that FBI fingerprint checks were conducted—for 174 of the 229 sampled employees. For the 55 employees for whom the EISs provided support for an FBI fingerprint check (support for 35 of the employees was an identity

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<sup>51</sup> Field Guidance #13 (Apr. 30, 2021).

<sup>52</sup> While not required, none of the 52 employees had an FBI fingerprint check conducted prior to hire. Also, none of these employees had a background check conducted prior to hire.

<sup>53</sup> ORR Guide § 4.3.3 (Mar. 11, 2019).

<sup>54</sup> Field Guidance #13 required ORR to ensure receipt of FBI fingerprint checks and CA/N checks for EIS staff within 30 days of an EIS opening. ORR officials told OIG that Field Guidance #13 superseded the waivers with respect to the FBI fingerprint check, meaning that ORR expected each EIS with a waiver to conduct FBI fingerprint checks once Field Guidance #13 was issued. ORR officials also told OIG that Field Guidance #13 (Apr. 30, 2021) did not supersede the waivers with respect to the CA/N check.

history summary), 25 were not conducted in a timely manner.<sup>55, 56</sup> More than half of these individuals (15) were employed between 30 and 40 days without FBI fingerprint check results or an identity history summary.

### **Child Abuse and Neglect Checks**

ORR officials told OIG that ORR did not expect EISs and the ICF to conduct CA/N checks. However, ORR waived the checks at only three EISs and for expansion staff at the ICF. In addition, despite what these officials told OIG, ORR issued Field Guidance #13, which requires CA/N checks for staff at an EIS within 30 days of the EIS's opening. Given the importance of CA/N checks in ensuring the safety of children—and that Field Guidance #13 requires these checks within 30 days of an EIS opening—we reviewed CA/N checks for our sample of employees at the EISs.

The 7 EISs without a waiver were unable to provide documentation that the CA/N checks were conducted for 149 of 151 sampled employees.<sup>57</sup> One EIS with a waiver was able to conduct CA/N checks for all 24 sampled employees at that facility; however, 19 checks were not conducted in a timely manner.<sup>58, 59</sup> More than half of these individuals (13) were employed for fewer than 30 days without the results of the CA/N check. Additionally, another EIS with a waiver was able to conduct CA/N checks for 3 of the 20 sampled employees at that facility; however, 1 was not conducted in a timely manner. Management officials at the third EIS with a waiver were unaware that the facility had a waiver; however, the facility did not conduct CA/N checks for the 34 sampled employees.

### **Sex Offender Registry Checks**

The three EISs with waivers for FBI fingerprint and CA/N checks were required to conduct DOJ sex offender registry checks for employees who had direct contact with children. The 3 EISs

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<sup>55</sup> Identity history summaries, which are generated using an applicant's fingerprints, state that they are solely for one to conduct a personal review and/or obtain a change, correction, or updating of one's record and are "not provided for the purpose of licensing or employment or any other purpose enumerated in 28 CFR 20.33."

<sup>56</sup> "In a timely manner" indicates that the check was conducted within 30 days of the EIS opening or prior to hire, as applicable based on the employee's date of hire.

<sup>57</sup> An ORR care provider facility that was State-licensed requested the CA/N checks for the remaining two employees, one in 2019 and the other in 2020.

<sup>58</sup> The EIS received notification from the State that it would not be providing the CA/N check results for one employee. Per the State's law, the employer is not provided the CA/N check results when the results disclosed the individual is on the State's central registry. This employee was employed at the EIS for 7 days when he potentially should not have been employed. He was terminated prior to the EIS receiving the State's notification.

<sup>59</sup> "In a timely manner" indicates that the check was conducted within 30 days of the EIS opening or prior to hire, as applicable, based on the employee's date of hire.



were unable to provide documentation that DOJ sex offender registry checks were conducted on 42 of the 78 sampled employees at those facilities for whom a check was required.<sup>60</sup>

For the 36 employees who had a DOJ sex offender registry check conducted, the results of 11 were received after each employee's start date. After a start date, any employee could have been in contact with children. Most of these individuals (seven) were employed for fewer than 30 days before the respective EIS received the DOJ sex offender registry check results; one was employed for more than 2 months.

Finally, these three waivers from ORR state that "ORR . . . will conduct DOJ based sex offender public website" check on EIS employees. According to ORR officials, ORR did not conduct the DOJ sex offender registry checks on EIS employees and expected each EIS to conduct the checks. While the waiver did not clearly state that EISs were to conduct the DOJ sex offender registry checks, ORR officials told OIG that this expectation was communicated to the EISs, and CORs worked with contractors at the EISs to ensure they abided by ORR policy, including background check requirements.

#### **ORR DID NOT REQUIRE A TRANSPORTATION SERVICES CONTRACTOR TO CONDUCT BACKGROUND CHECKS**

On March 25, 2021, ORR entered into a contract for transportation services to be provided for unaccompanied children in ORR custody, particularly those children housed at EISs and temporary influx locations. The contractor was to provide ground or air transportation for the children to be transferred from DHS facilities to ORR custody, between ORR facilities, or to be reunified with their sponsors. The contractor was also to provide staff to escort the children. The initial contract did not include a requirement for background checks on employees who have direct contact with children.

On July 9, 2021, OIG met with ORR officials to discuss the lack of background check requirements for transportation contractor employees who have direct contact with children. According to ORR officials, the background check requirements were not included because the contract had been set up quickly. However, ORR officials also stated that ORR had directed contractors to conduct their own internal background checks and initiate CA/N checks for their employees. During this meeting with OIG, ORR officials stated that the contract had been amended. The contract amendment, dated June 24, 2021, included a requirement for transportation providers to meet ORR background check standards in compliance with 45 CFR § 411.16 and implemented under *ORR Guide: Children Entering the United States Unaccompanied* (ORR Guide) § 4.3.3 and Field Guidance #13, paragraph 5b.<sup>61</sup> ORR minimum standards implemented under § 4.3.3 require an FBI fingerprint check of national and State

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<sup>60</sup> One EIS did not conduct DOJ sex offender registry checks; however, the EIS provided public records checks for the 24 employees in our sample and identity history summaries for 18 of the 24 employees in our sample.

<sup>61</sup> ORR has since updated its guidance, *ORR UC Program Policy Guide*.

criminal history repositories and a child protective services check from each employee's State of U.S. residence for the previous 5 years.<sup>62</sup>

Also, ORR officials on July 9 submitted a request to the Director of ORR for a waiver of the FBI fingerprint and CA/N check requirements for volunteers and grant recipient or contractor staff providing transportation services. According to the request, even though ORR had already directed its contractors to begin the process of obtaining CA/N checks and FBI fingerprint check results for their workforces, providing emergency transportation services while awaiting the results would be impossible. The waiver was issued on July 13, 2021: The FBI fingerprint and CA/N check requirement was waived while the transportation contractors awaited the results of these checks. However, the waiver required the transportation contractor to obtain a public records background check based on each individual's name, date of birth, and Social Security number; a criminal records check; and a DOJ sex offender registry check prior to employment.

The transportation contractor was conducting public records checks, which included DOJ sex offender registry checks, as part of its routine employee screening. Of the 20 transportation specialists in our sample of 30 employees who would have direct contact with the children, 19 had a public records check and a DOJ sex offender registry check. One transportation specialist declined to undergo the background check. According to the contractor, this employee was removed from providing transportation services under the contract. The transportation contractor relies on subcontractors to provide drivers and to ensure that the necessary background checks are conducted. The transportation contractor relied on attestations, signed by the subcontractors, indicating that the subcontractors had conducted the required checks on their drivers. For the 10 transportation drivers in our sample, the contractor provided OIG the signed attestations indicating only that background checks were conducted; however, only 1 attestation indicated the type of checks conducted. In addition, 2 of the 10 attestations indicated that the background checks were conducted after we requested support for the sampled drivers' background checks. (These two transportation drivers had start dates in October 2020.)

We conducted public records checks via Accurant for 29 transportation employees.<sup>63</sup> Of the 29 employees, 8 had criminal records, but 7 of these 8 did not have records that would preclude them from being in a child care setting according to State regulations.<sup>64</sup> The remaining employee—employed by a subcontractor in Texas—had a criminal record that included an

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<sup>62</sup> ORR Guide § 4.3.3 (Mar. 11, 2019).

<sup>63</sup> The contractor did not have sufficient information for OIG to conduct a public records check for one transportation employee.

<sup>64</sup> State regulations for child care operations note criminal convictions that may affect an individual's ability to be present in child care facilities that are State-licensed.

offense that would have required a risk assessment in order to evaluate the employee's suitability for employment at a child care operation in Texas.<sup>65</sup>

### **ORR WAS NOT CONSISTENT IN ISSUING WAIVERS AND MAY HAVE ISSUED WAIVERS OF BACKGROUND CHECKS THAT WERE NOT NECESSARY**

ORR issued a waiver to the ICF, allowing it to hire employees without conducting CA/N checks, and issued waivers to three EISs, allowing them to hire employees without conducting CA/N and FBI fingerprint checks. The EISs were in California, Michigan, and Texas.

In a waiver that ORR issued to the EIS in California and another waiver issued to an EIS in Texas, ORR specifically pointed out that during prior influx operations State licensing entities that conduct background checks for employees of ORR-funded, State-licensed facilities had been unable or unwilling to provide background checks for employees of ICFs. According to the waiver, State laws and regulations that provide the agency the authority to conduct background checks only cover residential child care staff working in State-licensed facilities. We recognize that obtaining background checks may have been challenging for EISs in California and Texas because EISs are not State-licensed facilities. However, ORR was not consistent in issuing waivers. Specifically, ORR issued a waiver for only one of the three EISs in California and one of the six EISs in Texas that were included in our audit. It is unclear what ORR considered when issuing waivers for EISs, and data in our review suggests ORR issued waivers for instances in which background checks may have been possible. In addition, the EIS in California that received the waiver conducted an FBI fingerprint check for 6 of the 20 sampled employees, and 5 of those fingerprint checks were conducted before the employee start dates. Since the EIS in California was able to conduct FBI fingerprint checks, it may not have needed a waiver for that check.

The waiver issued to the EIS in Michigan did not contain language about the State licensing agency being unable or unwilling to provide background checks for employees working in facilities that are not State-licensed. In fact, the EIS in Michigan provided identity history summaries for 18 of the 24 sampled employees, and the State conducted a CA/N check on each of the 24 employees.<sup>66</sup> The EIS may not have needed a waiver for the CA/N check because the waiver did not address whether the State licensing agency was unable or unwilling to provide background checks, and because the State conducted the required CA/N checks.

When we questioned ORR officials about the inability or unwillingness of States to conduct background checks that were waived for employees of EISs, the officials stated that they did

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<sup>65</sup> We were unable to obtain the details of the offense. However, if the offense was committed against a child, the employee would have been prohibited from being present in a child care operation in Texas while children are receiving care. This individual was included on the list of employees we provided to ORR for followup.

<sup>66</sup> Identity history summaries, which are generated using an applicant's fingerprints, state that they are solely for one to conduct a personal review and/or obtain a change, correction, or updating of one's record and are "not provided for the purpose of licensing or employment or any other purpose enumerated in 28 CFR 20.33."

not have any documentation to support that the States were currently unable or unwilling to conduct the checks. This raises the question of whether waivers for background checks were warranted.

Background checks on employees who have direct contact with children are critical to ensure the safety of vulnerable children in ORR-funded residential and emergency care provider facilities. ORR issued waivers based on previously experienced challenges in obtaining background checks for employees at facilities that are not State-licensed and did not confirm States' inability or unwillingness to conduct the required background checks. As such, ORR may have unnecessarily issued waivers for critical background checks, potentially placing the safety of children at risk.

### **RESULTS FROM SOME ACCURINT PUBLIC RECORDS CHECKS DIFFERED FROM CHECKS CONDUCTED BY EIS CONTRACTORS**

Reliance on public records checks for purposes of employment could jeopardize the safety of children because there is no assurance that a check using only an individual's name—or even a name, address, and Social Security number—are for the correct individual or provide a complete record of the individual's criminal history, and because results can vary depending on the databases used for each search. Our review of public records checks conducted via Accurint yielded results that sometimes differed from the results obtained by EIS contractors that screened and provided employees to the EISs. For example, we identified three employees who each had a criminal record in Accurint but for whom public records checks conducted by the contractor did not disclose any criminal history.<sup>67</sup> In addition, we found that public records checks, including those conducted via Accurint, do not always disclose past criminal history. For example, we identified an employee who did not have any criminal history based on our Accurint check results, but the identity history summary provided by the EIS disclosed a criminal history that may have precluded the employee from being in a child care setting.<sup>68</sup>

Although public records checks can identify some past criminal convictions or sexual offenses, these checks are not as extensive as FBI fingerprint checks of national and State registries and are subject to error because individuals can have similar names. Using a fingerprint check of national and State registries ensures positive identification and eliminates errors that may arise in public records checks, which are based primarily on an individual's name.

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<sup>67</sup> Two of the three individuals were included on the list of employees we provided to ORR for followup. We determined that the third individual's offenses did not result in a conviction that prevented him from being in a child care setting.

<sup>68</sup> This employee was employed for 7 days and was terminated prior to the EIS receiving the results of the identity history summary. The EIS conducted a public records check on this employee, but it was not conducted prior to hire.

## **A FEW EISs DID NOT ENSURE THAT FACILITY ACCESS WAS SECURE**

Field Guidance #13 requires that EISs take actions to provide basic standards of care, which include maintaining facilities that are safe. To provide a safe and secure environment, the 10 EISs had procedures to restrict access to the sites, including using badges for identification and having EIS security officers check access badges or other identification to ensure that only authorized personnel accessed the EISs. However, the procedures for restricting access were not adequate or were not always followed.

Two EISs did not always restrict access by checking identification. We tested the access procedures while onsite. At one EIS, two of the three OIG staff conducting a site visit did not have their identifications checked by a security officer upon arrival at the front gate one morning; the officer checked only the driver's identification.<sup>69</sup> Additionally, upon entering the site, one OIG staff member was able to go through the second gate without a security officer checking their identification. Later in the morning, two OIG staff were able to go through the second gate and walk around the site without having their identifications checked by a security officer.

At a second EIS, all three OIG staff were able to access the area housing children by following a youth care worker through a gate and past security officers without having their badges checked. Once inside, OIG staff were able to access the children's dorms and other areas where children were located.

One EIS did not always restrict access by accounting for or deactivating access badges. Specifically, badges for 819 individuals had last been scanned in or out of the EIS in April 2021, but the list of deactivated badges as of June 6, 2021, showed that only 49 of these individual badges had been deactivated. Having an active badge that should have been deactivated increases the risk that an individual can gain access to an EIS for unauthorized purposes.

Another EIS issued red badges to visitors and temporary employees of the facility indicating that line-of-sight supervision was required. However, according to an EIS official, the EIS was also issuing red visitor badges to permanent employees, making it difficult to identify those requiring line-of-sight supervision. In addition, an EIS official at this facility stated that visitor badges were not always turned in and accounted for daily, were missing, or had been misplaced by the EIS's intake center.

Having procedures for restricting access to EISs is critical for ensuring the safety of vulnerable children. Because several EISs did not have adequate procedures or their staff were not always following the procedures for ensuring secure access to facilities, the safety of children may have been at risk.

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<sup>69</sup> This EIS used badging for access but allowed OIG officials to use their Federal employee identifications for access to the site.

## **ORR PROVIDED ASSURANCE THAT REQUIRED BACKGROUND CHECKS WERE CONDUCTED ON DETAILED FEDERAL EMPLOYEES**

Each detailed Federal employee was required to have an FBI fingerprint check and a State criminal history repository check. DCSA personnel were responsible for ensuring that background checks were conducted on detailed Federal employees. After we reviewed the documentation DCSA provided us to support background checks for the 89 sampled detailed Federal employees, we requested support from ORR for the background checks for which DCSA did not provide adequate support. For these instances, we conducted followup with ORR. ORR was able to provide OIG with supporting notes indicating that the checks were conducted when required or explained that an individual (e.g., a virtual case manager) was in a position that did not require a background check or that the individual had never been deployed to an EIS.

### **CONCLUSION**

ORR must address the shortcomings we identified to ensure that similar issues do not recur during future influxes. Effective oversight of facility operations and clearly communicating background check requirements are critical to ensuring the safety of children. ORR must do more to ensure that the ICF and EISs currently in operation, as well as any facilities opened in the future, have a better understanding of what background checks are required so that they can have adequate procedures in place to conduct those checks.

We found that the ICF and EISs did not conduct or did not document all required background checks on employees, or did not conduct the checks in a timely manner before the employees had contact with children. Furthermore, the transportation service contractor we reviewed either did not conduct or did not document all required background checks on employees, or provided only attestations that the checks had been conducted. In addition, most attestations did not identify the checks that were conducted, and some attestations indicated that the background checks were conducted after an OIG request for documentation to support the background checks. The failure of some facilities and ORR to ensure that required background checks were conducted in compliance with Federal regulations or ORR guidance could have placed the safety of children at risk.

Reliance on public records checks for purposes of employment could have jeopardized the safety of children. Our review of public records checks via Accurint yielded results that sometimes varied from those of the contractors that screened and provided employees to the EISs. For one employee, our Accurint check showed a clean criminal history although the identity history summary provided by the EIS disclosed a criminal history that would have precluded the employee from being in a child care setting.<sup>70</sup> Also, for a transportation employee in Texas for whom we had only an attestation that background checks were conducted, our Accurint check results disclosed a criminal record with an offense that, if it had been committed against a child, would have permanently prohibited the employee from being

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<sup>70</sup> This individual was included on the list of employees we provided to ORR for followup.

present in that State in a child care operation while children were receiving care.<sup>71</sup> Although name-based background checks can identify some past criminal convictions or sexual offenses, these checks are not as extensive as FBI fingerprint checks of national and State registries. Using an FBI fingerprint check of national and State registries ensures positive identification and eliminates errors that may arise under name-based public records checks, overcomes the risk of someone changing his or her name or using a false identity, and allows for criminal history searches across databases not accessible to the public.

In addition to the issues related to background checks, ORR was not consistent with issuing waivers for FBI fingerprint checks and CA/N checks for employees at EISs and may not have needed to issue waivers for both of these checks at the three EISs. ORR also did not adequately monitor EISs to ensure they maintained secure access to the facility. As a result, the safety of children may have been at risk.

## **RECOMMENDATIONS**

We recommend that the Office of Refugee Resettlement:

- ensure that all ICFs and EISs currently in operation have conducted the required background checks on current employees whose checks were not conducted or take action to ensure that these employees do not have direct access to children while any results of the checks are pending;
- clarify and reissue guidance for background checks at EISs so that it is clear which checks are required, who is responsible for conducting the checks, and which checks must be conducted prior to hire;
- include a review of compliance by ICFs and EISs with all background check requirements and facility access as a part of ORR's routine site visit monitoring;
- ensure that future awards and subawards for services that involve contact with children (e.g., transportation) include detailed information on background check requirements and specify that background checks must be conducted prior to hire;
- re-evaluate the need for waivers of background checks and explore alternative means of obtaining required checks;
- re-evaluate the use of public records checks in lieu of, or prior to receiving the results of, FBI fingerprint and CA/N checks, and require a DOJ sex offender registry check in addition to a public records check if ORR determines there is a need to use public records checks; and

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<sup>71</sup> This individual was included on the list of employees we provided to ORR for followup.

- reiterate to EISs the importance of ensuring that access to a site is secure and that access badges are collected and deactivated for individuals who no longer require access to EISs.

### **ADMINISTRATION FOR CHILDREN AND FAMILIES COMMENTS**

In written comments on our draft report and commenting on behalf of ORR, ACF concurred with our recommendations and described the actions it has taken to address our findings. ACF stated that even though EISs are no longer in operation, ORR has worked with both current ICFs (which were formerly EISs) to initiate required background checks on all employees whose checks were not initiated prior to hire.<sup>72</sup> ACF also stated that ORR reissued Field Guidance #13 in October 2022 with further clarifications on the background checks required of EIS staff and volunteers should there ever be a need for future EISs. Also, ACF stated that ORR created monitoring requirements for both ICFs and EISs that include reviewing compliance with all background check requirements, as well as facility access, and that ORR conducts quarterly on-site monitoring visits to the two, current ICFs.<sup>73</sup>

ACF stated that ORR is committed to implementing background check standards in current and future awards. In addition, ACF stated it updated its transportation contracts in November 2022 to include detailed information on background check requirements and that the checks must be conducted prior to hire. ACF also stated that it recognizes the importance of exploring alternative means of obtaining required background checks and that ORR seeks to rely on waivers only when clearly necessary to ensure child safety and timely transfer from DHS custody. In addition, ACF stated that, when it is impossible or impracticable to initiate and adjudicate FBI and CA/N checks during an influx when children are spending prolonged periods in DHS custody, ORR will ensure public records checks, including DOJ sex offender registry checks, are completed and individuals who are still pending non-public records checks will not provide unsupervised direct care.

ACF stated that ORR has reiterated to the two, current ICFs the importance of ensuring that site access is secure and that access badges are collected and deactivated for individuals who no longer require access to a site. Finally, ACF stated that ORR continues to search for more efficient ways to address barriers to the timeliness of background check adjudications and is working in real time to improve its processes.

ACF also provided technical comments on our draft report which we addressed as appropriate. ACF's comments, excluding the technical comments, are included as Appendix F.

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<sup>72</sup> As of June 2022, the two EISs that remained open had transitioned to ICFs.

<sup>73</sup> The ICF that was open during our audit period closed in Mar. 2022.



## **APPENDIX A: AUDIT SCOPE AND METHODOLOGY**

### **SCOPE**

We conducted site visits at 1 ICF and 10 of the 14 EISs in 3 States in May and June 2021. In total, we visited 11 sites that were fully operational at the time of our audit start. The remaining four sites were either closed or closing at the time of our audit start.

Across the 11 sites, we reviewed background checks for 259 employees. Across the 10 EISs, we reviewed background checks for 89 detailed Federal employees to verify that required background checks were conducted. Our sample size at each facility varied depending on the number of employees at each facility, but individuals were generally selected from among employees who started employment between March 1 and May 31, 2021. For our sampled EIS employees requiring a name-based criminal records check, we conducted such checks via Accurant to help assess the reliability of public records checks for screening employees.

In addition, we reviewed background checks for a sample of 10 drivers and 20 transportation specialists associated with an ORR contract for transportation services. Finally, during our site visits of the ICF and 10 EISs, we assessed procedures in place to control access to those facilities.

We conducted our site visits while ORR was experiencing an unprecedented increase in children entering custody and trying to control the spread of COVID-19 within the ICF and EISs. Our goal was to identify vulnerabilities and opportunities for improvement within the UC Program that could help ORR prepare for future influxes or public health emergencies.

We limited our assessment of the ORR's ICF's and EISs' internal controls to those related to conducting background checks for employees.

### **METHODOLOGY**

To accomplish our objective, we:

- reviewed applicable Federal laws, regulations, and guidance;
- reviewed ORR requirements for background checks of employees, taking into consideration any waivers of background checks issued by ORR;
- interviewed ORR officials to gain an understanding of the background check requirements for EISs and how the requirements were communicated to the facilities;

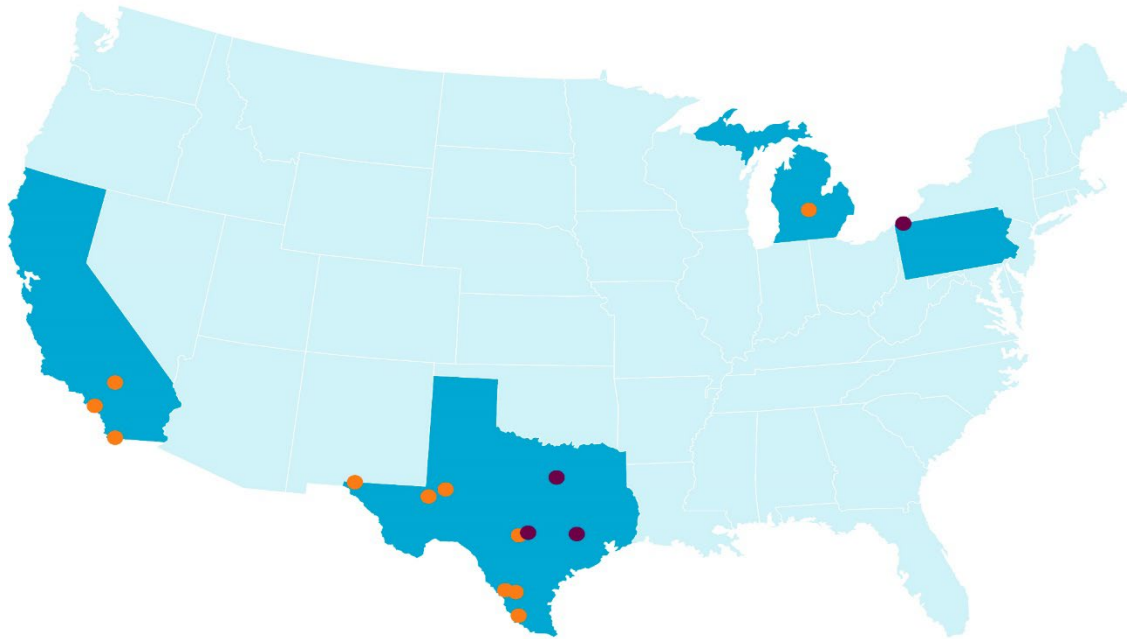
- conducted site visits of the ICF and 10 EISs to:
  - obtain a list of current employees and detailed Federal employees,
  - determine the procedures in place to control access to the facilities, and
  - identify any challenges or barriers that the facilities experienced while obtaining the required background checks;
- conducted interviews with DCSA and ORR officials to obtain an understanding of the background checks conducted on detailed Federal employees;
- reviewed contract statements of work, facility policies and procedures, or facility guidance related to employee hiring and background checks, if available, and reviewed a contract for transportation services;
- selected and reviewed judgmental samples of employees (altogether 259) from each facility and detailed Federal employees (89) at the EISs with access to children to determine whether the required background checks had been conducted;
- selected and reviewed a judgmental sample of drivers (10) and transportation specialists (20) with access to children to determine whether the required background checks had been conducted;
- conducted a name-based criminal record check via Accurint for the EIS employees in our sample and compared the results to those of the public records checks conducted by the contractors for these employees; and
- discussed the results of our audit with ACF and ORR officials.

After we completed our visits to the ICF and EISs, we met with ACF and ORR officials to alert them to our preliminary findings and observations that could have implications for the safety of children in ORR care at those facilities. Subsequent to the briefing, we provided ORR with a schedule that showed our preliminary findings and observations by facility so that ORR could take action, as warranted. We conducted an exit conference with ACF and ORR officials on August 10, 2022.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

## APPENDIX B: CARE PROVIDER FACILITIES OIG VISITED

During May and June 2021, OIG staff conducted site visits at 11 facilities across 3 States.



- |   |   |  |
|---|---|--|
| <p><b>Location of facilities visited</b></p> <ul style="list-style-type: none"> <li>Long Beach, CA</li> <li>Pomona, CA</li> <li>San Diego, CA</li> <li>Albion, MI</li> <li>Carrizo Springs, TX (2)</li> </ul> | <ul style="list-style-type: none"> <li>San Antonio, TX</li> <li>Donna, TX</li> <li>El Paso, TX</li> <li>Midland, TX</li> <li>Pecos, TX</li> </ul> | <p><b>Location of facilities not visited (closed/closing)</b></p> <ul style="list-style-type: none"> <li>Erie, PA</li> <li>San Antonio, TX</li> <li>Houston, TX</li> <li>Dallas, TX</li> </ul> |
|---|---|--|

### Number and Type of Facilities

<b>14</b>	<b>Emergency Intake Sites</b>	These facilities provide potentially lifesaving services for unaccompanied children that are consistent with best practices and standards in an emergency response during disasters or other humanitarian situations; they also provide clean and comfortable sleeping quarters, meals, toiletries, laundry services, and access to medical services.
<b>1</b>	<b>Influx Care Facility</b>	This facility provides children with temporary emergency shelter and services; it is used when ORR experiences an influx of children.

## Facilities Visited

The table below lists the 11 facilities that OIG visited.

Facility Name	Facility Type	Number of Children in Care*	Age Range of Children Provided Services
<b>California (3)</b>			
Long Beach Convention Center	EIS	547	0–17
Pomona Fairplex	EIS	691	0–17
San Diego Convention Center	EIS	565	6–17
<b>Michigan (1)</b>			
Starr Commonwealth	EIS	92	5–17
<b>Texas (7)</b>			
Carrizo Springs	ICF	584	3–17
Delphi (Donna)	EIS	665	13–17
Dimmit (Carrizo Springs)	EIS	396	13–17
Fort Bliss (El Paso)	EIS	4,326	13–17
Joint Base Lackland (San Antonio)	EIS	113	13–17
Midland	EIS	258	5–17
Pecos	EIS	1,556	13–17

\* These figures reflect the number of children in care at the time of the site visit.

### APPENDIX C: JUDGMENTAL SAMPLE SELECTION

Facility	Number of Employees	Sample Size	Number of Employees in Sample	Number of Volunteers in Sample	Number of Detailed Federal Employees in Sample
1	1,694	30	10	10	10
2	3,942	30	20	0	10
3	3,077	30	19	1	10
4	116	34	24	0	10
5	1,490	30	30	0	0
6	2,286	30	19	1	10
7	915	30	21	0	9
8	7,907	38	23	0	15
9	390	28	19	0	9
10	585	30	28	0	2
11	1,262	38	34	0	4
<b>Total</b>	<b>23,664</b>	<b>348</b>	<b>247</b>	<b>12</b>	<b>89</b>

**APPENDIX D: SUMMARY OF FINDINGS BY FACILITY**

Issues	Facility											Total	
	1	2	3	4	5	6	7	8	9	10	11		
<b>THE ICF AND EISs DID NOT CONDUCT OR DOCUMENT ALL REQUIRED EMPLOYEE BACKGROUND CHECKS OR DID NOT CONDUCT THEM IN A TIMELY MANNER</b>													
<b>Checks Not Conducted or Documented</b>	X	X	X			X	X	X	X	X	X	X	<b>9</b>
<b>Checks Not Conducted in a Timely Manner</b>	X	X	X	X	X	X	X	X	X	X	X	X	<b>11</b>
<b>ORR WAS NOT CONSISTENT IN ISSUING WAIVERS AND MAY HAVE ISSUED WAIVERS OF BACKGROUND CHECKS THAT WERE NOT NECESSARY</b>													
<b>Issued a Waiver</b>			X	X								X	<b>3</b>
<b>Facility Was Able To Conduct Some of the Waived Checks</b>			X	X									<b>2</b>
<b>RESULTS FROM SOME ACCURINT PUBLIC RECORDS CHECKS DIFFERED FROM CHECKS CONDUCTED BY THE EIS's CONTRACTORS</b>													
			*	X*		X	X	X	X			X	<b>6</b>
<b>A FEW EISs DID NOT ENSURE ACCESS TO THE FACILITY WAS SECURE</b>						X		X		X			<b>3</b>

\* FBI fingerprint check or identity history summary results indicated a criminal record. Accurint public records check was clear or provided insufficient results to determine criminal convictions.

## APPENDIX E: DETAILED NONCOMPLIANCE WITH BACKGROUND CHECK REQUIREMENTS

### Summary of Background Checks Not Conducted or Documented or Not Conducted in a Timely Manner

Issue	Facility										
	1	2	3	4	5	6	7	8	9	10	11
Public Records Check Not Conducted or Documented	11	2	10 <sup>1</sup>	0	N/A	0	1	2	5	5 <sup>1</sup>	0
Public Records Checks Not Conducted in a Timely Manner	0	4	2	7	*	7	6	7	7	2	10
FBI Fingerprint Checks Not Conducted or Documented	11	19	14	6	0	20	21	23	19	7	34
FBI Fingerprint Checks Not Conducted in a Timely Manner	4	1	1	18	17	*	*	*	*	1	*
Child Abuse and Neglect Checks Not Conducted or Documented	20	20	17	0	N/A	20	21	23	19	26	34
Child Abuse and Neglect Checks Not Conducted in a Timely Manner	*	*	1	19	*	*	*	*	*	0	*
Sex Offender Registry Checks Not Conducted or Documented	N/A	N/A	16	24	N/A	N/A	N/A	N/A	N/A	N/A	2
Sex Offender Registry Checks Not Conducted in a Timely Manner	*	*	1	0	*	*	*	*	*	*	10

N/A indicates the facility was not required to conduct the background check.

\* Since the facility was not required to or did not conduct background check, we did not assess whether the check was conducted in a timely manner.

<sup>1</sup> For four employees at facility 3 and two employees at facility 10, an FBI fingerprint check was conducted prior to hire.

**Public Records Checks Not Conducted in a Timely Manner**

Employee	Date of Hire	Number of Days Employed Before Results Were Received	Employee	Date of Hire	Number of Days Employed Before Results Were Received
1	5/9/2021	39	27	4/8/2021	13
2	4/30/2021	6	28	4/14/2021	95
3	5/8/2021	46	29	5/6/2021	2
4	4/14/2021	65	30	5/4/2021	80
5	4/9/2021	3	31	4/6/2021	52
6	4/4/2021	4	32	4/27/2021	83
7	4/28/2021	29	33	5/5/2021	13
8	5/10/2021	16	34	4/17/2021	3
9	5/3/2021	1	35	5/16/2021	5
10	5/13/2021	21	36	4/26/2021	2
11	5/7/2021	1	37	4/17/2021	2
12	4/30/2021	1	38	5/21/2021	20
13	5/23/2021	4	39	5/11/2021	30
14	5/25/2021	5	40	4/17/2021	9
15	4/12/2021	1	41	4/8/2021	15
16	4/17/2021	3	42	5/1/2021	6
17	5/24/2021	9	43	5/4/2021	34
18	4/12/2021	65	44	3/26/2021	4
19	4/5/2021	28	45	4/9/2021	3
20	4/6/2021	70	46	5/8/2021	20
21	4/19/2021	3	47	3/26/2021	17
22	3/24/2021	5	48	3/22/2021	63
23	3/31/2021	83	49	5/4/2021	36
24	5/13/2021	40	50	3/26/2021	5
25	4/2/2021	14	51	5/8/2021	33
26	3/31/2021	5	52	3/29/2021	3



## FBI Fingerprint Checks Not Conducted in a Timely Manner

Employee	Date of Hire	Date Check Was To Be Conducted By	Number of Days Facility Had To Conduct Check	Number of Days Employed Before Results Were Received
1	4/7/2021	4/7/2021	*	2
2	5/7/2021	5/7/2021	*	7
3	4/11/2021	4/11/2021	*	9
4	2/9/2021	2/9/2021	*	3
5	5/17/2021	5/17/2021	*	2
6	3/3/2021	3/3/2021	*	5
7	4/19/2021	4/19/2021	*	1
8	3/3/2021	3/3/2021	*	1
9	3/3/2021	3/3/2021	*	5
10	4/19/2021	4/19/2021	*	5
11	3/5/2021	3/5/2021	*	3
12	3/15/2021	3/15/2021	*	8
13	5/17/2021	5/17/2021	*	2
14	2/9/2021	2/9/2021	*	9
15	3/15/2021	3/15/2021	*	4
16	3/3/2021	3/3/2021	*	5
17	2/9/2021	2/9/2021	*	23
18	5/11/2021	5/22/2021	11	13
19	5/7/2021	5/22/2021	15	17
20	5/8/2021	5/22/2021	14	20
21	5/17/2021	5/22/2021	5	22
22	5/17/2021	5/30/2021	13	15
23	5/3/2021	5/3/2021	*	4
24	5/10/2021	5/11/2021	1	29
25	5/8/2021	5/11/2021	3	40
26	4/29/2021	5/11/2021	12	40
27	5/4/2021	5/11/2021	7	35
28	5/3/2021	5/11/2021	8	36
29	5/10/2021	5/11/2021	1	29
30	4/27/2021	5/11/2021	14	42
31	5/3/2021	5/11/2021	8	36
32	5/24/2021	5/24/2021	*	30
33	5/3/2021	5/11/2021	8	36
34	4/30/2021	5/11/2021	11	39
35	5/20/2021	5/20/2021	*	34
36	5/13/2021	5/13/2021	*	35
37	5/7/2021	5/11/2021	4	32
38	4/30/2021	5/11/2021	11	39
39	5/17/2021	5/17/2021	*	37
40	4/29/2021	5/11/2021	12	40
41	5/23/2021	5/23/2021	*	31
42	4/8/2021	4/13/2021	5	15

\* Indicates the facility had been open more than 30 days and the check should have been conducted prior to hire.

**CA/N Checks Not Conducted in a Timely Manner**

<b>Employee</b>	<b>Date of Hire</b>	<b>Date Check Was To Be Conducted By</b>	<b>Number of Days EIS Had To Conduct Check</b>	<b>Number of Days Employed Before Results Were Received</b>
1	4/28/2021	5/11/2021	13	36
2	4/28/2021	5/11/2021	13	40
3	5/10/2021	5/11/2021	1	17
4	5/8/2021	5/11/2021	3	40
5	4/28/2021	5/11/2021	13	29
6	4/29/2021	5/11/2021	12	21
7	5/4/2021	5/11/2021	7	21
8	5/16/2021	5/11/2021	*	3
9	5/3/2021	5/11/2021	8	17
10	5/12/2021	5/11/2021	*	7
11	5/10/2021	5/11/2021	1	10
12	4/27/2021	5/11/2021	14	31
13	5/3/2021	5/11/2021	8	51
14	5/13/2021	5/11/2021	*	7
15	5/24/2021	5/11/2021	*	3
16	4/30/2021	5/11/2021	11	15
17	5/13/2021	5/11/2021	*	†
18	5/17/2021	5/11/2021	*	11
19	5/23/2021	5/11/2021	*	3
20	5/3/2021	4/26/2021	*	4

\* Indicates the EIS had been open more than 30 days and the check should have been conducted prior to hire.

† Employee was terminated after 7 days.

### Sex Offender Registry Checks Not Conducted in a Timely Manner

Employee	Date of Hire	Number of Days Employed Before Results Were Received
1	4/4/2021	4
2	5/4/2021	34
3	3/26/2021	4
4	4/9/2021	3
5	5/8/2021	20
6	3/26/2021	17
7	3/22/2021	63
8	5/4/2021	36
9	3/26/2021	5
10	5/8/2021	32
11	3/29/2021	3

## APPENDIX F: ADMINISTRATION FOR CHILDREN AND FAMILIES COMMENTS



### 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)

February 16, 2023

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

Dear Ms. Hodgkins:

The Administration for Children and Families (ACF) appreciates the opportunity to respond to the Office of Inspector General (OIG) draft report entitled, *The Office of Refugee Resettlement Needs To Improve Its Practices for Background Checks During Influxes, A-06-21-07003*, which contains recommendations for ACF's Office of Refugee Resettlement (ORR). An executive summary and further detailed report and recommendations response are provided below.

#### ***Executive Summary***

##### **Introduction**

This Executive Summary complements our more detailed response to OIG's findings to follow, highlighting the improvements that have been made and that are ongoing, and provides important context to the exceptional challenges that ORR encountered during the Fiscal Year (FY) 2021 audit period when it first stood up Emergency Intake Sites (EIS) to address historically high numbers of unaccompanied children referred from the Department of Homeland Security (DHS). Through its mission and as statutorily mandated, ORR centers the safety and well-being of children in all decisions.

##### **Background**

In FY 2021, ORR received over 122,000 referrals of unaccompanied children from DHS, following approximately 19,000 referrals in FY 2020. This historic influx was compounded by the Coronavirus Disease 2019 (COVID-19) pandemic and procedures to mitigate the spread of COVID-19, which reduced standard bed capacity by up to 40 percent. Further, ORR faced challenges operationalizing additional standard network capacity to move children out of DHS custody in a congressionally mandated time frame,<sup>1</sup> and staffing obstacles (i.e., hiring) across the care provider network. In 2021, to address these issues, ORR, in partnership with other federal agencies, activated temporary bed capacity through 1 Influx Care Facility (ICF) in Texas, and 14 EIS nationally. As of January 2022, ORR demobilized 12 of the 14 EIS due to increased efficiencies and programmatic improvements. As of June 2022, ORR is not currently operating any EIS and has transitioned two remaining EIS into ICFs, which must comply, to the greatest

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<sup>1</sup> 8 U.S.C. 1232(b).

extent possible, with state child welfare laws and regulations (such as mandatory reporting of abuse), as well as state and local building, fire, health, and safety codes.<sup>2</sup>

**Ongoing Actions Taken to Improve Background Checks and Overall Safety**

ORR takes its child welfare and safety responsibilities seriously and continually improves existing policies and processes to ensure the safety and well-being of children in its care. In addition to concurring with all seven of OIG’s recommendations (all of which have been or are in process of being implemented prior to the conclusion of OIG’s review period), ORR has successfully:

- Established a Background Check, Badging, and Security Team to refine ORR’s employee background check process;
- Implemented new transportation services awards/subawards information on background check requirements, including that background checks must be conducted prior to hire;
- Arranged for background check requirement information to be included in all future awards/subawards for services that involve direct contact with children;
- Developed a Background Check Intakes Plan for new, prospective ICF sites;
- Provided technical assistance for employees and contractors on the background check process; and
- Reiterated to Fort Bliss ICF and Pecos ICF, through their contracting officer’s representatives (CORs), the importance of ensuring that access to a site is secure and that access badges are collected and deactivated for individuals who no longer require access to the sites.

**Conclusion**

We appreciate OIG’s attention to this matter and welcome your partnership to address report recommendations. To ensure that children in ORR care are safe and healthy, ORR continues to search for more efficient ways to reduce barriers to the timeliness of background check adjudication, has made progress, and is working in real time to improve its processes.

*Detailed Response to OIG’s Findings*

This report reviews one of the most challenging periods in the history of ORR’s Unaccompanied Children (UC) Program, in which ORR ensured the health and safety of children, despite compounding emergency factors and operational constraints, while balancing the need to keep children safe and conduct background checks of emergency facility staff, contractors, and volunteers. In FY 2021, ORR received over 122,000 referrals of unaccompanied children from DHS. In response to this unprecedented increase, ORR oversaw the largest and fastest expansion of bed capacity for children in an emergency response setting. This was compounded by the COVID-19 pandemic, new policies and procedures to mitigate the spread of COVID-19, operationalizing additional capacity and deploying more than 10,000 individuals to ensure expeditious and safe placement out of DHS custody, and staffing challenges across ORR’s network of care providers. As ORR worked quickly to respond to this historic child welfare

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<sup>2</sup> ORR Unaccompanied Children Program Policy Guide Section 7.5.

emergency, the agency prioritized the safety and well-being of children at every step and in every decision.

While ORR faced strains on its bed capacity during previous emergency and influx periods, (notably in FY 2014 and 2019), COVID-19 placed even greater pressures on ORR's limited resources. ORR's network of standard bed capacity was reduced by up to 40 percent due to the combined impacts of COVID-19 mitigation measures, such as the need to set aside space for isolation and quarantine needs, and staffing issues, including health considerations. ORR is required to maintain certain child-to-caregiver ratios in its facilities, and when sufficient staff were unavailable for various reasons during the pandemic (such as absences due to exposure to or infection with COVID-19, or personal caregiving responsibilities for an ill family member), the number of children able to be housed in a particular facility had to be reduced accordingly. After low referral numbers from DHS in FY 2020, ORR experienced an increase in FY 2021 and 2022. Referrals to the program continue to be high compared to historical trends, and ORR continues to assess capacity needs on an ongoing basis in light of those trends by closely evaluating DHS projections, emerging issues that affect child health and safety, and immigration patterns.

Despite these challenges, ORR continues to fulfill its legal and moral responsibility to receive children quickly and safely out of DHS border facilities, provide them with appropriate child-centered care, and place them with a vetted sponsor. Pursuant to the William Wilberforce Trafficking Victims Protection Reauthorization Act (TVPRA) of 2008, barring exceptional circumstances, any department or agency of the Federal Government that has an unaccompanied child in custody is required to transfer the child to the Secretary of Health and Human Services (HHS) no later than 72 hours after determining that such child is unaccompanied. In 2021, to accept referrals from DHS in a timely fashion, ORR, in partnership with other federal agencies activated temporary bed capacity through an ICF in Carrizo Springs, Texas, and 14 EIS. The EIS provided immediate shelter for children who were in DHS custody at border facilities experiencing dangerous overcrowding. DHS border facilities are not designed, equipped, or staffed to care for children for extended periods of time, and sustained periods of prolonged detention place children at high risk of being housed with unrelated adults. Given these risks, ORR worked expeditiously to set up the EIS to ensure child- appropriate capacity.

HHS worked swiftly in partnership with DHS's Federal Emergency Management Agency (FEMA) to stand up and staff EIS to move children out of DHS custody. The alternative to standing up EIS would have been children remaining in DHS custody contrary to child welfare standards and in violation of the TVPRA. To quickly provide the necessary levels of staffing, ORR utilized contract staff, federal employees, and non-governmental organization employees to staff EIS. FEMA tailored its emergency response solutions to meet the unique needs of unaccompanied children. EIS were a temporary solution and short-term placement option for unaccompanied children to address the sustained high referrals from DHS, the significant overcrowding at DHS border facilities placing the health and welfare of children at risk, and the ongoing COVID-19 bed capacity challenges in 2021. ORR applied new approaches to staff such facilities, given the unprecedented demand for capacity in a short amount of time, given the alternatives, as child welfare and safety are always its primary focus. ORR's decisions, while

taking into account standard bed capacity and other factors, were each made through a child welfare lens prioritizing the health, safety, and best interest of children in federal custody.

ORR started demobilizing EIS as soon as ORR was able to safely receive referrals from DHS in a timely fashion. By January 2022, ORR had demobilized 12 of the 14 EIS due to increased DHS-HHS collaboration, greater processing efficiencies, and programmatic improvements that safely expanded bed capacity. By June 2022, ORR no longer operated EISs and transitioned the remaining two sites into ICFs. While EIS facilities were required, to the extent possible, ramp up services to meet minimum standards of an ICF, ICFs fully incorporate the minimally required standards described in Exhibit 1 of the *Flores* Settlement Agreement (FSA), including congressionally mandated staffing ratios for unlicensed facilities, educational and recreational activities, weekly individual and group counseling sessions in addition to emergency mental health services, and implementing critical aspects of the full initial medical exam as required by the FSA and outlined in ORR UC Program Policy Guide Section 7.

The health and safety of children in ORR care is ORR’s congressional mandate.<sup>3</sup> ORR has long relied upon standard bed capacity to ensure the health and safety for children in its care. Bringing standard bed capacity online during the FY 2021 influx posed challenging, however, given the standard amount of time it takes ORR, like HHS or other federal agencies, to issue a Notice of Funding Opportunity, process applications, ensure a facility’s licensure status, and ensure a program is ready to accept placements. The primary challenge is the approval timeline for state licensing, which varies from state-to-state, ranging from 6 to 9 months in some cases. The variations in approval timelines depend on a myriad of factors, including the grantee, their experience in applying for a license, the location of the facility, and other unpredictable circumstances such as facility inspection delays. This timeline is based on the experience of standard ORR shelters currently operating across the country. Since referral patterns are difficult to predict, the window of time ORR would potentially need to operationalize standard beds on an emergency basis is too short and unpredictable to go through a state’s licensing process. Having unknown and widely varied timelines across states is also a challenge for ensuring background checks are conducted in a timely manner. As a result of these timing obstacles, ORR relied on EIS and ICF and alternative staffing measures to safely move children out of dangerously overcrowded DHS border facilities.

During the initial stand up of EIS, more than 10,000 staff, federal detailees, and volunteers answered the call to provide ORR with emergency response support to an unprecedented influx of children. These individuals understood the urgency to ensure children were transferred into EIS facilities designed for children in an emergency response setting. The incoming EIS contract staff, federal detailees and volunteers also needed background checks initiated, reviewed, and adjudicated. Yet, ORR has no delegated authority to conduct background checks. While ORR sets the background check policy and program standards across its network of care providers, it must rely upon other federal and state agencies to complete, review, and adjudicate all checks in a timely way. Accordingly, ORR engaged HHS’s Program Support Center (PSC), a delegated federal suitability entity, to initiate federal background investigations under 5 CFR Part 731 and facilitate state-based Child Abuse and Neglect (CA/N) checks through the Defense

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<sup>3</sup> ORR is required by statute to ensure that the interests of children are considered in decisions and actions relating to their care and custody. See 6 U.S.C 279(b)(1)(B); See also 8 U.S.C. 1232(c)(2)(A).

Counterintelligence and Security Agency (DCSA). PSC is required to follow federal investigative standards and ensure quality packages by following the DCSA Investigation Submission Checklist through the Electronic Questionnaires for Investigations Processing (eQIP) system<sup>4</sup>. This engagement was appropriate in support of Executive Order 13467, Section 3(c)<sup>5</sup> while ORR focused on ensuring children in DHS custody were able to be timely placed at appropriately staffed EIS. However, the initial ramp up of EIS and the demand to staff these facilities coupled with the federal investigative process to conduct background checks created a bottleneck to initiate these records checks and ultimately caused a backlog. The primary driver contributing to this backlog was the high demand for PSC to process so many investigation requests at once.

In some circumstances, based on the Director's discretion, due to the impossibility or impracticability of obtaining background check results in a timely manner, and in accordance with ORR policy and statutory requirements, ORR issued Federal Bureau of Investigation (FBI) fingerprint and state-based CA/N background check waivers for contractors and volunteers. For instance, ORR encountered issues with state public safety agencies that would refuse to either conduct child safety background checks or conduct them in a timely manner. Because of this, ORR memorialized into policy that those with fully adjudicated federal background checks and federally required state-based childcare checks were permitted to supervise direct care staff who had not passed these checks. Contract staff and volunteers who were providing direct care could not have unsupervised contact with children until federal background checks under 5 CFR Part 731 were initiated and federally required DCSA state-based CA/N checks were fully adjudicated. Without waivers that allowed ORR to swiftly and safely staff new facilities, children would have experienced even longer delays – perhaps weeks or months longer – in DHS custody compounded by COVID-19 risks, in facilities that were not built to house children. Though this is an inherent tension, such waivers allowed ORR to staff EIS without sacrificing safeguards to protect children.

Recognizing the exceptional operational constraints facing ORR, ORR began to proactively review policies and operations related to non-standard facilities and worked to improve findings in real time. Since OIG's review period of EIS and ICF staff background checks concluded in June 2021, ORR has been able to refine its systems and processes to successfully:

- Establish a Background Check, Badging, and Security Team with an overarching goal of refining ORR's employee background check process;
- Implemented new transportation services awards/subawards information on background check requirements, including that background checks must be conducted prior to hire;
- Initiate all backlogged background checks for EIS and ICF employees;
- Develop a more efficient background check initiation process;

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<sup>4</sup> This review must be conducted using the Final Credentialing Standards or successor standards. See July 31, 2008 Memorandum from OPM Director, Final Credentialing Standards for Issuing Personal Identity Verification Cards under HSPD-12 and the Performance Accountability Council (PAC) Memorandum to Heads of Executive Departments and Agencies, Guidance on Executive Branch-Wide Requirements for Issuing Personal Identity Verification (PIV) Credentials and Suspension Mechanism, of March 2, 2016, until aligned adjudicative standards are issued in conjunction with the Trusted Workforce 2.0 initiative.

<sup>5</sup> Units with a primary Suitability Executive Agent mission, including adjudicating suitability investigations and conducting related policy, advisory services, operations support, and agency oversight.



- Collaborate with PSC to develop a large-scale weekly background check batch initiation process that would allow ORR to submit up to 300 background check records to PSC for processing, review, and adjudication (compared to the prior cap at 100);
- Develop a Background Check Intakes Plan for current and new prospective ICF sites utilizing lessons learned from the steady increase in DHS referrals that began in FY 2021;
- Provide technical assistance and tools for employees and contractors completing the background check application process to ensure accuracy and timeliness of completion; and
- Reiterated to Fort Bliss ICF and Pecos ICF, through their CORs, the importance of ensuring that access to a site is secure and that access badges are collected and deactivated for individuals who no longer require access to the sites.

Below please find our comments on the report findings and our specific response to each recommendation.

**Recommendation 1:**

We recommend that ORR ensure that all ICFs and EISs currently in operation have conducted the required background checks on current employees whose checks were not conducted or take action to ensure that these employees do not have direct access to children while any results of the checks are pending.

**Response:**

ACF concurs with this recommendation and can confirm that although EIS are no longer in operation, ORR has worked with both current ICFs to initiate the required background checks on those employees whose checks were not initiated prior to hire. As of June 2022, ORR initiated all background checks for all staff that were pending initiation of Tier 2 background checks for operational ICFs with HHS PSC. Both Fort Bliss ICF and Pecos ICF continue to complete public records checks for all employees prior to hire, including Department of Justice (DOJ) sex offender registry checks.

ORR continues to work with federal agency partners like PSC to ensure that current operational ICFs receive timely adjudications of background checks on current employees that could not be initiated prior to hire. All contract staff and volunteers are required to undergo thorough background checks in accordance with ORR policy and statutory requirements. ORR serves as the “federal sponsor” tracking and reporting out on the progress of individual background check processes. However, the timing, review or adjudication of background checks is set by PSC, DCSA, and state public safety agencies and is not up to ORR. Even with process improvements made to the background check submission process to PSC, the delay continues to be adjudication of the background checks—which can take up to 6 months from initiation to completion.

While public records checks are completed and other federal and state background check requirements are pending, ORR’s Background Check, Badging, and Security Team implemented a process in coordination with ICF site leadership so that these employees do not have direct, unsupervised access to children while any results of the checks are pending. For example, at ORR’s Pecos ICF, staff who have received a favorable background check adjudication are identified by color coded badges. This includes public records checks that Pecos ICF initiated,

as well as fingerprint-based checks, and DCSA CA/N investigations are fully adjudicated. Staff who have cleared all checks receive a green badge, identifying them onsite and allowing them to supervise ICF staff and volunteers who have yet to receive favorable, fully adjudicated background check results.

**Recommendation 2:**

We recommend that ORR clarify and reissue guidance for background checks at EISs so that it is clear which checks are required, who is responsible for conducting the checks, and which checks must be conducted prior to hire.

**Response:**

ACF concurs with this recommendation, and in an effort to consistently improve processes in this area, ORR issued initial [Field Guidance #13](#) concerning background checks in April 2021 and reissued the guidance with further clarifications in October 2022.

On April 30, 2021, ORR issued Field Guidance #13 that outlined standards for EIS, including staff background checks, and took effect immediately. Per the April 2021 field guidance, only EIS personnel cleared in accordance with ORR guidelines were permitted to supervise direct care staff. ORR also required receipt of background checks required of EIS staff within 30 days of an EIS opening. Finally, ORR could waive or modify background check requirements on a facility-to-facility basis.

ORR was aware that the limited availability of fingerprinting options for direct care EIS and ICF contractors could make it difficult to complete the required background checks within the 30-day timeframe described in Field Guidance #13 and respective contracts. Accordingly, ORR directed contractors to obtain fingerprint background checks for their staff as quickly and efficiently as possible. Contractors were directed to provide their COR with updates on their compliance with the fingerprint background check provision in Field Guidance #13 and submit a timeline for completion. For those contractors without fingerprint results, ORR directed contractors to ensure that staff, while background checks were being adjudicated, were overseen and supervised by other contractors or federal detailees who had cleared fingerprint results.

On October 24, 2022, ORR revised Field Guidance #13 to strengthen the framework should there ever be a need for future EIS. The updated guidance:

- Included tiered levels to outline service requirements from site activation through the 6-month mark and beyond; eligible EIS placement categories; bed capacity reporting; required services, including case management services; and staffing guidance, including background check requirements; and
- Clarified which background checks were required, who was responsible for conducting the checks, and which checks must be conducted prior to hire.

Under the updated Field Guidance #13, all EIS staff and volunteers need to pass a public record criminal background, sex offender and, as applicable for staff and volunteers who provide direct care and services to children, CA/N checks, which must occur within 30 days of an EIS opening. Staff and volunteers who provide direct care to children cannot have unsupervised contact with children until all required background checks have been completed. This requirement also

applies to maintenance, janitorial, and kitchen staff, who must conduct their work within the line of sight of an authorized EIS personnel until they have successfully passed their background checks. ORR may waive or modify background check requirements on a facility-to-facility basis. The contractor is responsible for ensuring receipt of background checks required for their staff within 30 days of an EIS opening. All EIS must also be compliant with UC Policy Guide Section 4.3.3 Employee Background Investigations.

**Recommendation 3:**

We recommend that ORR include a review of compliance by ICFs and EISs with all background check requirements and facility access as a part of ORR’s routine site visit monitoring.

**Response:**

ACF concurs with this recommendation. ORR created monitoring requirements in June 2021 for both ICF and EIS programs, which include compliance reviews of required background checks, facility access, and safety. Though EIS are no longer in operation, ORR’s Monitoring Team has conducted 11 in-person site visits to EIS and ICF. For Pecos ICF, ORR conducted its most recent monitoring visit the week of October 24, 2022. For ORR’s ICF at Fort Bliss, ORR conducted its most recent monitoring visit the week of November 14, 2022. Both sites continue to receive on-site monitoring quarterly.

In accordance with Consolidated Appropriations Act, 2023, Pub. L. No. 117-328, div. H, tit. II, sec. 231 (Dec. 29, 2022), EIS that are in operation for more than 3 consecutive months are subject to one comprehensive monitoring visit during the first 3 months of operation, with quarterly monitoring visits thereafter. In conducting these monitoring visits, ORR’s purpose is to assess the safety and well-being, and quality of services for children, evaluate EIS compliance with federal and state laws and regulations, ORR policies and procedures, and child welfare standards, and identify site technical assistance needs. ORR may increase the frequency of monitoring if it is warranted by issues identified, in accordance with ORR UC Program Policy Guide Section 5.5 ORR Monitoring and Compliance.

Additionally, under ORR UC Program Policy Guide Section 7.10 Influx Care Facility Monitoring, ORR conducts a minimum of one comprehensive monitoring visit during the first 3 months of any unlicensed ICF in operation for more than 3 consecutive months, with quarterly monitoring visits thereafter. The comprehensive monitoring visit taking place within the first 3 months of operation includes all monitoring activities outlined in ORR UC Program Policy Guide Section 5.5.1 ORR Monitoring Activities. Each monitoring visit also involves a review of personnel files, which must include documentation on all background checks and efforts to obtain background checks.

In June 2021, ORR’s Monitoring Team developed monitoring tools and checklists to assist with in-person EIS and ICF monitoring visits. Such tools include the requirement for monitors to review compliance with all background check requirements. For example, when ORR conducts a monitoring site visit, the monitor requests a personnel file and the following information for compliance review:

- 1) Name of current employees, as well as individuals who worked under the contract within the last 2 years;
- 2) Position(s) held;
- 3) Position start date;
- 4) Position end date, if applicable;
- 5) FBI National Background Check – initial clearance date;
- 6) FBI National Background Check – updated clearance date, if applicable;
- 7) State Criminal Background Check – initial clearance date;
- 8) State Criminal Background Check – updated clearance date, if applicable;
- 9) State Child Abuse and Neglect Check – initial clearance date;
- 10) State Child Abuse and Neglect Check – updated clearance date, if applicable; and
- 11) Any relevant Out of State Criminal and Child Abuse and Neglect clearance dates.

If it is ever unclear after a personnel file review whether an employee has direct access to children, the monitor will discuss with site leadership. If the ORR monitor finds a personnel file to be out of compliance with ORR’s background checks requirements, a corrective action finding is submitted to the COR. The COR will then provide technical direction to the contractor and issue the corrective action, which requires the contractor to resolve the finding within a specified timeframe. ORR may provide technical assistance, as needed, to ensure that deficiencies are addressed.

The EIS and ICF monitoring tools also include a compliance review of facility safety and security. For example, ORR monitors are required to review the site’s perimeter and internal security mechanisms (e.g., exit/entry requirements, badge activation/deactivation and retrieval procedures, video surveillance, capacity to store video footage, alarm systems, etc.). Any significant safety concerns are immediately elevated to the appropriate official, including the contractor on site, the COR, federal field specialist, and other ORR staff.

**Recommendation 4:**

We recommend that ORR ensure that future awards and subawards for services that involve contact with children (e.g., transportation) include detailed information on background check requirements and specify that background checks must be conducted prior to hire.

**Response:**

ACF concurs with this recommendation and has included such language in its transportation contracts, which were updated on November 17, 2022. ORR understands this to be a critical component to ensuring children in ORR care are safe and healthy. In accordance with the background check requirements detailed in 45 CFR Part 411, ORR remains committed to implementing background check standards, including the requirement in current and future awards that background checks must be completed prior to hire. Below highlights the current and ongoing ORR effort to ensure background check information is robustly included for all ORR partners, contractors, and grantees.

For ORR grantees operating standard facilities, ORR maintains in Section IV of its cooperative agreement (CA) the requirement to complete all background check investigations on all staff, contractors, interns, and volunteers prior to hire to ensure that the candidate is suitable for

employment to work with children. The CA states clearly that background checks must be completed in accordance with ORR's minimum standards and state licensing requirements. At a minimum, the scope of background investigations must include an FBI fingerprint check of national and state criminal history repositories, a child protective services check with the staff's State(s) of United States resident for the last 5 years, and background investigation updates at a minimum of every 5 years of the personnel's start date or last background investigation update. All results must be included in the employee's personnel file.

For current ORR contractors and all future contract awards, ORR has detailed contract provisions on background check requirements including ensuring that contract language outlining background check requirements are also applicable to subcontractors in subawards:

Only federal personnel, or personnel who have been cleared through a fingerprint-based, federal background check, are permitted to supervise direct care staff. Staff and volunteers who provide direct care must pass public record criminal background checks for deployment at EIS. ORR will ensure receipt of background checks required for EIS staff within 30 days of an EIS opening. Staff and volunteers who provide direct care may not have unsupervised contact with children until all background checks have been completed. ORR may waive or modify background check requirements on a facility-to-facility basis. Contractors shall ensure the employees whose names they submit have a reasonable chance for access approval. In some cases, employees with existing background investigations commensurate with sensitivity designations will expedite performance. This requirement applies to all subcontractors supporting ORR programs. The Contractor is responsible for the custody and control of all forms of [c]redentials issued by HHS to Contractor employees, including all subcontractor employees.

As noted above, ORR also added clear guidance in its transportation provider contract. ORR's current transportation contract, last modified on November 17, 2022, has detailed security requirements that require contractor staff to meet ORR background check standards, in compliance with ORR's updated Field Guidance #13. The contract specifies that federal personnel, or personnel who have been cleared through a fingerprint-based, federal background check, are permitted to supervise direct care staff. Staff and volunteers who provide direct care must, at a minimum, pass public record criminal background checks. Staff and volunteers who provide direct care shall not have unsupervised contact with unaccompanied children until all background checks have been completed.

In addition to implementing detailed background check information in the transportation contract, ORR is in the process of competitively awarding an Indefinite Delivery Indefinite Quantity (IDIQ) influx contract for potential ICFs that can be mobilized when capacity is needed. The IDIQ includes the following background check provision:

Only Contractor staff who have been cleared through a fingerprint-based, federal background check, are permitted to supervise direct care staff. Staff and volunteers who provide direct care must pass public record criminal background checks for deployment at ICF. Additionally, all medical providers must maintain current state licensure, possess clean background checks, and clean child abuse and neglect checks. Staff who will have

unsupervised direct access (e.g., physically present) to UC must have an FBI based background check, and child abuse and neglect check (if not waived or modified by ORR). Staff who do not have direct access to children must have a public records criminal background check. Background checks will be conducted by the Contractor. ORR will ensure receipt of background checks for ICF staff. Staff and volunteers who provide direct care may not have unsupervised contact with unaccompanied children until all background checks have been completed. ORR may waive or modify background check requirements on a facility-to-facility basis. Any request for waiver from any background check requirement must be made in writing to the ORR COR, and consideration of a waiver or conditional waiver is solely within the discretion of ORR.

ORR expects to award flexible influx capacity by the end of FY 2023.

Through these mechanisms, ORR continues to ensure that detailed information on background check requirements is included in task orders and awards, which specify that background checks must be conducted prior to hire. Such a provision also includes the specific requirement that primary contractors must ensure subawardees comply with ORR's background check provisions.

**Recommendation 5:**

We recommend that ORR re-evaluate the need for waivers of background checks and explore alternative means of obtaining required checks.

**Response:**

ACF concurs with this recommendation and recognizes the importance of exploring alternative means of obtaining required background checks; ORR seeks to only rely on waivers when clearly necessary to ensure child safety and timely transfer from DHS custody. Prior to the issuance of any waiver, ORR closely scrutinizes the circumstances of when waivers should apply and determines its necessity, evaluating constraints while prioritizing the health, safety, and best interests of children.

During the 2021 influx, ORR only used background check waivers for EIS to meet the staffing needs necessary to safely and timely accept referrals from DHS and decompress dangerous overcrowding conditions in border facilities. In an emergency context where the health and safety of children are at risk due to prolonged detention in DHS border facilities, ORR will continue to do everything it can to explore options and partnerships to promptly complete employee required background checks prior to hiring. ORR has explored partnerships with the FBI and state officials to assist in state background checks, while continuing to leverage its relationship with HHS PSC to create more efficient processes to initiate background check processing for ORR. While the current collaboration with HHS PSC has created a much more efficient initiation process, ORR remains limited in ensuring timely adjudications of background checks are received prior to hire should there be another emergency that requires a rapid expansion of ORR's bed capacity and staff. For this reason, ORR notes a continued need for increased resources and delegations of authority so that required background checks can be obtained and adjudicated in a timely way while ORR is responsive to increased referrals of children from DHS.

In a few circumstances, the waivers were issued to address inability to complete background checks in certain states. For instance, during 2019 and 2021 influx operations in Texas, the State’s Department of Family and Protection Services (DFPS), which is the licensing entity that completes background checks for employees of ORR-funded state-licensed programs, did not provide background checks for ICF employees, due to new state laws and regulations concerning background checks for residential childcare staff working in state-licensed facilities. Due to these restrictions, two prior ORR Directors exercised their discretion under 45 CFR 411.10(c) and waived non-public background check requirements warranted by emergency influxes.

ORR welcomes OIG’s partnership in exploring alternative means of obtaining required checks in a timely fashion that prioritizes the health and well-being of children in light of operational constraints.

**Recommendation 6:**

We recommend that ORR re-evaluate the use of public records checks in lieu of, or prior to receiving the results of, FBI fingerprint and CA/N checks, and require a DOJ sex offender registry check in addition to a public records check if ORR determines there is a need to use public records checks.

**Response:**

ACF concurs with this recommendation and agrees that FBI fingerprint and CA/N checks prior to hire are ideal. ORR policy for standard beds requires that FBI and CA/N background checks be completed prior to hiring staff that have direct contact with children. However, in circumstances where it is impossible or impracticable to initiate and adjudicate FBI and CA/N checks during an influx where children are spending prolonged periods of detention in DHS custody, ORR will ensure public records checks including DOJ sex offender registry checks are completed, and those individuals who are still pending non-public records checks will not provide unsupervised direct care.

As outlined in ORR’s revised Field Guidance #13, ORR already requires a DOJ sex offender registry check in addition to public records check prior to hire. Notably, these checks are not in lieu of FBI and CA/N checks, but are required prior to hire, while FBI and CA/N checks may still be in process. ORR recognizes the importance of fingerprint-based and CA/N checks and is ensuring all staff, including ICF contracting staff working at ICF, can have the check initiated prior to hire. Any potential EIS facilities will also have the same requirement, absent the need for any waivers. While ORR has previously evaluated the use of public records checks, there are foreseeable issues that have been discussed related to future influx situations outside of ORR’s control. Most notable issues are ORR’s lack of delegated authority to conduct background checks, the timeline to fully adjudicate FBI fingerprint and CA/N checks, while ensuring additional shelters are staffed and children are safely and swiftly placed into ORR care and out of DHS border facilities. This will remain an issue for ORR without greater funding allocation, further intergovernmental and federal engagement, and delegated authorities, options ORR has and will continue to explore. In those situations where it is impossible to adjudicate FBI fingerprint and CA/N checks in a timely way, ORR will still require public records checks and DOJ sex offender registry checks to be conducted for all staff given the shorter adjudication timeframe. Those who have undergone only public records checks and DOJ sex offender



registry checks will still need to be supervised by employees who have undergone all background check requirements, including fingerprint and CA/N checks. This balance has been discussed and evaluated during prior emergency response planning and ORR welcomes OIG's collaboration in determining how it could no longer use public records checks prior to receiving the results of FBI fingerprint and CA/N checks. Notably, ORR already requires a DOJ sex offender registry check prior to hire.

In the meantime, ORR's Policy Team in conjunction with ORR's Background Check, Badging, and Security Team will continue to critically review the use of public records checks and DOJ sex offender registry checks prior to receiving the results of FBI fingerprint and CA/N checks and re-evaluate its feasibility.

**Recommendation 7:**

We recommend that ORR reiterate to EISs the importance of ensuring that access to a site is secure and that access badges are collected and deactivated for individuals who no longer require access to EISs.

**Response:**

ACF concurs with this recommendation. While there are no EIS in operation, ORR has reiterated to the two ICF care providers, through their CORs, the importance of ensuring that access to a site is secure and that access badges are collected and deactivated for individuals who no longer require access to the site. This will also be shared with any future EISs should there ever be a need to activate an EIS.

***Response Conclusion***

In closing, ORR is working diligently to fulfill its mission to provide safe placement options for children in care while we work to safely unify them with vetted sponsors. ORR continues to search for more efficient ways to address barriers to the timeliness of background check adjudication and is working in real time to issue spot and improve its processes. ORR's lack of delegated authority to conduct required background checks continues to be an issue for further exploration. ORR will always put the best interests of children first in every decision made, especially when weighing the need to transfer children out of DHS custody, the use of background check waivers during emergency operations, and the types of required background checks.



Thank you for the opportunity to review this draft report. Please direct any follow-up inquiries to Benita Turner, Office of Administration Office of Inspector General Liaison, at (202) 401-9379.

Sincerely,

A handwritten signature in black ink, appearing to read "January Contreras". The signature is fluid and cursive, with the first name being the most prominent.

January Contreras  
Assistant Secretary  
for Children and Families