



Report to the Chairwoman of the  
Subcommittee on Labor, Health and Human  
Services, Education, and Related Agencies,  
Committee on Appropriations, House of  
Representatives

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September 2020

# UNACCOMPANIED CHILDREN

## Actions Needed to Improve Grant Application Reviews and Oversight of Care Facilities

# GAO Highlights

Highlights of [GAO-20-609](#), a report to the Chairwoman of the Subcommittee on Labor, Health and Human Services, Education, and Related Agencies, Committee on Appropriations, House of Representatives

## UNACCOMPANIED CHILDREN

### Actions Needed to Improve Grant Application Reviews and Oversight of Care Facilities

#### Why GAO Did This Study

ORR is responsible for the care and placement of unaccompanied children in its custody, which it provides through grants to state-licensed care provider facilities. ORR was appropriated \$1.3 billion for this program in fiscal year 2020. GAO was asked to review ORR's grant making process and oversight of its grantees.

This report examines (1) how ORR considers state licensing issues and past performance in its review of grant applications; (2) state licensing agencies' oversight of ORR grantees, and how ORR and states share information; and (3) how ORR addresses grantee noncompliance. GAO reviewed ORR grant announcements and applications for fiscal years 2018 and 2019. GAO conducted a survey of 29 state licensing agencies in states with ORR facilities, and reviewed ORR monitoring documentation and corrective action reports. GAO also reviewed ORR guidance and policies, as well as relevant federal laws and regulations, and interviewed ORR officials.

#### What GAO Recommends

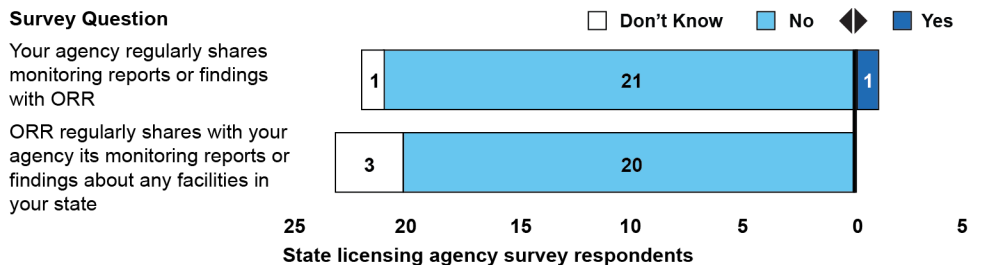
GAO is making eight recommendations to ORR on improving clarity in its grant announcements, communication with state licensing agencies, and monitoring of its grantees. ORR agreed with all eight recommendations.

#### What GAO Found

The Office of Refugee Resettlement's (ORR) grant announcements soliciting care providers for unaccompanied children—those without lawful immigration status and without a parent or guardian in the U.S. available to provide care and physical custody for them—lack clarity about what state licensing information is required. Further, ORR does not systematically confirm the information submitted by applicants or document a review of their past performance on ORR grants, when applicable, according to GAO's analysis of ORR documents and interviews with ORR officials. The grant announcements do not specify how applicants without a state license should show license eligibility—a criterion for receiving an ORR grant—or specify what past licensing allegations and concerns they must report. In addition, the extent to which ORR staff verify applicants' licensing information is unclear. In fiscal years 2018 and 2019, ORR awarded grants to approximately 14 facilities that were unable to serve children for 12 or more months because they remained unlicensed. In addition, ORR did not provide any documentation that staff conducted a review of past performance for the nearly 70 percent of applicants that previously held ORR grants. Without addressing these issues, ORR risks awarding grants to organizations that cannot obtain a state license or that have a history of poor performance.

State licensing agencies regularly monitor ORR-funded facilities, but according to GAO's survey of these agencies, their information sharing with ORR is limited (see figure). State licensing agencies and ORR staff both said that improved information sharing would benefit their monitoring of facilities. Without such improvements, ORR may lack information about ongoing issues at its facilities.

**Key Survey Responses on Information-Sharing with the Office of Refugee Resettlement (ORR) by the 23 State Agencies That Licensed ORR-Funded Facilities in Fall 2019**



Source: GAO survey of state agencies that license ORR-funded providers, conducted October 2019 – January 2020. | GAO-20-609

ORR requires grantees to take corrective action to address noncompliance it identifies through monitoring, but ORR has not met some of its monitoring goals or notified grantees of the need for corrective actions in a timely manner. For example, under ORR regulations, each facility is to be audited for compliance with standards to prevent and respond to sexual abuse and harassment of children by February 22, 2019, but by April 2020, only 67 of 133 facilities had been audited. In fiscal years 2018 and 2019, ORR also did not meet its policy goals to visit each facility at least every 2 years, or to submit a report to facilities on any corrective actions identified within 30 days of a visit. Without further action, ORR will continue to not meet its own monitoring goals, which are designed to ensure the safety and well-being of children in its care.

View [GAO-20-609](#). For more information, contact Kathryn A. Larin at (202) 512-7215 or [larink@gao.gov](mailto:larink@gao.gov).

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## Abbreviations

ACF	Administration for Children and Families
COVID-19	Coronavirus Disease 2019
FOA	Funding Opportunity Announcement
HHS	Department of Health and Human Services
OGM	Office of Grants Management
OMB	Office of Management and Budget
ORR	Office of Refugee Resettlement
PSA	Prevention of Sexual Abuse

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September 15, 2020

The Honorable Rosa DeLauro  
Chairwoman  
Subcommittee on Labor, Health and Human Services, Education,  
and Related Agencies, Committee on Appropriations  
House of Representatives

Dear Ms. DeLauro,

The Department of Health and Human Services' (HHS) Office of Refugee Resettlement (ORR) was appropriated \$1.3 billion in fiscal year 2020 to carry out a program for the care and placement of unaccompanied alien children—children without lawful immigration status and without a parent or guardian in the United States available to provide care and physical custody for them, including those who have been separated from their parent or guardian.<sup>1</sup> In fiscal year 2019, the latest year for which complete data are available, ORR awarded grants totaling over \$1.8 billion to organizations providing shelter and other services to these children.<sup>2</sup> Unaccompanied alien children (referred to in this report as unaccompanied children) are generally referred to ORR for care by the Department of Homeland Security. The numbers of these referrals have fluctuated over time, but increased substantially from almost 14,000 in fiscal year 2012 to more than 69,000 in fiscal year 2019, and decreased

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<sup>1</sup>The term “unaccompanied alien child” refers to a child who (1) has no lawful immigration status in the United States, (2) has not attained 18 years of age, and (3) has no parent or legal guardian in the United States or no parent or legal guardian in the United States available to provide care and physical custody. 6 U.S.C. § 279(g)(2). As such, children traveling with related adults other than a parent or legal guardian—such as a grandparent or sibling—are still deemed unaccompanied alien children. In addition, if the Department of Homeland Security (DHS) determines that children in its custody without lawful immigration status should be separated from their accompanying parents, DHS then considers these children to be unaccompanied and refers them to ORR. For more information on DHS processing of families arriving at the Southwest border and on separations of such families, see GAO, *Southwest Border: Actions Needed to Improve DHS Processing of Families and Coordination between DHS and HHS*, [GAO-20-245](#). (Washington, D.C.: February 19, 2020), GAO, *Southwest Border: Actions Needed to Address Fragmentation in DHS's Processes for Apprehended Family Members*, [GAO-20-274](#). (Washington, D.C.: February 19, 2020), and GAO, *Unaccompanied Children: Agency Efforts to Reunify Children Separated from Parents at the Border*, [GAO-19-163](#). (Washington, D.C.: October 9, 2018).

<sup>2</sup>ORR awards these funds via cooperative agreements; however, for the purposes of this report we refer to them as grants.

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significantly in fiscal year 2020. According to ORR officials, as of June 4, 2020, there were 1,123 unaccompanied children in ORR's care.

You asked us to examine ORR's grant making process and oversight of its grantees. This report examines (1) how ORR considers state licensing issues and past performance in its review of grant applications; (2) state licensing agencies' policies and practices for overseeing ORR grantees, and how ORR and states share information on oversight; and (3) ORR policies and practices for addressing grantee noncompliance with grant agreements.

To address our first objective, we reviewed documentation related to ORR grants for fiscal years 2018 and 2019, the most recent years available at the time of our review. We reviewed the eight ORR grant announcements issued during this time, grant applications submitted to ORR in response to these announcements, and ORR funding decision memoranda. To determine whether applicants that received ORR grants in fiscal years 2018 and 2019 were able to obtain a state license and whether they had begun serving children, we compared the 58 applications (that resulted in grant awards) from those two years to data ORR provided on facilities' status as of July 2020.<sup>3</sup> While ORR program officials acknowledged that these data are not always kept up-to-date, we found the data sufficiently reliable for the purpose of providing approximate numbers of facilities that had obtained a license and begun serving children. To address our second research objective, we conducted a survey via email of 29 state licensing agencies in the 26 states, including the District of Columbia, where ORR had awarded grants to operate facilities as of July 2019.<sup>4</sup> We received survey responses from 28 of the 29 agencies.<sup>5</sup> We also conducted interviews with state licensing agency officials in Arizona, Maryland, and Texas. We selected these states based on a combination of criteria including the number of ORR grantee facilities in each state, different types of state licensing agencies, and both border and non-border states. We also analyzed selected quarterly performance reports submitted to ORR from nine facilities in these three states. We selected these facilities based on their number of

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<sup>3</sup>We also reviewed data provided by ORR on its facilities as of February 5, 2020.

<sup>4</sup>We administered the survey from October 2019 to January 2020.

<sup>5</sup>Washington State Department of Children, Youth, and Families declined to participate in the survey.

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recent ORR and state licensing corrective actions, and to reflect a range of facility types, sizes, and populations served.

To address our third objective, we reviewed ORR summary data on corrective actions issued in fiscal years 2018 and 2019, and reviewed corrective actions issued to our selected facilities by ORR teams involved in monitoring. To assess the reliability of the corrective action data, we obtained information from ORR officials about the data. We found the data to be sufficiently reliable for the purposes of this report. To address all our objectives, we interviewed or requested written responses from ORR officials, including ORR program officials, project officers, federal field specialists, and other staff involved in the grant review process and facility monitoring. We also reviewed relevant federal laws and regulations, and ORR policies, procedures, and guidance.

Further, to incorporate the perspectives of ORR grantees in our review, we sought to interview staff of ORR grantees. However, HHS wanted to have one of its attorneys present at these interviews or take other measures that we believed could have prevented grantees from speaking freely with us about their experiences with ORR. We were unable to reach timely agreement with HHS on procedures for conducting these interviews that would address this concern. As a result, our review is based on information obtained from ORR officials and documents and, where relevant, state documentation and interviews. In addition, we conducted some interviews with ORR officials, but obtained other information through written questions at HHS's request. For further information on our scope and methodology, see appendix I.

We conducted this performance audit from May 2019 to September 2020 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.

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## Background

Under federal law, unaccompanied children in the custody of the federal government generally must be transferred to HHS within 72 hours after a determination is made that they are unaccompanied children.<sup>6</sup> ORR, part

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<sup>6</sup>8 U.S.C. § 1232(b)(3).



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of the Administration for Children and Families (ACF) within HHS, is responsible for coordinating and implementing the care and placement of these unaccompanied children.<sup>7</sup> Since 2003, ORR has cared for more than 340,000 children.<sup>8</sup> The majority of these children have been 13 to 17 years old, but some have been younger, including infants. ORR is required to promptly place unaccompanied children in its custody in the least restrictive setting that is in the best interest of the child.<sup>9</sup> In addition, the 1997 *Flores v. Reno* settlement agreement articulated standards for the care of these children, including the provision of proper physical care and maintenance, including suitable living accommodations, and appropriate medical care and educational services.<sup>10</sup> According to ORR, all children in its care receive classroom education appropriate to their level of development, mental and medical health services, case management, recreation, and unification services that facilitate their release to family members or other sponsors who can care for them.<sup>11</sup> For example, in 2016 we reported that 60 percent of unaccompanied

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<sup>7</sup>6 U.S.C. § 279.

<sup>8</sup>HHS Latest UAC Data – FY2019, <https://www.hhs.gov/programs/social-services/unaccompanied-alien-children/latest-uac-data-fy2019/index.html>, downloaded May 31, 2019.

<sup>9</sup>8 U.S.C. § 1232(c)(2)(A).

<sup>10</sup>The court-approved settlement agreement in the case of *Flores v. Reno* was the result of a class action lawsuit filed against the former Immigration and Naturalization Service (INS) challenging the agency's arrest, processing, detention, and release of juveniles in its custody. The agreement sets out nationwide policy for the detention, release, and treatment of minors in the custody of the former INS, the border security and immigration-related functions of which are now performed by U.S. Customs and Border Protection, U.S. Immigration and Customs Enforcement, and U.S. Citizenship and Immigration Services. Stipulated Settlement Agreement, *Flores v. Reno*, No. 85-4544 (C.D. Cal. Jan 17, 1997). A court order prohibiting the implementation of an August 2019 final rule that would have replaced the terms of the *Flores* settlement agreement is currently pending appeal before the U.S. Court of Appeals for the Ninth Circuit. See *Flores v. Barr*, No. 19-56326 (9th Cir. argued May 19, 2020). In addition, the issue of releasing children from ORR-funded facilities during the COVID-19 pandemic continues to be litigated.

<sup>11</sup>ORR also provides grants to organizations to conduct home studies prior to placement with a sponsor in certain cases, such as if the child's safety is in question and funds follow-up services for at-risk children after their release. See 8 U.S.C. § 1232(c)(3)(B) and *ORR Policy Guide: Children Entering the United States Unaccompanied*, sections 2.4 and 6.1, and 6.2.

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children were released into the care of a parent who was already living in the United States.<sup>12</sup>

To provide for these children, ORR solicits residential care providers (grantees) through funding opportunity announcements (grant announcements),<sup>13</sup> and typically funds successful applicants through 3-year cooperative agreements (grant agreements).<sup>14</sup> During fiscal years 2018 and 2019, ORR issued eight grant announcements, and awarded funds to applicants in response to seven of them.<sup>15</sup> ORR grantees are private nonprofit and for-profit organizations and businesses. The majority of children in ORR custody are cared for in shelter facilities, but some are cared for in other settings.<sup>16</sup> These include:

- secure shelters for children with an offender history,
- residential treatment centers for children with diagnosed mental health disorders,
- transitional (short-term) foster care, where children receive services at a central facility site but spend nights with a foster family, for younger or more vulnerable children, and

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<sup>12</sup>This analysis used ORR data on unaccompanied children from El Salvador, Guatemala, and Honduras who were released from ORR custody from January 7, 2014 through April 17, 2015. See *Unaccompanied Children: HHS Can Take Further Actions to Monitor Their Care*, GAO-16-180 (Washington, D.C.: Feb. 5, 2016).

<sup>13</sup>ORR refers to these as Standing Announcements or Funding Opportunity Announcements.

<sup>14</sup>In this report, we refer to these cooperative agreements as grants or grant agreements. The grants are for a 3-year project period; funds are awarded for the second and third years based on approved continuation applications, subject to satisfactory progress by the grantee and a determination that continued funding would be in the best interest of the federal government.

<sup>15</sup>In this report, we refer to each instance in which ORR issued a grant announcement, reviewed applications, and made award decisions as a funding “round.” We identify these funding rounds by the deadline ORR set for grant applications. ORR issued an eighth grant announcement for secure facilities that closed in June 2018, but did not fund any grantees in response to this announcement.

<sup>16</sup>In this report, we refer to these individual care settings as “facilities,” regardless of the type of setting. When a grantee is providing transitional or long-term foster care, the “facility” is the grantee’s office responsible for finding, vetting, and overseeing individual foster homes (and, in the case of transitional foster care, providing on-site services during the day). Individual licensed foster homes are not considered facilities. One grantee may operate multiple facilities.

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- long-term foster care in single-family or group homes for children whom ORR expects to be eligible for immigration relief and who are expected to have an extended stay within the ORR system.<sup>17</sup>

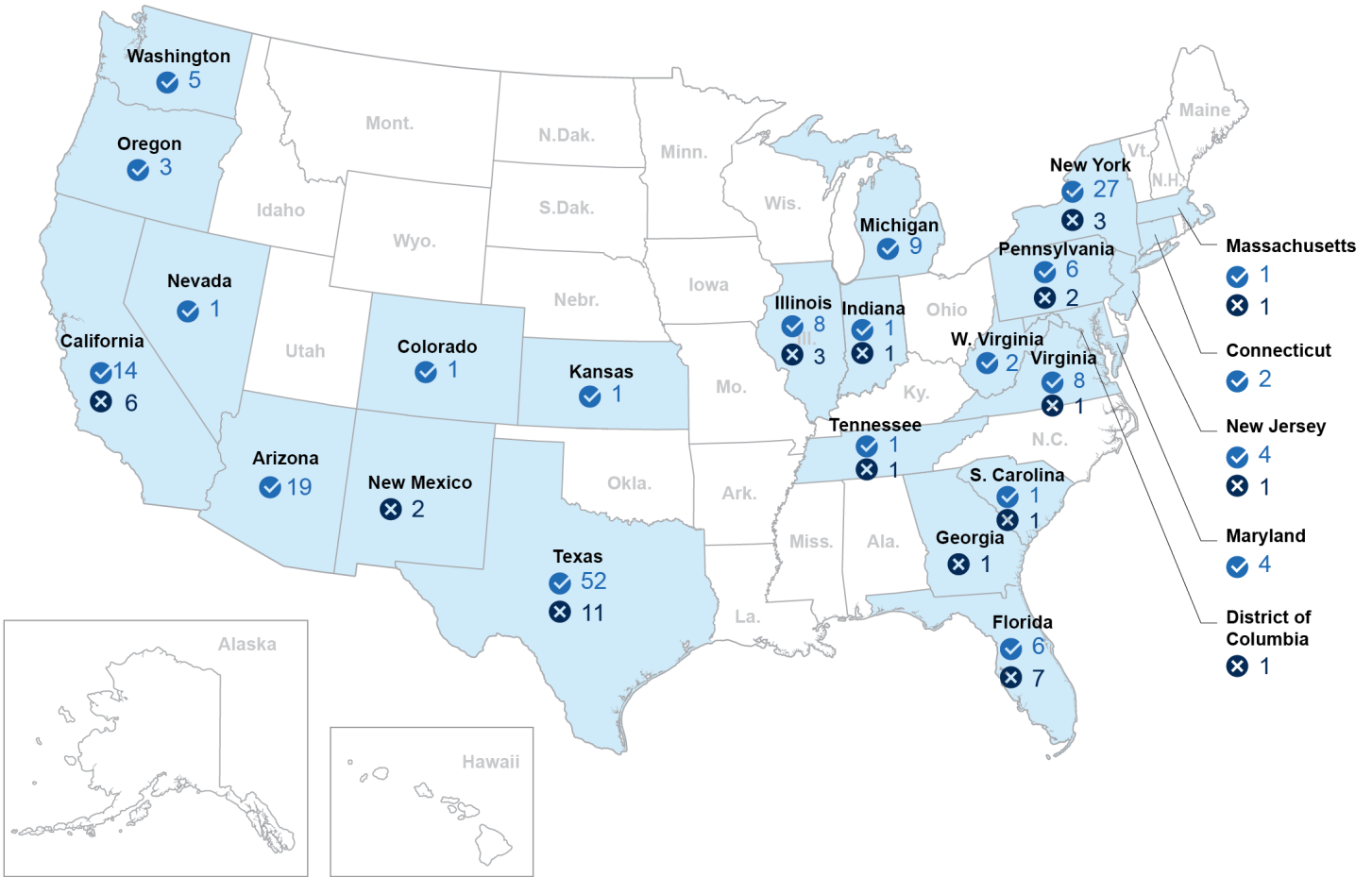
As of July 2020, ORR grantees were operating 176 facilities in 22 states, and ORR had awarded grants for an additional 43 facilities that were not yet serving children, including facilities in an additional three states (see fig. 1). As a result, ORR's available bed capacity was approximately 13,500, with approximately 5,000 additional beds funded but not yet available for use.<sup>18</sup> Slightly over a third of ORR's available beds were provided by a single grantee. An additional 21 percent were provided by the next two largest grantees. Many other grantees are smaller, operating only one or two facilities or facilities with fewer beds.

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<sup>17</sup>There are several types of immigration relief that may be available to these children, for example, asylum or Special Immigrant Juvenile status. ORR has other placement options that it sometimes uses. For more information on types of immigration relief, the types of facilities operated by ORR grantees, and the care provided to children in these settings, see [GAO-16-180](#).

<sup>18</sup>The number of beds funded but not yet available is an estimate based on a spreadsheet ORR project officers use to track the funded capacity of ORR grantees and the number of beds ORR has available. ORR program officials acknowledged that the spreadsheet is not always kept up-to-date, but is currently the only method it has to track this information.

**Figure 1: Number of Grantee Facilities Funded by the Office of Refugee Resettlement With and Without Unaccompanied Children in Residence, July 2020**



- ✓ Number of grantee facilities in state serving children (Total=176)
- ✗ Number of facilities in state awarded a grant but not serving children (Total=43)

States with Office of Refugee Resettlement (ORR)-funded facilities (Total=25)

Source: GAO analysis of ORR data; National Atlas (base map). | GAO-20-609

Note: ORR officials also told us that ORR has two additional facilities, one in Florida and one in Texas, which ORR uses to provide services during influxes of unaccompanied children. Data provided by ORR also included one additional ORR-funded facility, the location of which was still “to be determined” and which was not serving children as of July 1, 2020.

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ORR facilities generally must be licensed by a state licensing agency to provide residential, group, or foster care services for dependent children.<sup>19</sup> State licensing agencies generally monitor facilities to ensure they comply with the state’s minimum standards of care, and ORR program officials told us this monitoring ensures facilities are adhering to child welfare best practices. States establish their own licensing requirements and monitoring activities, including the frequency of monitoring, and a variety of state agencies may license and monitor ORR-funded facilities.<sup>20</sup>

In addition to state licensing and monitoring, ORR monitors the facilities it funds. When ORR identifies a facility that is not complying with ORR policies, the terms of its grant, or other applicable requirements, it may require the facility to take corrective action. Several ORR teams are involved in monitoring grantee compliance in different ways, and these teams may issue corrective actions for any instances of noncompliance they identify (see table 1). According to its policy guide, ORR may also take other actions to ensure compliance and the safety of children, including removing children from a facility entirely.<sup>21</sup>

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<sup>19</sup>ORR also requires its grantees to comply with various other requirements. For example, a recent grant announcement states that “[a]pplicants must describe that the facility/foster home meets all relevant zoning, licensing, fire, safety, and health codes required to operate a residential based social service program.” See Administration for Children and Families, Office of Refugee Resettlement, Standing Announcement for Residential (Shelter) Services for Unaccompanied Alien Children, HHS-2017-ACF-ORR-ZU-1132, Due Date: 05/09/2019. See also 45 C.F.R. pt. 75 for HHS’s regulations establishing uniform administrative requirements, cost principles, and audit requirements for HHS grant awards.

<sup>20</sup>At times, ORR has operated “influx” facilities—facilities used when the number of unaccompanied children in ORR’s care has been exceptionally high. Influx facilities may operate on federally owned or leased properties, and are generally exempt from the requirement to obtain a state license, according to ORR’s *Policy Guide*. In June 2020, ORR officials told us ORR was funding the upkeep of two influx facilities so that they can be activated quickly should the need arise. However, these officials said there had been no children in the care of these facilities since August 2019 and that ORR had no plans to reopen them. Influx facilities may be funded via cooperative agreements or contracts, and the HHS Office of the Inspector General is currently reviewing the process by which one of these contracts was awarded.

<sup>21</sup>Under HHS’s grant regulations, if a grantee fails to comply with federal statutes, regulations, or the terms and conditions of its award, ORR may impose additional conditions, such as requiring additional financial reports or project monitoring. If ORR determines that additional conditions cannot remedy the noncompliance, it may take other actions as appropriate, including terminating the award. 45 C.F.R. §§ 75.371, 75.207.

**Table 1: Roles of ORR Teams Involved in Oversight and Issuing Corrective Actions for Facilities Providing Care for Unaccompanied Children**

Team	Roles and key monitoring goals	Areas reviewed/ potential corrective action areas
Monitoring team	<ul style="list-style-type: none"> <li>Conduct a review of each ORR-funded facility once every two years, including:               <ul style="list-style-type: none"> <li>review of policies and procedures, reports, and case files</li> <li>5-day site visit and inspection of the facility to review additional documentation, interview staff, children and youth, and stakeholders</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Program management</li> <li>Services</li> <li>Safety and security</li> <li>Child protection</li> <li>Case management</li> <li>Personnel management</li> <li>Fiscal management</li> </ul>
Project officers	<ul style="list-style-type: none"> <li>Oversee specific facilities</li> <li>Conduct desk monitoring through review of all required documents and reports submitted by facilities</li> <li>Responsible for overseeing facilities' implementation of corrective action plans</li> </ul>	<ul style="list-style-type: none"> <li>Program Design</li> <li>Personnel</li> <li>Compliance with ORR policy and procedures</li> <li>Any items with budgetary impact</li> <li>Staffing ratios</li> <li>Compliance with grants terms and conditions</li> <li>Licensing standards compliance</li> <li>Child safety/risk issues</li> </ul>
Federal field specialists	<ul style="list-style-type: none"> <li>Act as the local ORR liaison with facilities and stakeholders</li> <li>Generally visit facilities at least once per month and work with contractor field specialists who visit facilities more often</li> <li>Approve child transfer and release decisions</li> <li>May help monitor implementation of corrective action plans</li> </ul>	<ul style="list-style-type: none"> <li>Compliance with ORR policy and procedures</li> <li>Child safety/risk issues</li> <li>Licensing standards compliance</li> <li>Any child-specific issues</li> </ul>
Prevention of Sexual Abuse team <sup>a</sup>	<ul style="list-style-type: none"> <li>Contracts with outside organization to conduct audits of all facilities' compliance with ORR regulations and policy on preventing and addressing sexual abuse and harassment, within 3 years of February 22, 2016, and then every three years</li> </ul>	<ul style="list-style-type: none"> <li>Compliance with Interim Final Rule on <i>Standards To Prevent, Detect, and Respond to Sexual Abuse and Sexual Harassment Involving Unaccompanied Children</i></li> <li>Related ORR policies and procedures</li> </ul>

Source: Office of Refugee Resettlement (ORR) Policy Guide, Department of Health and Human Services regulations, and interviews with ORR officials. | GAO-20-609

Note: During periods when ORR funds influx facilities via contracts, Contracting Officer's Representatives are also involved in monitoring facilities. ORR officials told us that these officials serve a role similar to project officers. ORR officials confirmed that as of June 2020, they were funding only one influx facility via contract, which was inactive and not caring for any children.

<sup>a</sup>In December 2014, ORR published an Interim Final Rule establishing standards to prevent, detect, and respond to sexual abuse and sexual harassment in certain ORR-funded facilities that house unaccompanied children, in response to a requirement in the Violence Against Women Reauthorization Act of 2013. 79 Fed. Reg. 77,768 (Dec. 24, 2014). Among other things, the rule provides that each facility that houses unaccompanied children will be audited at least once within 3 years of February 22, 2016, and during each three-year period thereafter. 45 C.F.R. § 411.111(a). The rule does not apply to secure care provider facilities or individual foster care homes.

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In 2016, we found that some ORR facilities were not maintaining complete case files on children in their care, and that ORR was not able to complete in-depth monitoring visits on schedule, with some facilities going years without such a visit. As a result, we recommended ORR review its monitoring program to ensure timely visits and proper documentation of services.<sup>22</sup> ORR agreed with the recommendation and subsequently provided documentation showing that it had increased its monitoring visits and standardized its monitoring tools. In addition, in 2019, the HHS Office of Inspector General (OIG) reported on concerns it identified as a result of its review of 45 ORR-funded facilities, including that some facilities did not have evidence of background checks on file for all employees, hired staff who did not meet ORR's education requirements, and experienced challenges employing mental health clinicians and accessing external mental health providers.<sup>23</sup> In 2020, the HHS OIG reported that at 39 of 40 ORR-funded facilities reviewed, inspection checklists used by the facilities to monitor their own security measures did not include checks for all measures required by ORR.<sup>24</sup> The HHS OIG has also reported on problems it identified at individual ORR-funded facilities, ranging from claiming unallowable expenditures to failing to document that the facility met ORR health and safety standards.<sup>25</sup>

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<sup>22</sup>[GAO-16-180](#).

<sup>23</sup>HHS, Office of Inspector General, *Unaccompanied Alien Children Care Provider Facilities Generally Conducted Required Background Checks but Faced Challenges in Hiring, Screening, and Retaining Employees*, A-12-19-20001, September 2019; and *Care Provider Facilities Described Challenges Addressing Mental Health Needs of Children in HHS Custody*, OEI-09-18-00431, September 2019.

<sup>24</sup>HHS, OIG, *Unaccompanied Alien Children Program Care Provider Facilities Do Not Include All Required Security Measures in Their Checklists*, OEI-05-19-00210, June 2020.

<sup>25</sup>See <https://oig.hhs.gov/reports-and-publications/featured-topics/uac/> for links to HHS OIG reports on this topic.

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## ORR's Grant Announcements Lack Clarity on How Applicants Should Report State Licensing Issues and ORR Does Not Document Review of Grantees' Past Performance

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### ORR's Grant Announcements Lack Clarity and Grant Applicants Inconsistently Report State Licensing Information

We found that ORR's grant announcements to solicit facilities to provide care for unaccompanied children are unclear about the information applicants must submit on state licensing, and applicants provide inconsistent information. Two specific areas of ambiguity are the status of state licenses and information about past state licensing allegations and concerns.

### State Licensing Status

ORR's recent grant announcements specify that applicants must be state licensed or eligible for a license and able to obtain one within 75 days of their grant award.<sup>26</sup> The grant announcements also state that applicants must include proof of their license or license eligibility. While ORR program officials told us that many applicants apply to operate a new facility before it is licensed, the grant announcements do not specify how they should demonstrate that they are eligible for a license in their application. ORR project officers, who review applications as part of ORR's multi-step grant review process, also could not cite specific

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<sup>26</sup>For example, see Administration for Children and Families, Office of Refugee Resettlement, Standing Announcement for Residential (Shelter) Services for Unaccompanied Alien Children, HHS-2017-ACF-ORR-ZU-1132, Due Date: 05/09/2019. Section III.1. Eligible Applicants, which states that "Care providers are required to be licensed or license eligible (temporary, provisional or an equivalent license) with license being issued, by a state licensing agency, within 75 days of award to provide residential, group or foster care services for dependent children." The announcement further states that applicants must provide "detailed information regarding type of state licensure, including information on capacity, age/gender permitted, and length of stay allowable." ORR changed its required timeframe for obtaining a license from 60 days to 75 days beginning with its November 2018 funding announcement.



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information or documents they would expect to see as proof of eligibility for a license (for more information on ORR's grant review and approval process, see appendix II).

We reviewed all grant applications approved by ORR in fiscal years 2018 and 2019 and found that the majority did not include copies of state licenses for the facilities proposed in the applications. Approximately three-quarters of those 58 applications included a copy of a state license, but 22 of them included licenses that did not cover all facilities proposed in the applications.<sup>27</sup> (See sidebar for information on continuation applications.) For example, in some of those cases, the licenses were for facilities located in a different city than that proposed in the application.

**Continuation Applications for ORR Facilities Providing Care for Unaccompanied Children**

ORR requires grantees to submit a continuation application between years 1 and 2 and years 2 and 3 of their grant performance period to continue receiving funding for years 2 and 3. According to fiscal year 2018 and 2019 grant agreements we reviewed, the grantees are required to submit a copy of their state license as part of the continuation applications. We reviewed 13 continuation applications submitted in fiscal years 2018 and 2019 for nine selected facilities, and none of these applications included a copy of a state license.

Source: GAO review of Office of Refugee Resettlement (ORR) grant agreements and GAO analysis of continuation applications. | GAO-20-609

Having obtained a state license in the past or for a different facility does not guarantee an organization is eligible for, or will obtain, a state license for a new facility. For example, according to information provided by ORR, four of the 22 grantees that included a copy of a license in their application that was not for the facilities proposed in the application, had been unable to obtain a license for one or more of their proposed facilities as of July 1, 2020. Therefore, none of these grantees were serving children at those sites as of that date.<sup>28</sup> ORR program officials told us that some states are taking longer to approve applications for state licenses than they used to. However, these grantees had been unable to obtain a license for 12 months or longer, significantly more than the timeframe required in ORR's grant announcement.<sup>29</sup>

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<sup>27</sup>For an additional six applications that included licenses, it was unclear whether the licenses included in the application were for all facilities proposed in the application or not. ORR approved 58 grant applications during fiscal year 2018 and 2019. In some cases, a single organization received more than one grant. Additionally, some applications included proposals for more than one facility.

<sup>28</sup>We previously reviewed ORR data on facility status as of February 5, 2020. At that time, nine of these 22 grantees had not yet been able to obtain a state license for all facilities proposed in their applications. Between February and July, five of these nine had obtained the required licenses. It took these five grantees at least 7 months to obtain licenses for all facilities in their grant applications. Grantees may not have been able to obtain a license for a variety of reasons, and even though the grantees had not received a license as of July 2020 this does not mean they are ineligible for a license or will never receive one. However, it does indicate that they were unable to obtain a state license within the required timeframe in ORR's grant announcement.

<sup>29</sup>The last grant announcement issued by ORR in fiscal year 2019 closed on May 19, 2019 and ORR finalized its funding decisions on July 15, 2019.

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## State Licensing Allegations and Concerns

In most cases in which a state license was not included in the application, the applicant provided some information about the status of its licensing application, but many did not obtain a license within 75 days of receiving a grant award. Several applicants stated they would seek licensing once ORR awarded them the grant, indicating they had not yet begun the licensing process. Others stated they had participated in a pre-licensing workshop, had been in contact with the state licensing agency, or had submitted applications for licensing. As of July 1, 2020—12 months after ORR made funding decisions for the last fiscal year 2019 funding round—approximately 14 facilities that ORR approved in fiscal years 2018 and 2019 had not yet been able to obtain a state license, including several that had indicated that they were eligible for a license in their application.<sup>30</sup>

ORR’s fiscal year 2018 and 2019 grant announcements also specify that applicants must report “any and all documented state licensing allegations/concerns.”<sup>31</sup> However, the announcements do not define this phrase and our review of these announcements found a lack of clarity regarding the information ORR expects applicants to provide. For example, the announcements do not make clear for what time period any such allegations and concerns should be reported. The announcements also do not specify whether applicants operating multiple facilities should report allegations and concerns that have occurred at any of them, or only those at the specific facilities in the application.

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<sup>30</sup>The last round of funding decisions for fiscal year 2019 were approved by ACF on July 15, 2019. Some of these 14 facilities were approved in prior funding rounds. In some cases, a single grantee had been able to obtain licenses for some but not all of the facilities proposed in its application. In other cases, the grantee was unable to obtain licenses for any facility proposed in its application. We determined whether a facility was licensed and serving children based on a spreadsheet provided by ORR and used by ORR project officers to track the funded capacity of ORR grantees and the number of beds ORR has available. ORR program officials acknowledged that the spreadsheet is not always kept up-to-date, but is currently the only method it has to track this information. ORR program officials also told us that ORR is in the process of developing a new system to manage information related to its unaccompanied children program. The agency is exploring, with the contractor developing the system, ways that this system might be used to better track its bed capacity and related facility information.

<sup>31</sup>For example, see Administration for Children and Families, Office of Refugee Resettlement, Standing Announcement for Residential (Shelter) Services for Unaccompanied Alien Children, HHS-2017-ACF-ORR-ZU-1132, Due Date: 05/09/2019. Background - Program Structure.

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ORR program officials told us that ORR’s grant announcement language is intentionally broad regarding the time frame and facility location for which state licensing allegations and concerns should be reported in applications because ORR wants to know this information regardless of when or where such issues occurred.<sup>32</sup> We asked the 11 project officers who reviewed grant applications in one funding round in fiscal year 2019 what information on state licensing allegations and concerns they would expect to see in applications. These project officers said that all allegations and concerns should be reported. They also said that applicants should include state licensing and monitoring reports showing that the applicant has adequately addressed all allegations and concerns.<sup>33</sup> However, we found inconsistent reporting of state licensing allegations and concerns in the 58 applications we reviewed (see fig. 2). Fifteen of the 58 applications included information about whether there were state licensing allegations or concerns.<sup>34</sup> The remaining 43 applications did not reference any licensing allegations or concerns, despite ORR program officials stating that all facilities receive state licensing citations at some point. Further, we found that several applicants had received state licensing citations in the past and one had previously had its state license revoked, but that information was not reported in their applications.<sup>35</sup>

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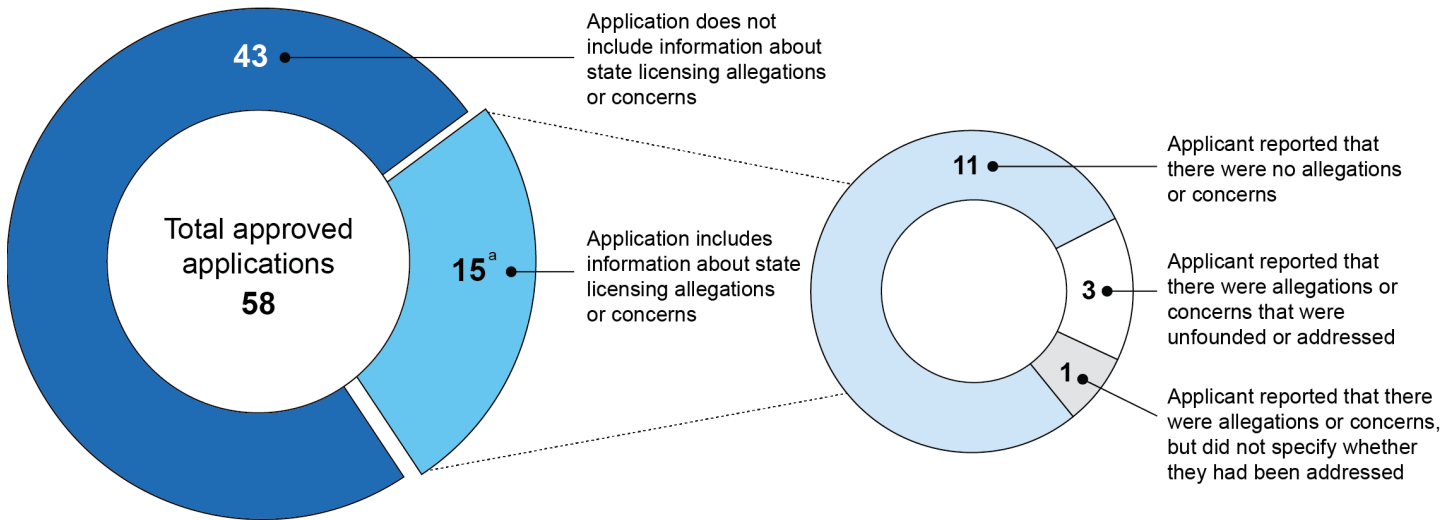
<sup>32</sup>Initially, program officials told us that applicants are not required to report all past allegations and concerns because allegations may be unfounded. The officials said they would expect applicants to report only “serious citations” from state monitors, language not included in the grant announcement and that conflicts with information provided by project officers who review grant applications. However, in June 2020, program officials told us that applicants should report all allegations and concerns in their grant applications.

<sup>33</sup>We provided written questions to ORR for the 11 project officers that reviewed grant applications in one funding round in fiscal year 2019. ORR provided written answers to these questions in a single document.

<sup>34</sup>Two of these 15 applications, although they did not specifically mention the term “licensing allegations or concerns,” did report on state monitoring findings.

<sup>35</sup>We did not attempt to determine the extent to which all grant applicants that did not report state licensing citations in their grant applications had received licensing citations in the past. However, we identified, through media reports, several grant applicants that had had state licensing issues. We followed up with state licensing agencies in those states to corroborate those media reports and obtain additional information about the specific licensing citations received by those applicants.

**Figure 2: State Licensing Allegations and Concerns Reported in Applications for Office of Refugee Resettlement (ORR) Grants to Provide Care for Unaccompanied Children, Fiscal Years 2018 and 2019.**



Source: GAO analysis of applications for ORR grants. | GAO-20-609

<sup>a</sup>Two of these 15 applications, although they did not specifically mention the term "licensing allegations or concerns," did report on state monitoring findings.

Unless ORR clarifies in its grant announcements the specific information and supporting documentation required from applicants on state licensing issues, it may not receive the information it needs to avoid awarding grants to organizations that will be unable to obtain a state license, have issues that could affect their license status, or that are unqualified to care for vulnerable children. HHS regulations state that the awarding agency's grant announcements must address the criteria it will use to evaluate grant applications and should clearly describe all such criteria.<sup>36</sup> In addition, federal standards for internal control state that agencies should communicate quality information externally and use quality information to achieve their objectives.<sup>37</sup> Our work has shown that effective oversight

<sup>36</sup>45 C.F.R. pt. 75, app. I, sec. (E)(1).

<sup>37</sup>GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: Sept, 10, 2014).

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## Verifying State Licensing Information

and internal control are important to provide reasonable assurance to federal managers and taxpayers that grants are awarded properly.<sup>38</sup>

The extent to which ORR verifies the information provided by grant applicants with respect to state licensing as part of its grant review process is also unclear. ORR program officials told us that when reviewing grant applications, project officers search state licensing websites for information about applicants for ORR grants, such as monitoring findings. However, we reviewed the websites of the seven state licensing agencies we interviewed that licensed ORR-funded facilities and found that three of them did not make applicable licensing information publicly available on their website.<sup>39</sup> ORR program officials also said ORR has well-established relationships with state licensing agencies and that project officers would reach out to these agencies for information they could not obtain online. The 11 project officers who reviewed grant applications in one funding round in fiscal year 2019 said they review state licensing and monitoring information if states make it available, usually on state licensing websites. The project officers provided conflicting information about whether they communicate with state licensing agencies during the application review process. Initially, project officers told us that they sometimes, but not always, communicate with state licensing agencies by phone or email during the grant review process; however, in subsequent responses they told us they do not communicate with state licensing agencies during their review. Only two of the 23 state agencies that licensed ORR-funded facilities reported in our survey that ORR contacts them about potential grantees during the application reviews.

With respect to applicants who do not already have a state license, ORR could reduce the risk of awarding grants to applicants that will not be able to obtain a state license by verifying relevant information during the application review process. In our review, we identified two applicants that

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<sup>38</sup>GAO. *Grants Management: Observations on Challenges and Opportunities for Reform*, [GAO-18-676T](#) (Washington, D.C.: July 25, 2018) and *Federal Grants: Improvements Needed in Oversight and Accountability Processes*, [GAO-11-773T](#) (Washington, D.C.: June 23, 2011).

<sup>39</sup>In addition, ORR program officials told us that project officers would typically only look for state license information or licensing allegations or citations against an applicant in the state in which the applicant sought a new grant. Therefore, ORR could be unaware of licensing issues the applicant may have in other states. Because we did not receive a response from ORR to our written questions on which states with ORR facilities make licensing information available online, it is unclear whether ORR officials are aware of this information.

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received ORR grants in fiscal years 2018 and 2019 that were either ineligible for, or subsequently denied, a state license due to past licensing issues that ORR did not identify prior to awarding the grant, and which the applicants did not report in their applications.

- During the November 2018 funding round, an applicant included a copy of a previously revoked license in its grant application. The revocation by the state licensing agency made the applicant ineligible for a state license for five years, according to state officials. ORR program officials told us that the applicant did not know that it was ineligible for a state license because the revoked license was a different type from the new one for which it applied. Nevertheless, given the language in ORR’s grant application that applicants must report “any and all documented state licensing allegations/concerns” and ORR’s position that this language is to be broadly interpreted, it is likely the revocation should have been reported in the application.<sup>40</sup> ORR awarded this applicant a grant and the applicant received grant funds.<sup>41</sup> Although information about the revocation was available on the state licensing agency’s website, ORR officials said that at the time they approved the application for funding, they were unaware the applicant was ineligible for a state license. ORR project officers told us that they did not contact state licensing agency officials prior to awarding this grant.
- In the May 2019 funding round, ORR awarded a grant and provided grant funds to an applicant that was subsequently unable to obtain a state license, according to state officials. State licensing agency officials we spoke with said the applicant was ineligible because it provided information to the state licensing agency on a prior facility that did not accurately reflect its compliance history, which included health, safety, and welfare violations. Among the undisclosed citations, according to these officials, were multiple incidents of physical discipline of children. ORR officials we interviewed said they were unaware that this grantee was ineligible for a state license. ORR awarded this applicant five separate grants for facilities in five states in fiscal years 2018 and 2019. As of July 1, 2020, only one of these

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<sup>40</sup>The revoked license was a Mental Health license rather than the Residential Care license required for a grantee to operate a shelter for unaccompanied children, according to ORR officials.

<sup>41</sup>In February 2020, ORR program officials said that ORR was in the process of terminating this grant and would recover the grant funds.

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facilities had received a state license, and it had provided less than half the beds proposed in its application.

ORR program officials told us that after the agency discovered it had awarded a grant in November 2018 to the applicant whose license had been revoked, ORR instructed project officers to start researching information about applicants' state licensing status prior to grant approvals. ORR provided an internal guidance document officials said was implemented in November 2019. The document includes questions project officers should research about licensing and zoning, among other issues. However, the guidance does not specify that the process by which project officers review grant applications should include contacting state licensing agency officials to verify licensing information submitted by applicants.

While we found no instances of ORR placing children in unlicensed facilities, ORR has awarded grants, and provided grant funds, to several applicants that had difficulty obtaining the required state license within 75 days, and to at least two applicants that were ineligible for, or ultimately unable to obtain, a state license. Without ensuring that project officers have a process to verify state licensing information provided by ORR grant applicants prior to approving grant applications, ORR may continue to provide funds to organizations that do not meet its requirements and may be unable to provide the services delineated in their application.

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### ORR Does Not Document Review of Applicants' Past Performance as an ORR Grantee When Considering Applications

ORR's grant review process does not include a documented review of the past performance of applicants that have previously received ORR grants, and ORR does not have written guidance on how project officers should review grantees' past performance when reviewing new grant applications. According to ORR officials, nearly 70 percent (72 of 104) of the applications for ORR grants submitted during fiscal years 2018 and 2019 were from organizations that were currently, or had previously been, ORR grantees. According to ORR program officials, project officers have access to quarterly and annual performance reports, as well as monitoring reports, for applicants that have previously provided care to unaccompanied children and are expected to review applicants' past performance.<sup>42</sup> However, at the time of our review, ORR had no written

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<sup>42</sup>As part of ORR's grant review process, a panel of outside experts score applications against criteria in the ORR grant announcement. According to our review of FY2018 and 2019 grant announcements, while applicants are expected to describe their organization's qualifications and history, and document their relevant experience providing services, the criteria do not explicitly include applicants' past performance on ORR grants, such as the results of ORR performance and monitoring reports.

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guidance requiring project officers to conduct this review, or describing how project officers should conduct or document it.

Project officers that reviewed grant applications during the grant round ending in November 2018 told us they review past performance and monitoring reports and note concerns they identify in their initial assessment review. However, neither project officers nor ORR program officials could provide documentation of such a review, and program officials said that project officers generate no documentation of reviews they conduct. In February 2020, ORR program officials said that ORR is completing guidance that would require project officers to conduct a review of past performance, but provided no additional information about the content of the guidance or how the reviews should be documented.

We identified some ORR grantees with a history of significant incidents related to the safety and well-being of children in their care that subsequently received new or continuation grants. For example, among our nine selected facilities, ORR monitored one grantee in March 2018 and found, among other deficiencies, that the grantee had placed a child in a foster home in which one of the foster parents was under investigation for sexual abuse of another unaccompanied child, according to the ORR monitoring report.<sup>43</sup> Although the grantee removed all children from that particular home three days after the ORR monitor visited it, ORR did not formally notify the grantee of all its monitoring findings, and ask them to take corrective actions, until November 2018.<sup>44</sup> In the meantime, ORR awarded the grantee a new grant in the funding round that ended June 2018.

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<sup>43</sup>Some of the other deficiencies identified during this ORR onsite monitoring visit were: a child placed in a foster home in which a tenant without a Federal Bureau of Investigation fingerprint check was living on site, a child in a foster home with a strong smell of cat urine and feces, unaccompanied children reporting that they did not receive science or social studies classes in the grantee's school, and unaccompanied children not receiving proper group counseling sessions. Other deficiencies included children not knowing they were allowed to send or receive mail and medical and mental health staff reporting that they never received specialized training on working with victims of sexual abuse or harassment.

<sup>44</sup>According to ORR officials, the ORR monitor shared the findings with both the grantee and ORR staff assigned to the program during the visit. However, we found that the grantee did not take action on many of the corrective actions until after it received the report, 8 months after the monitoring visit and 5 months after ORR awarded the grantee a new grant.



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In addition, in September 2018, a state licensing agency that licensed facilities operated by a another ORR grantee formally notified this grantee of its intent to revoke state licenses for all that grantee's facilities operated in that state. The state licensing agency took these actions based on its findings that multiple facilities had failed to properly document fingerprint background checks for all employees. In October 2018, the licensing agency reached a settlement agreement with the grantee, which allowed most of the facilities to keep their licenses.<sup>45</sup> Prior to these state licensing actions, in 2017, one of this grantee's facilities reported substantiated cases of sexual abuse of unaccompanied children to ORR, leading ORR to provide additional oversight of this grantee and facility, according to an HHS report.<sup>46</sup> In addition, an employee of another facility operated by this same grantee in the same state was convicted of sexually abusing a child in 2015 at the facility, according to media reports. In September 2019, ORR awarded two continuation grants for facilities operated by this grantee in the state. ORR would not comment on whether, or how, it considered these issues when it awarded these continuation grants.

We identified one instance in which ORR rejected an applicant that scored above the cutoff score established by ORR leadership due to its performance on a previous grant.<sup>47</sup> ORR approved funding for that same applicant in a new funding round four months later. ORR project officers told us that the organization's new application was recommended for funding because it would be working with experienced subcontractors, giving ORR confidence that the organization would be able to perform successfully. However, our review of the organization's applications from

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<sup>45</sup>This settlement agreement resulted in two of the grantee's facilities voluntarily relinquishing their state licenses and the grantee paying monetary fines, among other stipulations.

<sup>46</sup>According to the HHS report, the additional oversight included monitoring both the care provider facility and the grantee's corporate offices to review internal policies and reporting structures, supervisory response to events, available video footage, and the care provider facility practices. ORR issued corrective actions to the facility, including a requirement to retrain all staff. In addition, ORR temporarily removed all children from the facility and stopped placing additional children there. *Report on Sexual Abuse and Sexual Harassment Involving Unaccompanied Alien Children: 2017*. <https://www.hhs.gov/programs/social-services/unaccompanied-alien-children/uac-sexual-abuse-report-2017/index.html>, downloaded July 8, 2020.

<sup>47</sup>According to ORR's grant documentation, ORR chose not to fund this applicant because, under a previous grant with ORR, the applicant had engaged in the poor child welfare practice of allowing employees to serve as foster parents for unaccompanied children. It also had failed to deliver the number of beds proposed in its application.

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the two funding rounds found that of the three proposed sites that were the same in both applications, five of the six subcontractor partners were the same as in the application that was rejected. ORR may have reasons for continuing to work with grantees that have had serious performance issues in the past. However, without ensuring that the grant process includes a review of applicants' past performance and documentation that a systematic review has been conducted, it is unclear what information ORR considers when making these decisions.

Our work has shown that the use of information on past performance can inform and improve the selection process for grant recipients.<sup>48</sup> In addition, HHS regulations state that the awarding agency must have a framework in place for evaluating the risks posed by applicants before they receive an award.<sup>49</sup> In evaluating such risks, the agency may consider the applicant's history of performance if it is a prior recipient of federal awards.<sup>50</sup> ORR has relevant past performance information on a high percentage of grant applicants because they have previously received ORR grants. If ORR does not systematically consider this information and document how this review informs its funding decisions, it risks awarding grants to applicants with a history of poor performance, which could potentially put children at risk.

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## State Licensing Agencies Regularly Monitor ORR Grantees, but Information Sharing between ORR and States is Limited

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<sup>48</sup>GAO. *Grants Management: Enhancing Performance Accountability Provisions Could Lead to Better Results*. [GAO-06-1046](#) (Washington, D.C.: Sept. 29, 2006).

<sup>49</sup>45 C.F.R. § 75.205(b).

<sup>50</sup>45 C.F.R. § 75.205(c)(3). Specifically, the regulations provide that the agency may consider the applicant's record in managing federal awards, including timeliness of compliance with applicable reporting requirements, conformance to the terms and conditions of previous federal awards, and if applicable, the extent to which any previously awarded amounts will be expended prior to future awards.

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## State Licensing Agencies Conduct Oversight of ORR Grantee Facilities, and About Half That Monitor These Facilities Identified Significant Deficiencies in Fiscal Years 2018 and 2019

According to our survey, 23 state licensing agencies in 21 states conducted oversight and monitoring of ORR-funded facilities in fall 2019 (see fig. 3).<sup>51</sup> Most of these licensing agencies were within their state's department of human services, child and/or family services, or child safety. State licensing officials we interviewed said their monitoring and oversight of ORR-funded facilities is the same as for other types of facilities they license. In addition to conducting regularly scheduled monitoring activities for established facilities, they reported conducting a site visit or inspection and reviewing other documentation during a facility's initial license approval process. These officials also said their agencies conduct investigations if an incident occurs at a facility or they receive a complaint that could indicate noncompliance with state licensing standards.<sup>52</sup>

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<sup>51</sup>The 21 states included the District of Columbia. We surveyed four additional state agencies in states where ORR had awarded grants for one or more facilities, but these facilities were not yet licensed or serving children. In addition, while information provided by ORR indicated that two different state agencies license ORR-funded facilities in New Jersey, only one of these two agencies responded in our survey that they do so. Officials from the other agency told us they provide technical assistance to the licensing agency, but do not directly license any ORR-funded facilities. For more information on our survey methodology, see app. I.

<sup>52</sup>Officials at all four agencies said allegations of abuse or neglect at facilities they license are investigated by another state agency, the child protection agency. However, they said that the state licensing agencies are notified of these investigations.

**Figure 3: State Licensing Agency Monitoring Practices for Office of Refugee Resettlement-Funded Facilities Providing Care for Unaccompanied Children, based on Survey Responses in 2019 from 23 Agencies**



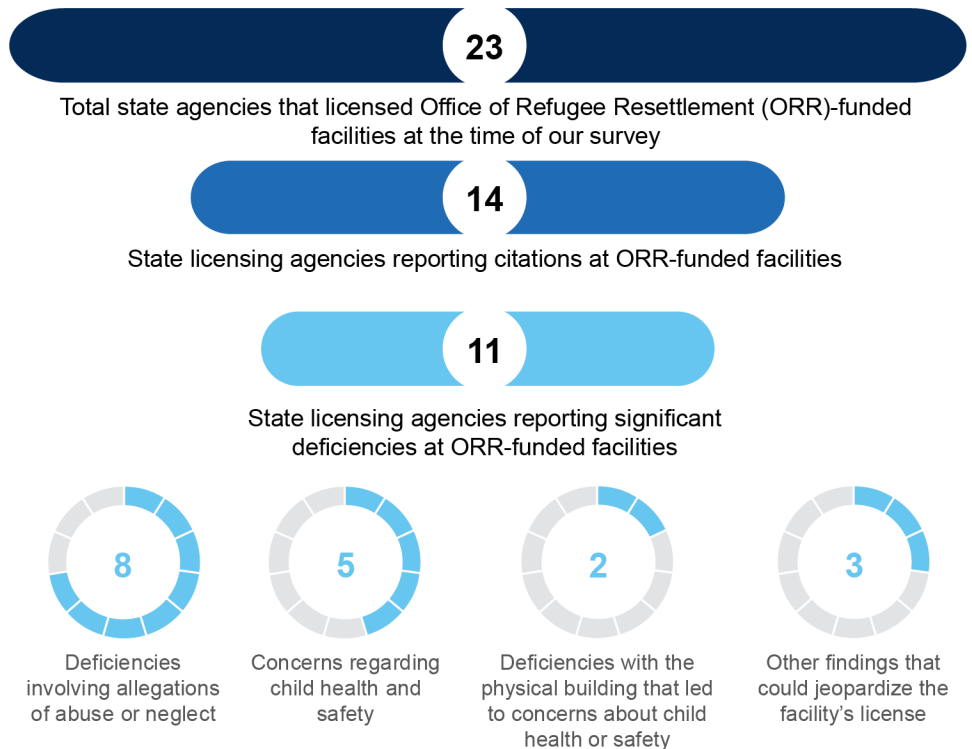
<p><b>Key Monitoring Activities</b></p>	<p><b>On-site inspections (23 agencies)</b> Examples of on-site monitoring activities</p> <ul style="list-style-type: none"> <li>• Inspection for compliance with state licensing requirements</li> <li>• Interviews with staff</li> <li>• Interviews with children</li> <li>• Review licensing history for ongoing issues</li> </ul>	<p><b>Review of documentation (22 agencies)</b> Examples of documents reviewed</p> <ul style="list-style-type: none"> <li>• Staff documentation (background checks, trainings)</li> <li>• Children’s case files</li> </ul>
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Source: GAO survey of state agencies that license Office of Refugee Resettlement-funded providers, conducted October 2019 – January 2020. | GAO-20-609

Of the 23 agencies that licensed ORR-funded facilities at the time of our survey, 14 reported that in fiscal year 2018 or 2019 they found deficiencies in at least one of the ORR-funded facilities in their state.<sup>53</sup> State licensing agency officials we interviewed said licensing deficiencies can range from administrative or recordkeeping issues to threats to children’s health or safety. State licensing officials we interviewed reported that they typically note deficiencies in monitoring reports, issue citations, and then require facilities to take corrective action. Eleven state agencies—or about half of the 23 that licensed ORR-funded facilities—stated that some of the deficiencies they found were significant, defined in our survey as deficiencies that involved child health and safety concerns, allegations of abuse or neglect, deficiencies with the physical building that raised health or safety concerns, or other issues that could jeopardize the facility’s license (see fig. 4). Officials from those 11 agencies stated that these deficiencies have been resolved, or the facility has plans in place to do so.

<sup>53</sup>State licensing agencies used varying terminology to refer to issues they identify at facilities, including citation, deficiency, and violation. Here we use “deficiency” to refer to the issue identified, and “citation” to refer to the state licensing agency’s official notice to the facility requiring them to address the deficiency.

**Figure 4: State Licensing Agency Survey Responses on Deficiencies They Found at ORR-Funded Facilities during Fiscal Years 2018 through 2019**



Source: GAO survey of state agencies that license ORR-funded providers, conducted October 2019 – January 2020. | GAO-20-609

Note: For purposes of our survey, we defined significant deficiencies as those involving child health and safety concerns, allegations of abuse or neglect, deficiencies with the physical building that raised health or safety concerns, or other issues that could jeopardize the facility's license. We followed up with the 11 states that reported finding significant deficiencies, all of which told us in March or April 2020 that all of those deficiencies had been resolved or the facility had plans in place to do so.

**ORR’s Instructions to Grantees Lack Clarity on Reporting of State Licensing Citations and ORR Staff Reported Inconsistent Understanding of Requirements**

We found two areas lacking clarity regarding grantees’ reporting of state licensing citations to ORR. First, ORR does not provide clear instructions to grantees on whether and how they should include state licensing citations in their quarterly performance reports to ORR. Second, some ORR project officers did not have a clear understanding of what grantees should report to them about state licensing citations.

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## Instructions for Quarterly Performance Reports

ORR considers state licensing citations to be a performance indicator, but we found that grantees are not given clear instruction on whether or how to submit this information in the quarterly performance reports that are required under their grant agreements. ORR policy states that grantees are required to evaluate their program's strengths and weaknesses based on specified performance indicators, one of which is adverse state licensing citations.<sup>54</sup> However, ORR has not provided instructions or guidance to grantees stating that state licensing citations are to be included in the quarterly performance reports, or what level of detail to include. ORR requires grantees to use an ACF form to submit their quarterly performance report, but the form's instructions do not include specific information on where to include state licensing citations or how much detail to provide, and project officers stated they do not provide additional guidance to grantees on completing performance reports.

Our analysis of quarterly performance reports submitted to ORR by the grantees that operated our nine selected facilities in fiscal years 2018 and 2019 found variation in the level of detail reported on state licensing activity, including in descriptions of deficiencies identified by state licensing agencies. The reports for three of our nine selected facilities included state monitoring citations and additional information on state licensing activity, including dates of on-site inspections, number of records reviewed, number of interviews conducted, and corrective action plans to remedy deficiencies. However, not all reports for our selected facilities included such information. For example, the reports for three selected facilities in two states, operated by the same grantee, did not include any information on more than 70 citations issued by their state licensing agencies to these three facilities during fiscal years 2018 and 2019.<sup>55</sup> The state agency that licensed two of those facilities began the legal process of revoking their licenses in September 2018 due to non-compliance with state fingerprinting and training requirements for facility personnel. According to ORR officials and state licensing officials, ORR was aware of these state licensing actions. The state agency and grantee reached a settlement agreement in October 2018, allowing most of the grantee's facilities in the state to maintain their licenses. However, the

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<sup>54</sup>Office of Refugee Resettlement, *ORR Guide: Children Entering the United States Unaccompanied*, Section 5.5.5, accessed June 1, 2020, <https://www.acf.hhs.gov/orr/resource/children-entering-the-united-states-unaccompanied-section-5#5.5>.

<sup>55</sup>We identified these citations through publicly available information from licensing agencies in these two states.

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Project Officers' Understanding  
of Reporting Requirements

grantee did not document any state licensing citations or revocation notifications in its quarterly reports during fiscal years 2018 and 2019.

We also found that not all project officers understood what grantees should report to them regarding state licensing citations. ORR grant agreements require grantees to notify their ORR project officer within 24 hours if any of their facilities receive a citation from a state licensing agency. However, three of the five ORR project officers with oversight of our nine selected facilities said that grantees are not required to report state licensing citations issued to their facilities and grantees do not report this information to them. The other two project officers said that grantees are required to report state licensing citations. ORR officials told us that project officers do not receive guidance regarding reporting of state licensing citations beyond what is stated in the grant agreements.

ORR project officers, who have primary responsibility within ORR for reviewing the quarterly performance reports, also had different understandings of whether or how grantees should include state licensing citations in their performance reports.<sup>56</sup> ORR program officials we interviewed said that grantees should report state licensing citations in their quarterly reports. While two of the five project officers overseeing our selected facilities agreed, the same three project officers who said grantees were not required to report state licensing citations to them also said they were not required to include these citations in their quarterly performance reports and may not do so. Two of those three project officers had oversight of the three selected facilities which we found did not include this information in their quarterly reports.

HHS grant regulations state that the awarding agency should provide grant recipients with clear performance indicators, and that reporting

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<sup>56</sup>ORR policy states that project officers review quarterly performance reports. In addition, according to this policy, ACF's Office of Grants Management also reviews these reports.

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requirements are to be clearly articulated.<sup>57</sup> In addition, federal standards for internal control state that management should internally and externally communicate the necessary quality information to achieve objectives.<sup>58</sup> Without clearer instructions on how grantees should report state licensing agency citations to ORR in their quarterly performance reports, and in what level of detail, ORR officials, including project officers reviewing future grant applications or grant continuation applications from existing grantees, will not have a complete record of identified state licensing deficiencies and whether they were addressed. In addition, if ORR does not take steps—such as through guidance or training—to clarify project officers’ understanding of what grantees are required to report to them regarding state licensing citations, project officers may not provide effective oversight to the facilities they oversee.

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**ORR Staff and State Licensing Agencies Reported Limited Information Sharing, and That More Information Would Benefit Their Monitoring**

According to our survey of state licensing agencies, there is limited information sharing between ORR and state agencies. For example, 21 of the 23 state licensing agencies that were monitoring ORR-funded facilities in their state responded to our survey that they did not regularly share monitoring reports or findings with ORR, and 11 stated that they did not contact ORR when significant issues arose (see fig. 5). None of the 23 state licensing agencies monitoring ORR-funded facilities said in our survey that ORR regularly shares its monitoring reports. ORR program officials said they would share copies of ORR monitoring reports if a state licensing agency made a formal request to the department, and that they typically share facility census information with state licensing agencies.

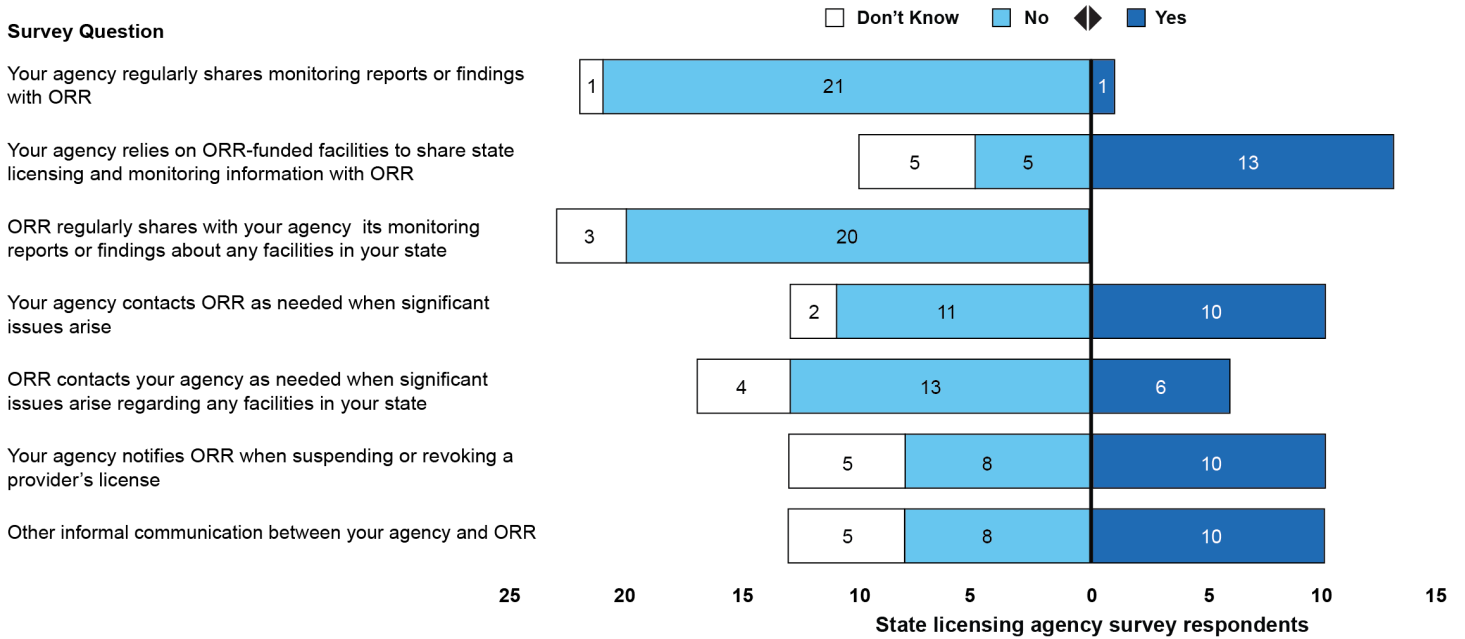
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<sup>57</sup>Specifically, the regulations provide that the federal award may include specific performance goals, indicators, milestones, or expected outcomes, and that reporting requirements “must be clearly articulated such that, where appropriate, performance during the execution of the Federal award has a standard against which non–Federal entity performance can be measured.” 45 C.F.R. § 75.210(d). See also 45 C.F.R. § 75.301, which states that “[t]he HHS awarding agency should provide recipients with clear performance goals, indicators, and milestones as described in § 75.210. Performance reporting frequency and content should be established to not only allow the HHS awarding agency to understand the recipient progress but also to facilitate identification of promising practices among recipients and build the evidence upon which the HHS awarding agency’s program and performance decisions are made.”

<sup>58</sup> [GAO-14-704G](#).



**Figure 5: Communication between Office of Refugee Resettlement (ORR) and State Licensing Agencies about Facilities Providing Care for Unaccompanied Children**



Source: GAO survey of state agencies that license ORR-funded providers, conducted October 2019 – January 2020. | GAO-20-609

Several state licensing agency officials we interviewed and many we surveyed reported they had some contact with ORR, but said this contact was irregular. For example, officials at the state licensing agency that began the process to revoke an ORR grantee's license in September 2018 told us they were only contacted by ORR officials about the deficiencies they had found after media reports were published on cases of abuse at some of the grantee's facilities. An official at another state licensing agency told us that ORR reaches out if the agency is notified that a state licensing citation involves serious allegations. ORR staff also reported limited contact with state licensing officials. ORR guidance states that compliance with state licensing standards is one of the areas that should be monitored by project officers and field staff.<sup>59</sup> However, three of the five ORR project officers for our selected facilities reported no contact with state licensing agency officials.

<sup>59</sup>Office of Refugee Resettlement, *ORR Guide: Children Entering the United States Unaccompanied*, Section 5.5.2, accessed June 1, 2020, <https://www.acf.hhs.gov/orr/resource/children-entering-the-united-states-unaccompanied-section-5#5.2>.

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In addition, most state licensing agencies do not have a point of contact with ORR. Officials from 20 of the 28 state agencies that responded to our survey said they did not have an established ORR point of contact. An official from one state licensing agency said they would likely ask staff at ORR-funded facilities in their state for a point of contact, or would search the internet for a contact within ORR if they needed to contact the agency. Another state licensing official told us their agency has no way of notifying ORR if a state license should be revoked, or if there is an immediate need to remove a child as a result of abuse or neglect. Officials from three state agencies told us that they had previously attempted to contact ORR to resolve issues with facilities. According to these officials, one agency made repeated attempts before hearing from ORR, one never received a response, and one was told that ORR could not confirm or share information. Establishing points of contact would facilitate the sharing of key information between ORR and state licensing agencies in a timely way, and ensure ORR has information about ongoing issues at its facilities, including any issues that may put children at risk.

**Selected State Licensing Agency Officials' Views on Benefits of Additional Information Sharing with ORR**

"The more knowledge we have about issues, concerns, and problems at the entities we regulate, as well as their record of compliance with other regulatory entities, the better able and more effective we are when it comes to ensuring child safety and well-being. It is also good to know what other regulatory entities require, so that we can inform those regulatory entities if we become aware of a situation where their requirements are not being met. We partner closely with other in-state government entities with regulatory and contractual oversight of private child-caring agencies, and it would be beneficial to have a similar relationship with ORR."

"ORR should be aware of licensing concerns since these represent bottom line expectations regarding health and safety."

"It would be beneficial if a state is notified by ORR when a provider within the state receives a grant award...and what services the grant will provide. This would alleviate future confusion if the state later hears that there is an ORR provider in their state."

Source: Written responses to GAO survey from selected state licensing agencies about the Office of Refugee Resettlement (ORR). | GAO-20-609

Officials at state licensing agencies said their monitoring of facilities would benefit from improved information sharing with ORR (see sidebar). Of the 28 state agencies that responded to our survey, including agencies that did not yet license ORR-funded facilities, 25 reported they would find it useful to receive additional information from ORR. For example, one licensing agency reported in survey follow-up communication that it was not aware that a facility in the state had recently been awarded an ORR grant and was required to obtain a license. Ten state licensing agencies responded that it would be helpful to receive ORR's monitoring reports on facilities in their state, which one respondent said would help identify compliance issues for its own monitoring visits. Eight state licensing agencies responded that they would find it helpful to receive notification when ORR awards a grant to a facility in their state. Officials at one state licensing agency noted that such notification would help it ensure unaccompanied children receive all services available in the state. Types of information state licensing agency officials reported would be useful included a list of ORR-funded facilities in their state, copies of grantee cooperative agreements, and ORR policies and guidance for funded facilities.

Officials at six state licensing agencies reported in our survey that they would like to share additional information with ORR, including state monitoring reports. Officials from ORR stated that state licensing reports and information on corrective actions would greatly assist ORR in its own oversight of funded facilities; however, not all state licensing agencies

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have been willing to share this information. Four of the five ORR project officers for our selected facilities said that additional information sharing with state licensing agencies would be beneficial to their monitoring of grantees. For example, one project officer said additional communication would help ensure consistency in state and ORR monitoring.

ORR program officials told us at the time of our review that they were exploring the development of a standard operating procedure on communication with state licensing agencies, but did not provide further details, such as when they will decide whether to develop such procedures and whether state licensing agencies would be involved in this effort. Federal standards for internal control state that agencies should communicate quality information externally, and use quality information to achieve their objectives.<sup>60</sup> Without improved communication with state licensing agencies, ORR may not be fully informed about issues at its grantees' facilities. By working with state licensing agencies to develop a plan for mutual information sharing, ORR can maximize the benefits of such communication for both states and ORR.

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## ORR Primarily Addresses Grantee Noncompliance by Requiring Corrective Actions, but Monitoring and Corrective Actions Have Not Always Been Timely

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<sup>60</sup>[GAO-14-704G](#).

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## ORR is Developing a New Database for Tracking Corrective Actions Issued to Address Noncompliance

ORR policy states that corrective actions are the cornerstone of ORR's monitoring policy for facilities providing care for unaccompanied children, and may be issued at any time as a result of ORR's various monitoring activities.<sup>61</sup> However, it has been difficult for ORR staff to access comprehensive information on past corrective actions. Until recently, only one of the four teams that can issue corrective actions to facilities—the monitoring team that conducts week-long on-site monitoring visits—maintained centralized data on the corrective actions it issued to facilities, according to ORR officials. All four teams (the monitoring team, project officers, federal field specialists, and Prevention of Sexual Abuse team) generally saved documentation of the corrective actions they issued in a shared electronic folder, according to ORR officials, but this system did not allow ORR staff to easily identify the full history and status of a facility. For example, one of the eight field specialists for our selected facilities said that when first assigned to their facility, they would have had difficulty finding information on the shared folder about the facility's past history had they not had the assistance of the past field specialist. Two of the other specialists for our selected facilities said they did not review past corrective actions at all when first assigned to their facilities. In addition, while the field specialists generally said that project officers and monitoring team staff inform them when issuing corrective actions to facilities that the field specialist oversees, three of the eight said this is not always the case.<sup>62</sup>

Because only one of the four teams centrally tracked the corrective actions it issued, ORR's reporting to Congress and others who requested information on corrective actions was incomplete. ORR program officials said they used the monitoring team's tracking data to respond to

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<sup>61</sup>Office of Refugee Resettlement, *ORR Guide: Children Entering the United States Unaccompanied*, Section 5.5, accessed June 1, 2020, <https://www.acf.hhs.gov/orr/resource/children-entering-the-united-states-unaccompanied-section-5#5.5>.

<sup>62</sup>HHS's Office of Inspector General also recently found that ORR's reporting system for significant incidents of a sexual nature involving children lacked designated fields that would allow ORR to effectively track such incidents and ensure they are addressed appropriately. This analysis found that ORR's current system for reporting such incidents requires field specialists and other ORR staff to conduct potentially time-consuming manual reviews of narrative summaries in order to identify key information. The Office of Inspector General recommended that ORR assess its current system and identify changes that will allow ORR to conduct more efficient and effective oversight in order to protect the children in ORR's care. See HHS, Office of Inspector General, *The Office of Refugee Resettlement's Incident Reporting System Is Not Effectively Capturing Data To Assist Its Efforts To Ensure the Safety of Minors in HHS Custody*, June 2020.

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information requests, including requests from Congress. However, we reviewed a report provided to Congress in May 2019, which did not specify that data presented on corrective actions was limited to those issued by the monitoring team.<sup>63</sup>

In October 2019, as we conducted our review, ORR awarded a contract to improve its corrective action data tracking and reporting by developing a database to track corrective actions by all four teams that issue them, according to ORR program officials.<sup>64</sup> ORR officials said the contractor had met with all teams that will use the database to learn their data and reporting needs. Officials said they tentatively plan for the new database, which will become part of ORR's new case management system, to be partially operational by November 2020 and fully operational by late 2021.

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ORR Has Not Met Some Monitoring Goals and Has Not Notified Some Facilities of the Need for Corrective Actions until Months after Noncompliance Was Identified

Audits on Preventing Sexual Abuse and Harassment

ORR has not ensured the facilities it funds are audited for compliance with standards to prevent and respond to sexual abuse and sexual harassment of children in their care, as required by ORR regulations. In December 2014, ORR published an Interim Final Rule entitled *Standards*

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<sup>63</sup>HHS, Administration for Children and Families, *Report to Congress on Unaccompanied Alien Children Program Facility Oversight*. This report presents data on corrective actions issued in fiscal year 2018, noting that some monitoring reports and corrective actions stemming from fiscal year 2018 monitoring visits were still pending at the time of the report. The report indicates that the data on corrective actions come from the site visit team, but also states that the data represent "all corrective actions ORR issued in FY 2018," even though they do not include those issued by other ORR teams.

<sup>64</sup>ORR's position description for the contractor states that their duties include enhancing the collection and analysis of program performance data, including processes that yield reliable and informative data and better capture and communicate corrective actions. The officials said they also intend for the database to include corrective actions issued by Contracting Officer's Representatives during periods when ORR funds facilities via contract.

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*To Prevent, Detect, and Respond to Sexual Abuse and Sexual Harassment Involving Unaccompanied Children*, in response to a requirement in the Violence Against Women Reauthorization Act of 2013.<sup>65</sup> The rule stated that each facility caring for unaccompanied children would be audited for compliance with the standards by February 22, 2019, and every three years thereafter.<sup>66</sup> ORR's Prevention of Sexual Abuse (PSA) team contracted with an outside organization to conduct these audits, according to program officials.

ORR program officials said that the PSA team's contractor began conducting the audits in January 2019. In a report submitted to Congress in May 2019, ORR stated that each facility it funded would receive a PSA team audit by the end of fiscal year 2019 (September 30, 2019).<sup>67</sup> ORR program officials said the PSA team's contractor had audited 67 facilities—out of 133 that were in operation when the audit process was implemented—by April 30, 2020, when the contract ended. Program officials said the contractor was unable to audit all facilities during this time because they had only a one-year contract and began the audits later than expected. They said ORR was working with the General Services Administration to re-compete the contract as a five-year contract and that the new contractor will begin the remaining audits in October 2020. They estimate that the remaining 66 facilities will be audited in fiscal year 2021. Under this new plan, ORR will have missed the audit deadline for those facilities by over a year and a half, and audits will be further delayed for newer facilities that have opened since the audit process began.

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<sup>65</sup>79 Fed. Reg. 77,768 (Dec. 24, 2014). Specifically, section 1101(c) of the Act directed the Secretary of HHS to issue "a final rule adopting national standards for the detection, prevention, reduction, and punishment of rape and sexual assault in facilities that maintain custody" of unaccompanied children. Pub. L. No. 113-4, § 1101(c), 27 Stat. 54, 134-35 (codified at 34 U.S.C. § 30307(d)).

<sup>66</sup>45 C.F.R. § 411.111(a). The rule does not apply to secure care provider facilities and individual foster care homes. Secure care provider facilities are subject to the Department of Justice's National Standards to Prevent, Detect, and Respond to Prison Rape, 28 C.F.R. pt. 115. According to the rule, unaccompanied children placed in traditional foster care reside in licensed foster homes, attend public school, and receive community-based services, and ORR stated that it therefore was not practicable or necessary to extend the standards to traditional foster care homes.

<sup>67</sup>HHS, Administration for Children and Families, *Report to Congress on Unaccompanied Alien Children Program Facility Oversight*.

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## Site Visits and Corrective Actions

ORR has not adhered to its policy to conduct a monitoring site visit of each facility at least every two years, and provide a monitoring report to the facility on any corrective actions identified during the site visit within 30 days. According to the policy, site visits involve a comprehensive review of each program's compliance with ORR requirements for program management, services, safety and security, child protection, case management, and personnel and fiscal management. However, according to ORR records, there were 23 facilities in fiscal years 2018 and 2019 that had not received a site visit for more than two years.<sup>68</sup> In 2016, we found that ORR was not able to complete all planned site visits for fiscal years 2014 and 2015 due to resource constraints. We recommended that ORR review its monitoring program to ensure that it conducted site visits in a timely manner.<sup>69</sup>

ORR policy further states that the monitoring team should send a monitoring report documenting any necessary corrective actions to a facility within 30 days after the site visit, but the monitoring team did not meet this timeframe for many of the facilities that received site visits in fiscal years 2018 and 2019.<sup>70</sup> Specifically, these teams averaged over 55 business days—11 weeks—to provide reports in fiscal years 2018 and 2019, according to data from ORR's tracking system. Our analysis of these data found that monitoring teams took more than 30 business days to send reports to 77 percent of facilities they visited in fiscal year 2018

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<sup>68</sup>It is possible there were additional facilities for which ORR did not meet the 2-year site visit goal. We reviewed internal ORR tracking documents indicating there were 22 facilities that had not received a site visit for more than 2 years, but ORR officials later said the monitoring team had identified an additional facility for which they had not met the goal.

<sup>69</sup>See [GAO-16-180](#). In August 2017, ORR officials provided documentation showing ORR met its monitoring goals for fiscal year 2016. ORR officials told us in May 2019 that they had completed all but five of the scheduled monitoring visits for fiscal years 2017 and 2018, and provided monitoring plans for the next 2-year cycle. The ORR records we obtained for this review showed that 18 of the 23 facilities for which ORR did not meet the 2-year monitoring goal in fiscal years 2018 and 2019 had been scheduled for visits in fiscal year 2019.

<sup>70</sup>Office of Refugee Resettlement, *ORR Guide: Children Entering the United States Unaccompanied*, Section 5.5.1, accessed June 1, 2020, <https://www.acf.hhs.gov/orr/resource/children-entering-the-united-states-unaccompanied-section-5#5.5>. Although the policy does not specify business or calendar days, ORR officials said that they interpret it to mean business days. After receiving the report, facilities typically have 30 days to provide ORR with a corrective action plan. Once the plan is received, ORR officials said that staff follow up as needed to confirm that all issues are resolved.

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and 78 percent of facilities they visited in fiscal year 2019.<sup>71</sup> Some reports took much longer; one report for a site visit conducted in fiscal year 2018 was not sent to the facility until early 2020, well over a year after the site visit.

Monitoring team staff said they conduct exit meetings at the end of each visit in which they inform facility staff of the corrective actions they plan to issue. However, they said they sometimes identify additional corrective actions after the visit, and this was echoed by three field specialists who said that monitoring staff do not always notify facility staff of all corrective actions at these meetings. Monitoring team staff also said that after a visit they debrief the relevant project officer and field specialist on their findings so they can start working with the facility on any corrective actions before they receive the report. However, as previously mentioned, some field specialists told us monitoring staff do not always inform them of corrective actions, which means facilities may not know about some needed actions until receiving their monitoring report months later.

Corrective action plans from several of our selected facilities support this, indicating that the facility did not respond to some corrective actions resulting from their site visit until receiving the monitoring report. None of our selected facilities received their monitoring report within 30 days of the site visit, and the longest delay among them was for one facility overseeing multiple foster care homes, visited by ORR in March 2018, which did not receive its monitoring report listing all corrective actions until 8 months later (November 2018). While the facility's response noted some actions that were completed during or shortly after the site visit, others, which included improving foster parent training, providing access to religious services, and informing children that they were allowed to send and receive mail, were not implemented until more than 9 months after the visit. ORR staff did not confirm completion of all corrective actions until early March 2019, nearly a year after the site visit.

ORR officials said that limited resources and staff prevented the monitoring team from meeting its goals to visit each facility every 2 years and provide facilities with a monitoring report within 30 days of the visit. Monitoring team staff also said that reports involving many or more complex corrective actions took longer to write and review. They said

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<sup>71</sup>Numbers for fiscal year 2018 do not include three facilities that ORR staff visited, but the facilities closed before they could send the monitoring report. Median business days between the end of the site visit and when the facility received the report were 43 for fiscal year 2018 and 57 for fiscal year 2019.



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shifting ORR priorities sometimes hampered their efforts to meet these goals, such as when staff were pulled from the team to help with efforts related to reunifying separated families or to fill vacancies on other ORR teams. In addition, Coronavirus Disease 2019 (COVID-19) has recently impeded ORR's progress in conducting monitoring site visits. ORR program officials told us in June 2020 that at that time, the monitoring team was not conducting site visits and that the longer the COVID-19 pandemic lasts, the more challenging it will be for the monitoring team to conduct all site visits it planned for fiscal year 2020.<sup>72</sup>

ORR program officials said that they planned to hire six additional monitoring team staff in spring 2020. In March 2020, these officials told us that this would be sufficient for ORR to meet its monitoring goals in fiscal year 2020. As of June 2020, they said ORR had hired two additional staff for the monitoring team and the hiring process was ongoing. Monitoring team staff who responded to our written questions said their ability to meet monitoring goals going forward would be contingent on hiring and maintaining full staffing levels. They also described some actions that ORR had taken in an effort to reduce delays, including tracking monitoring report timelines starting in May 2019 and transferring monitoring report approval authority from the ORR Director to the Deputy Director. Monitoring team staff said they anticipated that these steps would reduce the amount of time it takes to submit reports, but were uncertain about whether they would be able to meet the 30-day timeframe called for in ORR policy.

#### Project Officer and Field Staff Workloads

In addition to the staffing and resource limitations described by monitoring team members, some project officers we interviewed said that ORR did not have enough staff in these roles. The four project officers who were overseeing our selected facilities said they were responsible for more facilities than they considered manageable. They said a manageable workload was between five and 12 facilities, depending on the size and type, but their current workloads ranged from 14 to 20 facilities. ORR program officials said as of June 2020 they had hired six additional project officers and planned to hire three more project officers and two

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<sup>72</sup>According to these officials, the monitoring team attempted in late March 2020 to conduct remote monitoring of facilities through phone calls and video walkthroughs; however, this effort was put on hold to allow facilities to focus on COVID-19 issues. In June 2020, ORR program officials told us that the monitoring team was assessing weekly whether remote and/or on-site monitoring could resume and was looking for ways to streamline the monitoring process for future site visits.

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senior project officers. Officials said they expected these new hires to lower project officer workloads to 12 to 15 facilities each.

In addition, two field specialists said that ORR did not have sufficient numbers of field staff, while a third specialist said that ORR recently hired more field staff which had helped improve field staffing levels. ORR program officials told us in March 2020 that they were hiring 18 field specialists and two supervisors, and expected the additional staff would allow this team to perform more site visits and develop strategies for process improvement. As of June 2020, they said ORR had hired three new specialists and that the hiring process was ongoing.

While additional ORR staff may help address staff shortages that have contributed to delays, a plan—including roles, responsibilities, and timeframes—to guide and focus its monitoring efforts could help ensure that ORR adheres to its own monitoring goals. Timely monitoring visits and prompt follow-up with corrective action reports are necessary to ensure that facilities are in compliance with all applicable grant requirements and ORR policies, including those that help ensure unaccompanied children are safe and provided appropriate services.

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## ORR Has Additional Options for Responding to More Serious Grantee Noncompliance

ORR policy states that ORR may discontinue funding, halt placements, or remove children completely from facilities that fail to implement corrective actions in a timely and effective manner,<sup>73</sup> and ORR used these options to respond to some instances of noncompliance in fiscal years 2018 and 2019. An ORR-provided list showed that in fiscal years 2018 and 2019, ORR stopped the placement of children in at least 18 facilities (out of 165 grantee facilities ORR funded during that time) and removed children from two of those facilities. In addition, ORR removed children from at least two other facilities where they did not stop placements.<sup>74</sup> According to ORR officials, they took actions against 16 of these 20 facilities for performance or noncompliance issues, most commonly staffing concerns,

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<sup>73</sup>Office of Refugee Resettlement, *ORR Guide: Children Entering the United States Unaccompanied*, Section 5.5, accessed June 1, 2020, <https://www.acf.hhs.gov/orr/resource/children-entering-the-united-states-unaccompanied-section-5#5.5>.

<sup>74</sup>It is possible that ORR stopped placement and/or removed children from additional facilities during this time. ORR program officials said they do not systematically track these actions, but compiled the list by surveying project officers. ORR amended the list they provided after we alerted them to an additional stop placement that a field specialist told us about that was not included in ORR's initial list.

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such as issues with staff background checks. In two of the four other cases, ORR stopped placements because the facility was preparing to close. In the other two cases, individual children were moved to a different facility due to behavioral challenges. ORR officials said they may also stop placement or remove children for other reasons not related to compliance, such as an outbreak of illness at a facility.<sup>75</sup>

Four of our nine selected facilities were among the 20 in which ORR stopped placement or removed children during this time period. For example, in March 2018, an ORR monitoring team found multiple health and safety issues at one of these facilities, a foster care program, according to the site visit report. Among other issues, the report identified three unaccompanied children living in a foster home where one of the foster parents was under investigation for sexually abusing another minor. ORR staff ensured that all unaccompanied children were removed from the home where the foster parent was under investigation, according to their report. The project officer overseeing this facility said from November 2018 to January 2019, 8 to 10 months after the ORR site visit, the facility staff visited the facility's other foster homes to ensure there were no further health and safety concerns that had gone undetected. In addition, ORR staff also found that the same facility had been without a program director for several months, a position required by ORR, and that facility staff reported inadequate supervision from the acting director. The facility hired a permanent program director about 2 months after the monitoring visit. ORR officials said they did not consider stopping the placement of children at this facility during this two-month period because ORR had provided the grantee with technical assistance that was sufficient to address the identified problems.

As previously mentioned, in September 2018, a state licensing agency issued notices that it intended to revoke the licenses of all eight ORR-funded facilities that were operated by one of ORR's largest grantees in that state, including two of our selected facilities. According to these notices and a letter the state agency sent to the grantee, the state agency took this step due to persistent deficiencies including the grantee's failure to comply with state fingerprinting and minimum training requirements for

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<sup>75</sup>ORR program officials told us in June 2020 that they had stopped placing children at all facilities in California, New York, and Washington states since the outbreak of COVID-19, due to the number of COVID-19 cases in those states and the need to limit long distance travel from the border, but were allowing foster care facilities in those states to place a limited number of children in foster homes. The officials said they had not removed any children from facilities due to COVID-19.

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facility employees. In October 2018, the state agency and the grantee reached a settlement agreement in which the grantee agreed to voluntarily close two of its facilities, pay a monetary penalty, and submit to additional state monitoring in exchange for keeping its licenses for the remaining facilities.

Once the grantee and state licensing agency reached this agreement, ORR removed children from the two facilities that closed under the settlement agreement and temporarily stopped placing children at the remaining six facilities. The ORR project officer who was overseeing these facilities at the time said that ORR did not consider a stop placement earlier, although the state licensing agency had expressed serious concerns to the grantee a month prior. ORR resumed placing children at the facilities once the state agency approved them to return to full capacity. Internal ORR communications note that in the months following the settlement agreement, the grantee met weekly with ORR project officers and field specialists. However, current and former ORR field specialists with oversight of two of these facilities could not provide examples of any additional steps they took to monitor them following these events, such as increasing the frequency of visits to these facilities. One of the facilities was cited by an ORR site visit team in July 2019 for not meeting ORR's background check requirements and ORR has required corrective action. When we asked if ORR considered taking further enforcement action, the project officer with oversight of the facility cited general ORR policy on corrective action follow-up and enforcement actions but did not provide any specific information on whether ORR considered other actions.

As part of any enforcement actions and under HHS grants policy, ORR may recover any funds that it determines were misspent or spent for purposes that are not allowed. According to ORR officials, ORR required three grantees to return funds to the agency in fiscal years 2018 and 2019:

- The grantee that had some of its licenses nearly revoked in 2018 was required to return over \$5 million to ORR in July 2019. According to a letter sent by ORR to this grantee, the agency took this action because of issues including financial conflicts of interest by executives at the organization that violated HHS regulations, and this action was unrelated to the grantee's state licensing issues.
- A second grantee, in October 2019, was required to return over \$15 million as a result of drawing down funds in excess of their

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expenditures. ORR program officials said the grantee returned the funds to HHS, and these funds were available to the grantee for allowable expenditures during the budget year.

- A third grantee was required, in February 2018, to return nearly \$20 million due to excessive executive compensation and various other costs that ORR determined were not allowed under the terms of the grant and HHS regulations. ORR terminated its agreement and closed all facilities operated by this grantee in March 2018. The grantee appealed the requirement that they return funds to the HHS Departmental Appeals Board and as of June 2020, ORR was awaiting the Board's decision.

ORR did not require that funds be returned by the other grantees at whose facilities it had stopped placements or removed children for performance-related reasons in fiscal years 2018 and 2019. According to officials at the Office of Grants Management, HHS takes steps to recover funds from grantees whenever it determines the grantee has not complied with their grant agreements or relevant laws and regulations in ways that have monetary implications. They said they may recover funds from a facility where ORR stops the placement of children for performance-related reasons, for example if the reasons for the stop placement included unallowable expenditures by the grantee, or resulted in the discontinuation of grant funding.

In addition, ORR officials said that from fiscal years 2014 through 2019 there was one grantee for which the agency declined to award a new grant at the end of its 3-year grant period. ORR declined to award this organization a new grant in February 2019, but in July 2019 awarded a subsequent grant to the same organization. ORR officials said they awarded the organization a new grant because it submitted a new application indicating it would be working with experienced subcontractors, increasing ORR's confidence that the organization would perform successfully.<sup>76</sup>

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## Conclusions

ORR provides grants to organizations to care for children in federal custody without lawful immigration status until they can find an appropriate sponsor available to care for them. These grantees are responsible for the health, safety, and well-being of this vulnerable population. ORR has policies and procedures in place to aid them in

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<sup>76</sup>However, as previously noted, our review of the two applications found that of the three proposed sites that were the same in both applications, five of the six subcontractor partners were the same as in the application that was rejected.

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awarding grants to the best-qualified organizations and to monitor grantees to ensure that they comply with their grant requirements and the children receive the care they need. However, several significant lapses in the implementation of these policies and procedures could affect the quality of care provided to these children. For example, we found a lack of clarity in grant announcements regarding information applicants are required to provide to ORR, including information related to their state licensing status and any state licensing allegations and concerns. Improving the clarity of these grant announcements could help ensure that applicants provide more complete information to assist ORR in making sound funding decisions.

Additionally, while ORR has conducted outreach in some cases to state licensing agencies to obtain key information about its grantees, information sharing is generally limited between ORR and state agencies. This lack of regular communication between ORR and state licensing agencies could limit the effectiveness of both state and ORR monitoring, increasing the possibility that some children may not receive the care and services they need and placing their safety at risk. Further, most state agencies we surveyed reported that they would like additional information about ORR-funded facilities in their state.

In addition, while ORR has taken steps to more centrally track corrective actions and regularly monitor the facilities it funds, it has not met its own specific targets for the frequency of its monitoring site visits, as well as audits related to the prevention of sexual abuse. Following its monitoring site visits, ORR does not consistently provide grantees with timely information on changes they need to make to comply with ORR policy. Addressing these issues would better ensure the well-being of unaccompanied children and that federal funds are provided to the most qualified organizations.

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## Recommendations for Executive Action

We are making the following eight recommendations to ORR:

The Director of ORR should clarify in its grant announcements the information and supporting documentation applicants are required to provide in their grant applications with respect to their state licensing status, eligibility, and allegations and concerns. (Recommendation 1).

The Director of ORR should take steps to develop, and ensure that officials reviewing grant applications implement, a process to verify the accuracy and completeness of information reported by grant applicants

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on state licensing status, eligibility, allegations and concerns. (Recommendation 2).

The Director of ORR should ensure that the grant review process includes a documented review of applicants' past performance on ORR grants for those that have previously received grants to care for unaccompanied children. This could include, for example, a systematic review of previous quarterly and annual performance reports and a review of corrective actions issued by all ORR monitoring staff to all ORR-funded facilities previously operated by the applicant. (Recommendation 3).

The Director of ORR should clarify in its instructions to grantees the information they are required to report on state licensing citations in their quarterly performance reports. (Recommendation 4).

The Director of ORR should take steps, such as through guidance or training, to ensure that project officers clearly understand the requirement that grantees report state licensing citations at any of their facilities within 24 hours and include state licensing citations in their quarterly performance reports. (Recommendation 5).

The Director of ORR should work with state agencies that license ORR-funded facilities to develop a plan for mutual information sharing, including processes for ORR outreach to states during the grant application review process and ongoing information sharing on ORR and state monitoring processes and identified deficiencies. (Recommendation 6).

The Director of ORR should ensure that ORR provides and maintains a current point of contact for each state agency that licenses ORR grantees to facilitate information sharing regarding ORR-funded facilities. (Recommendation 7).

The Director of ORR should develop a plan—including roles, responsibilities, and timeframes—to guide and focus ORR's efforts to meet its goals to:

- conduct an audit of each facility's compliance with ORR standards on preventing and responding to sexual assault, as required under the Interim Final Rule,
- conduct on-site monitoring visits to each facility at least every 2 years in accordance with ORR policy, and

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- report any noncompliance to the facility within 30 days of the site visit, in accordance with ORR policy.

(Recommendation 8).

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## Agency Comments and Our Evaluation

We provided a draft of this product to the Department of Health and Human Services (HHS) for review and comment. We received written comments from HHS, which are reproduced in appendix III. HHS also provided technical comments, which we incorporated as appropriate.

HHS concurred with all of our recommendations and outlined steps that ORR plans to take to address them. In its response to our first recommendation, HHS stated that in June and July 2020, ORR published four new grant announcements, which it updated to require that applicants be licensed at the time of their application and provide documentation of their license in order to be considered for a grant. These new announcements also require applicants to report any allegations/concerns of abuse and/or neglect, as well as any denial, suspension, and/or revocation of their license.<sup>77</sup> HHS stated that ORR would continue to assess whether the requirement to be licensed at the time of application is reasonable and should be applied to future funding cycles. We reviewed these grant announcements and believe that the updated language is a promising first step toward clarifying the information applicants must provide regarding their state licensing status and any allegations or concerns, as we recommended. However, we found that these grant announcements did not include clarification on two key points: the time period for which any allegations or concerns should be reported, and whether applicants operating multiple facilities should report allegations and concerns that have occurred at any of their facilities, or only those at facilities specified in the application. In addition, if ORR decides not to retain the new requirement to be licensed prior to applying in future grant announcements, it should clarify how applicants that have not yet obtained a license should demonstrate license eligibility in their application.

In concurring with our second and third recommendations, HHS noted that ORR project officers currently assess the accuracy and completeness of grant applicants' state licensing information and consider

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<sup>77</sup>In its official response to our recommendations, HHS stated that the grant announcements require awardees to report allegations and concerns. However, HHS later clarified that this sentence should be updated to read applicants, not awardees, consistent with the grant announcements.



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past grant performance in their reviews, but that ORR would develop guidance and training in an effort to standardize those elements of their reviews.<sup>78</sup> We agree that guidance and training are needed, given our finding that the 11 project officers provided conflicting accounts of whether they communicate with state licensing agencies during the application review process, and could not provide documentation of their reviews of past performance. In response to our fourth and fifth recommendations, HHS stated that ORR would work with the Office of Management and Budget to add a reporting requirement on state licensing citations to grantees' quarterly performance reports, and would develop guidance and training to ensure project officers understand grantee reporting requirements regarding state licensing citations.

With respect to our sixth recommendation, HHS stated that information sharing between ORR and state licensing agencies would benefit both parties, but noted that implementation of the recommendation would depend on the state agencies' willingness and ability to share information. HHS said that ORR will reach out to other ACF program offices and state licensing agencies, and will work to identify information sharing goals and potential mechanisms to facilitate communication. We recognize that states may vary in their interest and ability to share information with ORR. However, most states we surveyed were interested in some additional information sharing. We encourage ORR to work with each state individually to develop a mutually beneficial information sharing relationship. Regarding our seventh recommendation, HHS noted that ORR will develop and maintain a list of points of contact for each state agency that licenses an ORR-funded facility.

Finally, HHS outlined several steps ORR planned to take in response to our eighth recommendation on monitoring. With respect to auditing facilities' compliance with ORR standards on preventing and responding to sexual assault, as required under the Interim Final Rule, HHS reiterated ORR's plans to solicit a new contract for these audits, but did not state the timeline for publishing the contract solicitation. We urge ORR to work as expeditiously as possible to ensure the remaining audits are carried out, given that it has already missed the initial deadline by over a year. With respect to conducting monitoring visits to each facility every 2 years in accordance with ORR policy, HHS stated that the suspension of these visits due to COVID-19 makes it unlikely that ORR's

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<sup>78</sup>HHS stated that, under the department's grants policy, ORR is unable to require the panel of outside reviewers to verify the accuracy and completeness of information provided; however, ORR project officers may perform such an assessment.

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monitoring team will be able to visit all facilities originally scheduled for fiscal year 2020. HHS stated that ORR plans to hire additional staff to ensure that the team can catch up on these visits once it is safe to resume them. We recognize the real challenges caused by the current pandemic and that it will likely be very difficult to meet the 2-year goal for fiscal year 2020. With respect to future efforts, in addition to its current hiring plans, we encourage ORR to continue monitoring the team's staffing levels to ensure it can consistently meet its goals going forward. Finally, with respect to reporting noncompliance to facilities within 30 days of the site visit in accordance with ORR policy, HHS stated that ORR is in the process of developing a best practice resource guide for monitoring staff to further improve the timeliness of report submissions.

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As agreed with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days from its issue date. At that time, we will send copies of this report to relevant congressional committees, the Secretary of Health and Human Services, and other interested parties. In addition, this report will be available at no charge on GAO's website at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-7215 or [larink@gao.gov](mailto:larink@gao.gov). Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix IV.

Sincerely yours,

A handwritten signature in black ink that reads "Kathryn A. Larin". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Kathryn A. Larin, Director  
Education, Workforce, and Income Security Issues

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# Appendix I: Scope and Methodology

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This report examines the federal Office of Refugee Resettlement's (ORR) grant making process and oversight of its grantees that care for unaccompanied children. It addresses (1) how ORR considers state licensing issues and past performance in its review of grant applications; (2) state licensing agencies' policies and practices for overseeing ORR grantees, and how ORR and states share information on oversight; and (3) ORR policies and practices for addressing grantee noncompliance with grant agreements.

We used several approaches to address our objectives, including reviewing relevant federal laws and regulations and ORR policies, procedures, and guidance. In addition, we reviewed documents related to ORR's grants, including grant applications approved for funding in fiscal years 2018 and 2019, conducted a survey of 29 state licensing agencies in states where ORR had awarded grants to operate facilities as of July 2019, and reviewed information grantees submit to ORR on monitoring by state licensing agencies. We also reviewed federal internal control standards on using and communicating quality information. In addition, we reviewed ORR monitoring documentation and corrective action data.

In addition, we interviewed or submitted written questions to relevant ORR and Administration for Children and Families (ACF) officials. Specifically, we collected information from ORR program officials, project officers responsible for reviewing grant applications and monitoring, and ORR federal field specialists, among others. We also collected information from ACF Office of Grants Management (OGM) officials. While we conducted some interviews with these officials, we obtained other information through written questions at the request of the Department of Health and Human Services (HHS). In addition, we interviewed state licensing agency officials in selected states.

Further, to incorporate the perspectives of ORR grantees in our review, we sought to interview staff of ORR grantees. However, HHS wanted to have one of its attorneys present at these interviews or take other measures that we believed could have prevented grantees from speaking freely with us about their experiences with ORR. We were unable to reach timely agreement with HHS on procedures for conducting these interviews that would address this concern. As a result, our review is based on information obtained from ORR officials and documents and, where relevant, state documentation and interviews.

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## Review of ORR Grants Documentation

To address our first objective, we reviewed documents related to ORR grants made in fiscal years 2018 and 2019, the most recent years available at the time of our review. We reviewed all eight ORR grant announcements with due dates during these two fiscal years and all seven funding decision memoranda issued by ORR during this time.<sup>1</sup> To assess the reliability of grant award data in ORR's funding decision memoranda, we obtained information from ORR officials knowledgeable about the data and reviewed the user manual for the data system that generated the data. We found these data to be sufficiently reliable for our reporting purposes.

In addition, we reviewed all 58 applications from applicants to whom ORR awarded grants during these two fiscal years. We analyzed these approved grant applications to determine what information applicants included about state licensing and past performance on ORR grants, where applicable, among other information. To determine whether applicants that received ORR grants in fiscal years 2018 and 2019 were able to obtain a state license and whether they had begun serving children, we compared the 58 applications that ORR awarded grants to with data ORR provided on facilities' status as of July 2020.<sup>2</sup> We assessed the reliability of the data provided by ORR on its facilities by obtaining information from ORR officials with knowledge of the data. While ORR program officials acknowledged that these data are not always kept up-to-date, we found the data sufficiently reliable for the purpose of providing approximate numbers of facilities that had obtained a license and begun serving children. We also reviewed other ORR and ACF documents related to the grant process, including checklists and training materials, summary reports from the outside panel that reviews applications, internal guidance for project officers' application review, notices of awards, and grant agreements.

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## Survey of State Licensing Agencies

To learn about state licensing agencies' oversight policies and practices for ORR-funded facilities, and how these agencies share information with ORR, we conducted a Microsoft Word-based survey of 29 licensing agencies in 26 states, including the District of Columbia, where ORR had awarded grants to operate facilities as of July 2019. Our survey included

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<sup>1</sup>ORR issued a funding announcement for secure shelter providers with a due date of June 29, 2018. According to ORR officials, either ORR did not receive any applications in response to this grant announcement or ORR's contractor screened out all applicants during its initial review. Therefore, ORR did not fund any applicants in this round and did not issue a funding decision memorandum.

<sup>2</sup>We also reviewed data provided by ORR on its facilities as of February 5, 2020.

questions about whether a state licensing agency currently licensed ORR-funded facilities, its ongoing oversight practices, any deficiencies it found at ORR-funded facilities, and information sharing with ORR. We administered the survey from October 2019 to January 2020.

Because we surveyed all relevant state licensing agencies, our survey had no sampling error. We took several steps to minimize nonsampling error, including using methods to ensure we sent the survey to the appropriate agencies and officials. We identified agencies to survey through a combination of ORR-provided information and online research, and confirmed that they were the appropriate licensing agency and point of contact prior to distribution of the survey. Some of these officials directed us to other officials at their agency. We also conducted pretests with three state licensing agencies, chosen to reflect a variety of state experiences with licensing ORR-funded facilities, to check for the clarity of questions and flow of the survey. We made revisions to the survey based on feedback from the pretests.

We sent the survey by e-mail in an attached Microsoft Word form that respondents could return electronically after marking checkboxes or entering responses into open answer boxes. Finally, we contacted all respondents who had not returned the questionnaire by email and phone. We followed up with respondents who submitted surveys with missing question responses via email and phone to clarify their answers.

To supplement the survey and obtain further supporting information on survey responses, we emailed state agency officials who responded to questions on whether additional information from ORR would be useful. We also emailed all state licensing agencies who responded to our survey and asked if they had a point of contact at ORR.

We received completed responses from 28 of the 29 state licensing agencies we surveyed. Washington State Department of Children, Youth, and Families declined to participate in the survey.

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## Interviews with State Licensing Agencies

To obtain further information on state licensing policies and practices, as well as on their information-sharing with ORR, we conducted semi-structured interviews with state licensing agency officials in Arizona, Maryland, and Texas. We selected these states based on a combination of criteria, including the number of ORR grantee facilities in each state, a mix of types of state licensing agencies, and border and non-border states (see table 2). We also selected Arizona in part because it has two different agencies that license ORR grantee facilities.

**Table 2: States and Licensing Agencies Selected for In-Depth Interviews, with Key Selection Characteristics**

State	Number of ORR-funded facilities located in the state <sup>a</sup>	Licensing agency(ies)	Border state?
Arizona	21	Department of Child Safety Department of Health Services	Yes
Maryland	4	Department of Human Services	No
Texas	60	Department of Family and Protective Services	Yes

Source: List of facilities provided by the Office of Refugee Resettlement (ORR) and state licensing agency information. | GAO-20-609

<sup>a</sup>Based on a list provided by ORR as of July 30, 2019. Some facilities were not yet open, according to this ORR data.

At each of these agencies, we interviewed state licensing officials at various levels, including agency leadership and officials who monitor facilities, to ensure we obtained a range of views. Additionally, we reviewed each agency’s responses to the survey to determine if there were answers that necessitated additional discussion or clarification. We also conducted more limited survey follow-up interviews with officials from New York’s Office of Children and Family Services, Georgia’s Department of Human Services, and North Carolina’s Department of Health and Human Services. We chose these states based on their survey responses and licensing challenges at ORR-funded facilities identified by news media reports and other federal agencies.

## Review of Quarterly Performance Reports

To learn what information grantees report to ORR regarding state licensing citations at their facilities, we reviewed quarterly performance reports submitted to ORR by the grantees that operated nine selected facilities in our three states. We selected these facilities based on the number of corrective actions received on their last ORR monitoring visit, number of corrective actions received from their state licensing agency in the past year (if known), and to reflect a range of facility types, sizes, and populations served (see table 3).<sup>3</sup>

<sup>3</sup>The two facilities we selected in Maryland, and two of the four facilities we selected in Texas, consisted of a shelter and foster care facility that were operated out of the same location. Three of the nine facilities—one in Texas and two in Arizona—were operated by the same ORR grantee.

Appendix I: Scope and Methodology

**Table 3: Office of Refugee Resettlement-Funded Facilities Selected by GAO for Review of Quarterly Performance Reports**

State	Facility	Type	Population served <sup>a</sup>	Size (bed capacity) <sup>a</sup>	Number of ORR corrective actions issued as a result of ORR's most recent monitoring site visit	Number of state licensing corrective actions issued in FY 2019
Arizona	A	Shelter	Males and females 6-17	304	7	17
	B	Shelter	Males and females 0-17	300	9	9
	C	Shelter	Males, 12-17	78	31	Information not available <sup>b</sup>
Maryland	D	Shelter	Males, 9-17	50	14	4
	E	Transitional and long-term foster care	Males 9-17 (Transitional Foster Care); Males and females 2-17, pregnant and parenting teens, youth with special needs (Long Term Foster Care)	15	34	5
Texas	F	Shelter	Males 0-17, females 0-12, parenting teens 12-17	400	12	22
	G	Shelter	Males and females 8-17, pregnant and parenting teens	100	NA <sup>c</sup>	12
	H	Shelter	Males and females 12-17, pregnant teens in their first trimester	110	18	10
	I	Transitional foster care	Males and females 0-17, pregnant teens	50	43	14

Source: List of facilities provided by the Office of Refugee Resettlement (ORR) and state licensing agency information. | GAO-20-609

<sup>a</sup>Based on a list provided by ORR as of July 30, 2019.

<sup>b</sup>State licensing agency did not make monitoring reports publicly available.

<sup>c</sup>Not applicable because facility had not yet received an ORR monitoring site visit

We reviewed all 37 quarterly performance reports that were submitted to ORR by the grantees that operated these nine facilities in fiscal years 2018 and 2019 for quarters in which they received a state licensing citation. To determine whether these grantees reported state licensing citations in their quarterly reports on those nine facilities, we compared them to publicly available state licensing reports. We were unable to

conduct this analysis for one of the facilities we selected in Arizona, which is licensed by a state agency that does not make information on its citations publicly available and did not respond to our requests for this information.

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## Analysis of Corrective Actions and Monitoring

To evaluate the timeliness of reports sent by the ORR monitoring team to facilities they visited, we analyzed information from the team's spreadsheets that tracked visits conducted in fiscal years 2018 and 2019. Specifically, we calculated the number of business days between the conclusion of each site visit and the date the team sent the monitoring report detailing any needed corrective actions to the facility.<sup>4</sup> To assess the reliability of the data in these spreadsheets, we obtained information from ORR officials on their processes for maintaining the data. We also compared the dates in the spreadsheets against another spreadsheet that monitoring team managers use to assess the timeliness of monitoring reports, and against monitoring reports for our selected facilities. We identified a few inconsistencies and corrected the data using revised dates provided by ORR. After taking these steps, we determined the data were sufficiently reliable for our purposes.

To identify examples of corrective actions issued by various teams at ORR, and the timing of facilities' responses to those corrective actions, we also reviewed monitoring reports and other corrective actions issued to the nine selected facilities described above. In addition, we obtained information from ORR on the number of facilities in fiscal years 2018 and 2019 that had not had a site visit in over two years, which is the minimum frequency set forth in ORR policy.<sup>5</sup> Finally, we asked ORR program officials for written responses to our questions on the status of audits for compliance with standards to prevent and respond to sexual abuse and sexual harassment of unaccompanied children in ORR-funded facilities.<sup>6</sup>

We conducted our work from May 2019 to September 2020 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain

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<sup>4</sup>ORR policy specifies that these reports be sent within 30 days. We calculated business days because ORR officials told us they interpret the policy to refer to business days.

<sup>5</sup>Office of Refugee Resettlement, *ORR Guide: Children Entering the United States Unaccompanied*, Section 5.5.1, accessed June 1, 2020, <https://www.acf.hhs.gov/orr/resource/children-entering-the-united-states-unaccompanied-section-5#5.5>.

<sup>6</sup>See Standards to Prevent, Detect, and Respond to Sexual Abuse and Sexual Harassment Involving Unaccompanied Children, 79 Fed. Reg. 77,768 (Dec. 24, 2014).



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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 II: Office of Refugee Resettlement (ORR) Grant Review Process

ORR uses a multi-step process when it reviews new grant applications to provide care to unaccompanied children. The process consists of an initial review by an ORR contractor, a review by a non-governmental panel (outside review panel), and a review by an ORR project officer. After these reviews, either ORR leadership or the Administration for Children and Families' (ACF) Assistant Secretary makes the final funding decisions. ACF's Office of Grants Management conducts a business review of the approved applications (see fig. 6).

Figure 6: Grant Application Review Process



Source: Interviews with, and documents from, ORR and ACF Office of Grants Management. | GAO-20-609

The following information on ORR's grant review process was provided by ACF officials, ORR program officials and project officers, or obtained through our review of documentation related to this process.

- **Contractor review.** ORR's contractor, F2 Solutions, conducts an initial review of all applications for completeness and to make sure they meet certain requirements laid out in ORR's grant announcement. For example, the contractor confirms that the organization or business applying for the grant is eligible for ORR grants and that the application is complete. If the application fails to meet the requirements of the contractor review, the contractor deems the application ineligible and no further reviews are conducted. If the contractor determines that the applicant has met all requirements, the application is forwarded to the outside review panel.
- **Panel review.** The outside review panel scores applications against criteria laid out in the grant announcement. The panel is comprised of three reviewers and a Panel Chair, who acts as a liaison between the

panel and ORR.<sup>1</sup> According to ORR officials, reviewers are selected from outside of the federal government and typically have backgrounds in social work or child welfare. Each of the three panel members independently review and score each of their assigned applications. The panel chair then sends ORR the average of the three reviewers' scores for each application.

- **Application cutoff score.** As part of deciding which applicants will be awarded a grant to care for unaccompanied children, ORR's leadership establishes an application cutoff score after receiving scores from the review panels. When determining the cutoff score, ORR officials said they look for a natural breakpoint in the scores, at the range of application scores during the particular funding round, and ORR's capacity needs.
- **ORR project officer review.** According to ORR program officials and project officers, an ORR project officer reviews each application that has a score above the cutoff established by ORR leadership to assess whether the applicant has a viable plan to provide services and a reasonable budget proposal. The project officer makes funding recommendations to ORR leadership. ORR does not typically review applications that score below the cutoff score; however, ORR project officers receive the list of such applicants and can recommend funding for those applicants. ORR projects officers said that this rarely happens.
- **ORR leadership.** ORR leadership makes funding decisions. In cases in which ORR decides to fund all applicants scoring above the cutoff score, the ORR Director signs off on the decision. In cases in which ORR decides not to fund an applicant whose application scored above the cutoff score, the ACF Assistant Secretary reviews the reasoning for this recommendation and must agree. ORR refers to these cases as out of rank order decisions. They occur when ORR decides to "skip" funding an application that received a higher score and instead fund a lower scoring applicant.
- **ACF Office of Grants Management (OGM) review.** OGM conducts a business review of each application that ORR has approved to confirm it meets the business and financial requirements listed in the grant announcement. As part of that review, OGM also reviews the applicant's budget proposal, and may assist ORR project officers in budget negotiations with approved grantees. The Associate Deputy Assistant Secretary for Grants within OGM gives final approval of

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<sup>1</sup>According to ORR, F2 Solutions is responsible for soliciting reviewers and ORR must approve them.

funding decisions if applications were approved in the order they were scored by the outside panel. In cases in which ORR approves applications out of order, the Assistant Secretary of ACF gives final approval.

During fiscal years 2018 and 2019, ORR funded applicants in seven funding rounds (see table 4).<sup>2</sup> There was only one funding round during these 2 years in which ORR did not fund all applications that scored above the cutoff score.<sup>3</sup>

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<sup>2</sup>ORR issued an eighth grant announcement for secure facilities that closed in June 2018, but did not fund any grantees in response to this announcement.

<sup>3</sup>ORR leadership set a cutoff score in only three of the seven funding rounds in FY2018 and FY2019. In three of the other four rounds, ORR funded all applicants that passed the initial contractor review. In the fourth, ORR funded the two highest scoring applicants, deferred funding for an additional seven applicants, and four applicants did not pass the initial contractor review. ORR officials said that no cutoff score was required in the other four funding rounds because all applicants either received high scores from the outside panel or were screened out by the ORR contractor. In one funding round, ORR did not fund all applications that scored above the cutoff score. It chose not to fund two applications from the same organization because the organization had not met its obligations under a previous ORR grant and a third application because the applicant was unable to provide evidence that it had a lease or an address for a shelter space and ORR deemed its budget to be unreasonable.

**Appendix II: Office of Refugee Resettlement  
(ORR) Grant Review Process**

**Table 4: Grant Applications and Outcomes for Applicants Seeking Office of Refugee Resettlement (ORR) Grants to Provide Care of Unaccompanied Children, FY2018 and FY2019 Funding Rounds**

Facility type	Announcement closing date	Number of applications	Number of applications approved	Number of applications not approved <sup>a</sup>	Cutoff score <sup>b</sup>	Range of scores	Range of scores for funded applications	Number of applications scoring above cutoff score that were not selected for funding
Shelter	May 9, 2019	26	20	6	60	4-100	82-100	0
Shelter	November 26, 2018	18	9	9	50	0-95	69-94	3
Secure	November 26, 2018	1	1	0	no cutoff score	95 <sup>c</sup>	95	0
Staff Secure	June 29, 2018	5	4	1	no cutoff score	83-97	83-97	0
Shelter	June 29, 2018	37	20	17	65	0-98	68-98	0
Therapeutic Shelter	June 29, 2018	4	2	2	no cutoff score	77-83	77-83	0
Long Term Foster Care	June 29, 2018	13	2	4	no cutoff score	78-99	95-99	0
<b>Total</b>		<b>104</b>	<b>58</b>	<b>39</b>				

Source: GAO review of ORR funding decision memoranda. | GAO-20-609

Note: Seven applications to provide Long Term Foster Care in the June 29, 2018 round were deferred. Range of scores for all applications and funded applications are rounded to the nearest whole number.

<sup>a</sup>Applications that were not approved included applications that did not pass the initial ORR contractor review, those that passed the initial contractor review but ORR did not fund because they were below the cutoff score, and those that scored above the cutoff score but were not selected for funding. They do not include applications that were deferred.

<sup>b</sup>ORR officials said that no cutoff score was required in the other four funding rounds because all applicants either received high scores from the outside panel or were screened out by the ORR contractor.

<sup>c</sup>ORR received only one application in response to this funding announcement.

# Appendix III: Comments from the Department of Health and Human Services



DEPARTMENT OF HEALTH & HUMAN SERVICES

OFFICE OF THE SECRETARY

Assistant Secretary for Legislation  
Washington, DC 20201

August 24, 2020

Kathryn A. Larin  
Director, Education, Workforce & Income  
Security Issues  
U.S. Government Accountability Office  
441 G Street NW  
Washington, DC 20548

Dear Ms. Larin:

Attached are comments on the U.S. Government Accountability Office's (GAO) report entitled, *"Unaccompanied Children: Actions Needed to Improve Grant Application Reviews and Oversight of Care Facilities"* (Job code 103557/ GAO-20-609).

The Department appreciates the opportunity to review this report prior to publication.

Sincerely,

Sarah C. Arbes  
Digitally signed by Sarah C. Arbes -S  
Date: 2020.08.25 10:43:36 -04'00'

Sarah C. Arbes  
Assistant Secretary for Legislation

Attachment

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**Appendix III: Comments from the Department  
of Health and Human Services**

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**GENERAL COMMENTS FROM THE DEPARTMENT OF HEALTH & HUMAN SERVICES ON THE GOVERNMENT ACCOUNTABILITY OFFICE'S DRAFT REPORT ENTITLED — UNACCOMPANIED CHILDREN: ACTIONS NEEDED TO IMPROVE GRANT APPLICATION REVIEWS AN OVERSIGHT OF CARE FACILITIES (GAO-20-609)**

The U.S. Department of Health & Human Services (HHS) appreciates the opportunity from the Government Accountability Office (GAO) to review and comment on this draft report.

**Recommendation 1:** The Director of ORR should clarify in its grant announcements the information and supporting documentation applicants are required to provide in their grant applications with respect to their state, eligibility, and allegations and concerns.

**HHS Response:** HHS concurs with this recommendation.

ORR recently updated four of its Funding Opportunity Announcements (FOA) to require that applicants be licensed at the time of application in order to be considered for a grant and provide documentation of state licensure, including information on capacity, age/sex permitted, and allowable length of stay. The FOA also requires awardees to report any allegations/concerns of abuse and/or neglect; and any denial, suspension, and/or revocation of their and, if applicable, any subrecipient(s)' licensing to provide child welfare related services. These requirements are included in the FOAs for secure, staff secure, therapeutic, and long term foster care beds published by ORR in June and July 2020. ORR has not determined whether the requirement to be licensed at the time of application will remain in future shelter FOAs. ORR will continue to assess whether or not this requirement is reasonable throughout this next funding and onboarding cycle.

**Recommendation 2:** The Director of ORR should take steps to develop, and ensure that officials reviewing grant applications implement, a process to verify the accuracy and completeness of information reported by grant applicants on state licensing status, eligibility, allegations and concerns.

**HHS Response:** HHS concurs with this recommendation.

ORR grant applications are reviewed and scored by independent subject matter experts in the child welfare industry. To ensure a fair and objective merit review process as required by HHS grants policy, reviewers are restricted from seeking any additional information not included in the application. Therefore, ORR is unable to require reviewers to verify the accuracy and completeness of information provided. However, an assessment of the accuracy and completeness of information reported by the applicant on state licensing status, eligibility, allegations and concerns may be performed by ORR Project Officers. Currently, this assessment occurs after applications have been scored by reviewers and before an award is made. In addition, Project Officers are trained to engage awardees throughout the negotiation and on-boarding process to ensure programs meet all FOA requirements and award special conditions. ORR will develop guidance to standardize the Project Officer assessment of the accuracy and completeness of information reported by the applicant on state licensing status, eligibility, allegations and concerns and incorporate this guidance into existing training curriculum for Project Officers.

**Recommendation 3:** The Director of ORR should ensure that the grant review process includes a documented review of applicants' past performance on ORR grants for those that have previously received grants to care for unaccompanied children. This could include, for example, a systematic review of previous quarterly and annual performance reports and a review of corrective actions issued by all ORR monitoring staff to all ORR-funded facilities previously operated by the applicant.

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**Appendix III: Comments from the Department  
of Health and Human Services**

**GENERAL COMMENTS FROM THE DEPARTMENT OF HEALTH & HUMAN SERVICES ON THE GOVERNMENT ACCOUNTABILITY OFFICE'S DRAFT REPORT ENTITLED — UNACCOMPANIED CHILDREN: ACTIONS NEEDED TO IMPROVE GRANT APPLICATION REVIEWS AN OVERSIGHT OF CARE FACILITIES (GAO-20-609)**

**HHS Response:** HHS concurs with this recommendation.

ORR takes past performance into consideration for all grant award decisions. This may include information obtained through review of annual reports, findings from monitoring visits/reports, and other knowledge obtained through field staff or through grant monitoring. ORR will expand upon its requirement to review past performance by developing guidance that specifies what documents must be reviewed and how to document the review. Once finalized, ORR will incorporate this guidance into its existing training curriculum for Project Officers for grant applications.

**Recommendation 4:** The Director of ORR should clarify in its instructions to grantees the information they are required to report on state licensing citations in their quarterly performance reports.

**HHS Response:** HHS concurs with this recommendation.

ORR will collaborate with the Office of Management and Budget to add a reporting requirement to grantees' quarterly Performance Progress Reports for state licensing citations. ORR will also revise Project Officer monitoring tools accordingly.

**Recommendation 5:** The Director of ORR should take steps, such as through guidance or training, to ensure that project officers clearly understand the requirement that grantees report state licensing citations at any of their facilities within 24 hours and include state licensing citations in their quarterly performance reports.

**HHS Response:** HHS concurs with this recommendation.

ORR has begun the development of various standard operating procedures related to the grant award process and will include guidance on the requirement that grantees report state licensing citations at any of their facilities within 24 hours and include state licensing citations in their quarterly performance reports. ORR will also incorporate this guidance into its existing training curriculum for Project Officers.

**Recommendation 6:** The Director of ORR should work with state agencies that license ORR-funded facilities to develop a plan for mutual information sharing, including processes for ORR outreach to states during the grant application review process and ongoing information sharing on ORR and state monitoring processes and identified deficiencies.

**HHS Response:** HHS concurs with this recommendation.

HHS believes that information sharing between ORR and state licensing agencies would benefit both parties. However, each state has various licensing agencies with their own regulations and procedures. Therefore, implementation of this recommendation is dependent upon each state agency's willingness and ability to engage in information sharing with ORR and may require the assistance of other Administration for Children and Families (ACF) program offices, such as Children's Bureau. ORR will identify information sharing goals and potential mechanisms to facilitate communication between ORR and state agencies. ORR will also conduct outreach to other ACF program offices and state licensing agencies.

**Recommendation 7**

The Director of ORR should ensure that ORR provides and maintains a current point of contact for each state agency that licenses ORR grantees to facilitate information sharing regarding ORR-funded facilities.



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**Appendix III: Comments from the Department  
of Health and Human Services**

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**GENERAL COMMENTS FROM THE DEPARTMENT OF HEALTH & HUMAN  
SERVICES ON THE GOVERNMENT ACCOUNTABILITY OFFICE'S DRAFT  
REPORT ENTITLED — UNACCOMPANIED CHILDREN: ACTIONS NEEDED TO  
IMPROVE GRANT APPLICATION REVIEWS AN OVERSIGHT OF CARE  
FACILITIES (GAO-20-609)**

**HHS Response:** HHS concurs with this recommendation.

ORR will develop and maintain a list of points of contact for each state agency that licenses an ORR grantee facility.

**Recommendation 8:** The Director of ORR should develop a plan—including roles, responsibilities, and timeframes—to guide and focus ORR's efforts to meet its goals to:

- Conduct an audit of each facility's compliance with ORR standards on preventing and responding to sexual assault, as required under the Interim Final Rule.
- Conduct on-site monitoring visits to each facility at least every two years in accordance with ORR policy, and
- Report any noncompliance to the facility within 30 days of the site visit, in accordance with ORR policy.

**HHS Response:** HHS concurs with this recommendation.

ORR will publish a five-year contract solicitation to manage and execute efficient and high quality prevention of sexual abuse (PSA) audits to ensure compliance with the Interim Final Rule and relevant ORR policies and procedures. Within the first year of the contract, the contractor is required to complete PSA audits for all the remaining facilities open and operating in 2019 that did not receive an initial audit. After the first year of the contract, the contractor shall conduct approximately 50 to 70 audits per year, prioritizing the deadlines outlined in the IFR. The ORR PSA Team will work closely with the contractor, to ensure the contractor is meeting the PSA audit timelines outlined in the contract and the IFR.

In order to prioritize the health and safety of children, grantee staff, and ORR staff during the COVID-19 pandemic, ORR has temporarily suspended on-site monitoring. As a result, it is unlikely that the UAC Monitoring Team will be able to conduct on-site monitoring for all facilities due for a biennial monitoring visit in FY 2020. Once it is safe to resume on-site monitoring, ORR will hire additional monitors to ensure that by the end of FY 2021 ORR is able to monitor facilities due for monitoring in FY 2020 where the site visit was postponed in addition to facilities due for monitoring in FY 2021. To meet this goal, ORR estimates that it will need approximately one monitor per every 14-16 facilities due for a biennial visit. ORR has 12 monitors on staff and plans to hire a minimum of four additional monitors.

During FY 2020, ORR has made significant progress in narrowing the gap between actual submission times and the 30-day timeframe outlined in ORR policy. This is evidenced by an analysis ORR conducted of FY 2020 year-to-date monitoring report submissions, which showed that it took an average of 36 business days to submit the report to the care provider facility (24 business days to write the report, 11 business days to route the report for internal ORR clearance and receive approval, and 1 business day to send the approved report to the facility). ORR will continue to track, monitor, and analyze reporting timelines. In addition, ORR is in the process of developing a best practice resource guide for UAC monitors to further improve the timeliness of report submissions with the goal of bringing all report submissions into compliance with the 30 day timeframe.

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# Appendix IV: GAO Contacts and Staff Acknowledgments

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## GAO Contact

Kathryn A. Larin, (202) 512-7215 or [larink@gao.gov](mailto:larink@gao.gov)

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## Staff Acknowledgments

In addition to the contacts named above, Elizabeth Morrison (Assistant Director), Lauren Gilbertson (Analyst-in-Charge), David Barish, and Matthew Dobratz made key contributions to this report. In addition, key support was provided by Susan Aschoff, Sarah Cornetto, Helen Desaulniers, Margaret Hettinger, Thomas James, Kelsey Kreider, Amy E. MacDonald, Sheila R. McCoy, Jean McSween, Almata Spencer, and Curtia Taylor.

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# Related GAO Products

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*Border Security: U.S. Customs and Border Protection's Management of a Temporary Facility in Texas Raised Concerns about Resources Used.* [GAO-20-321R](#). Washington, D.C.: March 11, 2020.

*Southwest Border: Actions Needed to Address Fragmentation in DHS's Processes for Apprehended Family Members.* [GAO-20-274](#). Washington, D.C.: February 19, 2020.

*Southwest Border: Actions Needed to Improve DHS Processing of Families and Coordination between DHS and HHS.* [GAO-20-245](#). Washington, D.C.: February 19, 2020.

*Department of Homeland Security, Department of Health and Human Services: Apprehension, Processing, Care, and Custody of Alien Minors and Unaccompanied Alien Children.* B-331342. Washington, D.C.: September 6, 2019.

*Unaccompanied Children: Agency Efforts to Identify and Reunify Children Separated from Parents at the Border.* [GAO-19-368T](#). Washington, D.C.: February 7, 2019.

*Unaccompanied Children: Agency Efforts to Reunify Children Separated from Parents at the Border.* [GAO-19-163](#). Washington, D.C.: October 9, 2018.

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*Unaccompanied Children: HHS Should Improve Monitoring and Information Sharing Policies to Enhance Child Advocate Program Effectiveness.* [GAO-16-367](#). Washington, D.C.: April 19, 2016.

*Unaccompanied Children: HHS Can Improve Monitoring of Their Care* [GAO-16-429T](#). Washington, D.C.: February 23, 2016.

*Unaccompanied Children: HHS Can Take Further Actions to Monitor Their Care.* [GAO-16-180](#). Washington, D.C.: February 5, 2016.

*Unaccompanied Alien Children: Improved Evaluation Efforts Could Enhance Agency Programs to Reduce Migration from Central America.* [GAO-16-163T](#). Washington, D.C.: October 21, 2015.

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**Related GAO Products**

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*Central America: Improved Evaluation Efforts Could Enhance Agency Programs to Reduce Unaccompanied Child Migration.* [GAO-15-707](#). Washington, D.C.: July 29, 2015.

*Unaccompanied Alien Children: Actions Needed to Ensure Children Receive Required Care in DHS Custody.* [GAO-15-521](#). Washington, D.C.: July 14, 2015.

*Central America: Information on Migration of Unaccompanied Children from El Salvador, Guatemala, and Honduras.* [GAO-15-362](#). Washington, D.C.: February 27, 2015.

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