

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

FATMA MAROUF, *et al.*,

Plaintiffs

V.

XAVIER BECERRA, *et al.*,

Defendants.

Civil Action No. 1:18-cv-00378 APM

DEFENDANT UNITED STATES CONFERENCE OF CATHOLIC BISHOPS'
MOTION FOR SUMMARY JUDGMENT

Pursuant to Federal Rule of Civil Procedure 56 and Local Civil Rule 7, Defendant United States Conference of Catholic Bishops moves for summary judgment in the above-captioned matter. There are no genuine disputes of material fact, and Defendant is entitled to judgment as a matter of law.

In support of its Motion, Defendant refers the Court to its Memorandum of Points and Authorities in Support thereof, as well as its Local Civil Rule 7(h) Statement of Material Facts and the supporting Appendix attached thereto, which have been contemporaneously filed. For the reasons stated in those submissions, Plaintiffs' claims are not only moot, but also fail as a matter of law,

Accordingly, Defendant respectfully requests that the Court grant its motion for summary judgment.

Respectfully submitted,

Dated: July 27, 2022

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CERTIFICATE OF SERVICE

I hereby certify that on July 27, 2022, I electronically filed the foregoing Motion and accompanying documents with the Clerk of the Court using the Court's CM/ECF system. Notice of this filing will be sent by operation of the Court's electronic filing system to the parties indicated on the electronic filing receipt.

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**DEFENDANT U.S. CONFERENCE OF CATHOLIC BISHOPS' MEMORANDUM OF
POINTS AND AUTHORITIES IN SUPPORT OF ITS MOTION FOR SUMMARY
JUDGMENT**

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INTRODUCTION

Just last year, a unanimous Supreme Court ordered the City of Philadelphia to accommodate a Catholic group as part of its public foster-care program. *Fulton v. City of Philadelphia*, 141 S. Ct. 1868 (2021). The factual setting was nearly identical to this one. As here, the Catholic group had a religious objection to placing foster children with same-sex couples. And as here, government funds underwrote the foster services at issue. Yet the Court held that the Constitution required the City to allow the Catholic organization to participate in the funding program. Plaintiffs now insist that this relief was unconstitutional: the arrangement the Supreme Court *ordered* in *Fulton* is precisely what Plaintiffs *challenge* here. Ruling in their favor would thus require contradicting a unanimous Supreme Court decision issued just over a year ago.

This Court should decline to take that step. As *Fulton* makes clear, the Constitution does not command the exclusion of religious organizations from neutral government-funding programs simply because they provide charitable services in a manner consistent with their religious beliefs. That is especially clear where, as here, the government program also includes alternative providers that can provide any services the religious organization finds objectionable. Indeed, with the government's decision to stand up alternative providers in the Dallas-Fort Worth area, Plaintiffs have been able to participate in the programs at issue for quite some time; they have simply chosen not to do so. What is more, for the only remaining program at issue, the government has now established a neutral clearinghouse to which *all* prospective foster parents in the area must apply. That clearinghouse will then match applicants with a provider willing and able to offer licensing and placement services. This is—literally—the solution proposed by Plaintiffs. The government has now given Plaintiffs exactly what they wanted, and in exactly the way they wanted it. That not only defeats their claim on the merits but also moots this case and independently requires dismissal.

BACKGROUND

I. Factual Background.

A. Unaccompanied Immigrant Children Programs.

The Office of Refugee Resettlement (“ORR”), a component of the U.S. Department of Health and Human Services, administers two programs to care for unaccompanied immigrant children: the Unaccompanied Refugee Minor Program (“URM Program”) and the Unaccompanied Alien Children Program (“UC Program”). (Defendant U.S. Conference of Catholic Bishops’ Statement of Undisputed Material Facts (“SUMF”) ¶¶ 1–2, 6.)

The URM Program was established in 1980 to care for children who are unaccompanied by a parent or guardian but have legal status in the United States (i.e., unaccompanied refugee children). 8 U.S.C. § 1522; SUMF ¶ 3. Eligible children include refugees, victims of trafficking, and asylees. (SUMF ¶ 5.) Through the URM Program, children receive foster-care services and benefits, which may include long-term foster-care placements. (SUMF ¶ 4.) Eligible children are the sole clients and beneficiaries of this program. *See* 8 U.S.C. § 1522(a), (d) (authorizing services and funds for “refugee children”); *see also* App. 70, 112, 130–31, 252.

The UC Program similarly focuses on unaccompanied minors, but it cares for children lacking lawful immigration status (i.e., unaccompanied alien children). *See* 8 U.S.C. § 1232; 6 U.S.C. § 279(g); SUMF ¶ 7. These children generally receive the same services and benefits available in the URM Program, including long-term foster-care placement as appropriate. (SUMF ¶ 8.) Children are the sole clients and beneficiaries of this program. *See* 8 U.S.C. § 1232; 6 U.S.C. § 279(g) (authorizing services and funds for “unaccompanied alien children”); App. 231–32.

In neither program, however, does the government provide foster-care services directly. (SUMF ¶ 9.) Instead, it issues grants to a network of public and private agencies to care and provide

services for eligible children. (SUMF ¶ 10.) While faith-based organizations may participate, 45 C.F.R. § 87.3(a); SUMF ¶ 12, the government’s selection criteria are secular and neutral. (SUMF ¶ 11.) Regulations also forbid grantees from using funds to “support or engage in any explicitly religious activities (including activities that involve overt religious content such as worship, religious instruction, or proselytization), as part of the programs or services funded with direct financial assistance from the HHS awarding agency.” 45 C.F.R. § 87.3(b).

B. USCCB and Its Historical Partnership with the Federal Government To Care for Unaccompanied Immigrant Children.

The United States Conference of Catholic Bishops (“USCCB”) is an assembly of Catholic bishops that organizes and conducts religious and charitable activities in the United States and abroad. (SUMF ¶ 13.) As part of its longstanding religious mission to “care for immigrants,” USCCB has for decades served unaccompanied immigrant children. (SUMF ¶ 14.) USCCB is one of the largest refugee settlement agencies in the world (SUMF ¶ 15.), and has acquired a global reputation as an expert on migrating children and for setting a “high bar” for quality of services. (App. 150.) Indeed, USCCB effectively wrote the book on the subject. In 2013, USCCB assisted the Council on Accreditation in developing standards for immigrant children in care. (App. 454.)

Much of USCCB’s experience caring for immigrant children predates ORR and the two programs at issue. Before Congress established ORR and the URM Program in 1980, USCCB had worked to place unaccompanied refugee children in foster-care programs. (SUMF ¶ 16.) USCCB had also been working with unaccompanied alien children before ORR began administering the UC Program in 2003. *See* 6 U.S.C. § 279; SUMF ¶¶ 16–17. ORR thus understandably sought USCCB’s advice when Congress charged it with administering the URM and UC programs. (App. 62, 149–50, 156.) And ORR has regularly awarded grants to USCCB under both programs ever since, in both Republican and Democratic administrations. (SUMF ¶ 17.) In fact, if USCCB ever

withdrew, the government’s URM capacity would “shrink immediately” by half, and USCCB’s deep “expertise” and “historical knowledge,” which are not easily replicated, would be lost. (App. 62, 133–35, 151–53 .)

USCCB does not provide foster-care services directly. (SUMF ¶ 20.) Instead, it awards subgrants to various organizations for that purpose. (SUMF ¶ 21.) One such subgrantee was Catholic Charities of Fort Worth (“CCFW”), which provided foster services under both the URM and UC programs in the Dallas-Fort Worth area. (SUMF ¶¶ 27–28.) At issue in this case are the ORR grants for FY 2017 out of which USCCB made subgrants to CCFW for the period including February 2017. (SUMF ¶¶ 18–19.)

USCCB’s religious beliefs underlie its efforts to care for unaccompanied minors, and also dictate the manner in which that care is provided. Accordingly, USCCB allocates funds provided by the government in a manner consistent with its sincerely held religious beliefs. (SUMF ¶ 22.) Among other things, it would violate USCCB’s sincerely held religious beliefs to fund services contrary to Catholic teaching. (SUMF ¶ 23.) So while USCCB may allocate funds to organizations that do not share its religious beliefs, USCCB does not allocate funds to any organization that would use those funds to provide services contrary to the teaching of the Catholic Church, including by licensing or placing children with same-sex foster parents. (SUMF ¶¶ 24–25.) Because Catholic teaching does not regard the homosexual inclination in itself as morally objectionable, USCCB will, however, fund organizations that license single persons with homosexual orientations or that place foster children with such individuals. (App. 429.)

C. Texas Withdraws from the URM Program.

In September 2016, the State of Texas, which had administered the URM Program within its borders, suddenly announced it would no longer perform that role as of January 2017. (SUMF

¶ 29.) This generated a “crisis” within ORR, which had never before faced this situation. (App. 87, 90, 145–46.) To fill the vacuum and ensure “no gaps” in services, it was “quite urgent” to find a so-called “replacement designee” to take custody of eligible children and ensure they continued to receive appropriate foster-care services. (SUMF ¶ 30; App. 88–89, 124.)

ORR quickly formed a task force to search for a private grantee to operate the URM Program in Texas. (App. 91–92.) Given Texas’s size and the nature of the program, it was a “large undertaking” to fill the position on the “very short time frame” available. (SUMF ¶¶ 30–31.) In ORR’s view, of the two viable options, USCCB was “best equipped” for the role. (SUMF ¶¶ 32–33.) It had “ongoing URM programs” in Texas, a “very good working relationship with” ORR, and “a long history” of providing “long-term foster care.” (App. 123–24.) ORR thus approached USCCB, which promptly submitted an application. (SUMF ¶¶ 33–34; App. 146–47.) After two months of review and correspondence, ORR approved the application, just days before Texas’s January 31, 2017 withdrawal. (SUMF ¶ 35.)

For USCCB, the replacement-designee role was “new territory.” (App. 246, 475.) The URM Program is “complex,” the replacement-designee role entailed a “learning curve,” and elements of the program were still “under development.” (App. 476.) It was during this transition that the events giving rise to this suit occurred.

D. Plaintiffs Cannot Foster Through CCFW Due to Its Religious Beliefs.

Plaintiffs Fatma Marouf and Bryn Esplin are a legally married same-sex couple living in Fort Worth, Texas. (SUMF ¶¶ 36–37.) Within days of USCCB’s becoming replacement designee for the Texas URM Program, Plaintiffs approached CCFW about fostering a refugee child. (SUMF ¶ 38.) On February 22, 2017, CCFW officials and Plaintiffs had a call, during which Plaintiffs indicated that they were a same-sex couple. (App. 10.) Due to its faith commitments, CCFW

believed it could not place foster children with anyone other than a man and woman who are married. (SUMF ¶ 39.) CCFW thus informed Plaintiffs that they would not license them as foster parents. (SUMF ¶ 40.) CCFW did, however, identify alternative foster-care agencies, albeit outside of the URM or UC programs, for Plaintiffs to consider. (App. 181–83.) CCFW and Plaintiff Marouf also continued to collaborate on other immigration matters as well. (App. 162–63.)

The same day, Plaintiffs emailed the government’s URM Program office about their interaction with CCFW. (SUMF ¶ 41.) Plaintiffs relayed CCFW’s statement that Plaintiffs were not eligible because they did not “mirror the holy family,” a reference to CCFW’s religious belief about placements with same-sex foster parents. (App. 7, 10.)

The government had never before received a complaint about any provider refusing to place children with same-sex couples. (SUMF ¶ 43.) Nor did the government anticipate the issue, though it was familiar with USCCB’s Catholic identity.¹ (*See* SUMF ¶¶ 42, 44–50; App. 42–43, 105 App. 204–05; 210–11, 500.) Indeed, USCCB’s grant applications for the relevant period stated that to serve as a grantee, USCCB would have to “ensure that services provided under this application are not contrary to the authentic teaching of the Catholic Church, its moral convictions, and religious beliefs.” (SUMF ¶ 44; *see also* SUMF ¶¶ 45–46.) The government agreed to these terms. (App. 296, 298–329.) But, at the time, the government did not appreciate that they would apply to the recruitment and selection of foster parents or implicate USCCB’s religious beliefs regarding same-sex marriage. (*See* SUMF ¶ 50; App. 51, 96, 98, 106–07, 197, 199–203, 210–13, 217, 230, 233–34, 255, 262–63, 265, 267–68.) Before the incident in this case, there were no communications between USCCB and the government regarding how USCCB’s or its

¹ This was also true at USCCB. The individual employees overseeing the URM and UC programs in Texas had apparently not encountered or considered the same-sex foster-parent issue before CCFW’s interactions with Plaintiffs. (*See* App. 239–44, 249.)

subgrantees’ religious beliefs applied to the placement of children with same-sex foster parents. (SUMF ¶ 49.)

This was understandable. Unaccompanied minors—not prospective foster parents—are the clients and beneficiaries of both the URM and UC programs. *See* 8 U.S.C. § 1522(a), (d) (authorizing services and funds for “refugee children”); 8 U.S.C. § 1232; 6 U.S.C. § 279(g) (authorizing services and funds for “unaccompanied alien children”). The government required grantees to comply with state licensing standards, but the actual recruitment (where necessary) and licensing of foster parents was handled by grant recipients. (App. 23–26, 49–50, 70–71, 77–78, 80–84, 256–60.) The application process thus focused on what services organizations could or could not provide *to children*. (App. 130–31, 197–98, 212–15, 244–45.) And USCCB committed to serving “all refugee eligible students, including lesbian, gay, bisexual, and transgender (LGBT) populations,” (SUMF ¶ 26), which it did (App. 128, 154–56, 232, 247–48). Moreover, USCCB’s prior religious objections related to the provision of certain services to children—namely, abortion and contraception. (SUMF ¶ 47.) It was in this context that both parties initially understood the conscience provisions in USCCB’s grant applications. (App. 197, 199–203, 230, 233–34, 239–41, 243–44, 262–63.)

E. The Government Seeks Alternative Providers to Accommodate Plaintiffs.

Nevertheless, after the government became aware of Plaintiffs’ situation, it worked to accommodate their desire to foster children from the programs. (SUMF ¶ 53; App. 224–29.) Though neither program operates in every city or state (App. 514–16, 542–43), the government sought agencies that could provide additional foster-care services in the Dallas-Fort Worth area. (SUMF ¶ 53.) It identified two, which would have to relocate or stand up new programs, given state-law limits on where foster-care providers can operate. (App. 207–09.)

Both organizations agreed to participate. On May 29, 2020, ORR appointed Lutheran Immigration and Refugee Services (“LIRS”) as a second replacement designee to establish a URM Program in the Dallas-Fort Worth area, which it did through its subgrantee Upbring. (SUMF ¶¶ 54–55.) The approval was effective June 1, 2020. (App. 496.) ORR also awarded Baptist Children Family Services (“BCFS”) a grant to establish a UC Program in the same area. (SUMF ¶ 56.) Today, both programs are operating and willing to license and make placements with same-sex foster parents. (SUMF ¶¶ 57–58.)

That, however, was not the end of the government’s efforts to accommodate Plaintiffs. The government has named “a neutral third party”—the U.S. Committee for Refugees and Immigrants (“USCRI”)—“to field all inquiries from prospective URM foster parents in the Dallas/Fort Worth, Texas area.” (SUMF ¶ 59.) As of March 28, 2022, USCRI works in consortium with LIRS and its subgrantee Upbring, as well as USCCB and its subgrantee Catholic Charities of Dallas (“CCD”),² to “ensure that all prospective foster parents in the Dallas-Fort Worth area have the opportunity to work with a URM provider.” (SUMF ¶ 60.) Specifically, USCRI is tasked with:

- establish[ing] a hotline and email address to receive inquiries from individuals or couples interested in fostering minors in the URM program in the Dallas/Fort Worth, Texas area;
- respond[ing] to all inquiries from individuals or couples interested in fostering minors in the URM program in the Dallas/Fort Worth, Texas area; [and]
- conduct[ing] initial intakes of the individuals or couples, to collect basic demographic and family composition information.

(SUMF ¶ 61.) Following intake, “USCRI will refer such prospective foster parents to either Catholic Charities Dallas or Upbring for training and licensing in accordance with applicable

² Since this litigation began, CCFW has undergone a programmatic restructuring and no longer provides foster-care services. (SUMF ¶ 51; App. 177.) Accordingly, as of July 1, 2019, USCCB began allocating funds received from ORR to CCD, which has taken over all services previously provided by CCFW. (SUMF ¶ 52; App. 10.) To comply with the terms of its agreement with USCCB, CCD would decline to license or place children with same-sex foster parents. (App. 7, 10.)

Texas law.” (SUMF ¶ 62.) USCRI’s referrals are based on information collected during the intake process, including, “[d]emographic information, household and background information,” as well as “criteria” established by each consortium partner, which can include religious objections. (SUMF ¶ 63.)

For their part, CCD and Upbring have committed to “refer all” prospective foster parents to USCRI,” to “respond to referrals from USCRI” within established timeframes, and to “license all [prospective foster parents] that meet Texas state licensing, agency, accreditation, and home study requirements.” (SUMF ¶ 64.) In the event CCD or Upbring are unable to work with certain prospective foster parents “for reasons unrelated to Texas licensing requirements,” they will refer those individuals to the other subgrantee or back to USCRI. (SUMF ¶ 65.)

The government has confirmed that neither USCRI nor LIRS (i.e., Upbring) has any “objection to working with same-sex couples seeking to foster children through the URM program.” (SUMF ¶ 66.) That being the case, nothing precludes “a couple in a same sex relationship in the Dallas-Fort Worth area from having their application to serve as a foster parent processed by the consortium” and “referred to a URM provider.” (App. 283, 293–94.)³

Accordingly, Plaintiffs are now able to pursue fostering opportunities through both the URM and UC Programs in the Dallas-Fort Worth area—indeed, they have been able to do so for quite some time. (App. 117, 194, 267–69, 280, 293.) While they have continued to press this litigation, however, Plaintiffs have not availed themselves of these opportunities, despite expressing a desire to learn more about alternative providers. (App. 164–66, 170, 172–74, 294.)

³ The consortium involves only the URM Program because ORR no longer provides funds to USCCB for long-term foster care services in Texas under the UC Program. (SUMF ¶ 67.) And all prior UC grant funds were expended by February 28, 2021. (App. 3.) Thus, USCCB no longer has any subgrantees participating in the UC Program in the Dallas-Fort Worth area.

II. Procedural Background.

On February 20, 2018, Plaintiffs sued the U.S. Department of Health and Human Services (“HHS”), the Administration for Children and Families (“ACF”), and ORR, as well as the heads of each of those federal agencies or components (in their official capacities), challenging their inability to foster children in the URM and UC Programs administered by CCFW. Dkt. 1. USCCB was included as a Rule 19 defendant. *Id.* Plaintiffs later amended their complaint, adding the National LGBT Bar Association as a plaintiff. Dkt. 21 (“FAC”).

The FAC alleged that the government violated the Constitution by awarding grants to USCCB, which in turn awarded sub-grants to CCFW, the organization that refused to license or place children with Plaintiffs. *E.g.*, FAC ¶ 56. Plaintiffs contend this violated the Establishment Clause, along with the equal-protection and due-process components of the Fifth Amendment. FAC ¶¶ 74, 83, 91. They sought both declaratory and injunctive relief, as well as nominal damages. FAC Prayer for Relief.

On May 21, 2018, USCCB and the government moved to dismiss for lack of standing. Dkts. 28 & 29. On June 12, 2019, this Court granted those motions as to the National LGBT Bar Association, but held that Plaintiffs Marouf and Esplin had individual (though not taxpayer) standing to pursue their constitutional claims. Dkt. 48 (“MTD Op.”).

In its opinion, the Court noted that Plaintiffs had narrowed their request for relief since commencing the litigation. Though they originally sought to “strip[] USCCB of funding” or to compel the “placement of a child on a non-discriminatory basis through USCCB,” “Plaintiffs have since backed off such demand[s].” MTD Op. 21 n.2; *see also* Dkt. 80 (“MTD Oral Arg. Tr.”) 53 (“We’re not asking that the government remove all of its funding to USCCB.”); *id.* at 67–68 (“[W]e are not looking to take away funding from USCCB.”); MTD Op. 21 n.2 (“Plaintiffs do *not* demand

that USCCB necessarily render the determination as to [their] eligibility to be foster parents, or make the decision to place a child with [Plaintiffs].” (quoting Dkt. 34 (“Pls.’ MTD Opp’n”) at 11)). “Instead, they seek injunctive relief requiring the Federal Defendants to ensure that they may apply to be foster . . . parents under the URM Program or the UC Program without disfavoring them based on their sexual orientation.” MTD Op. 20–21. To that end, “Plaintiffs have signaled openness to relief that ‘accomodat[es] the religious views of URM and UC grantees,’ so long as it does not ‘ultimately restrict placement options based solely on USCCB’s religious doctrine and does not impose materially unequal burdens, stigma, or indignity on religiously disfavored applicants relative to favored ones.’” MTD Op. 21 n. 2 (quoting Pls.’ MTD Opp’n 11).

At the hearing on the motion to dismiss, Plaintiffs gave a specific example of an accommodation they would find acceptable. If “there were no obstacles put in front of [same-sex couples] that weren’t put in front of other couples,” Plaintiffs explained, they “wouldn’t have any objections.” MTD Oral Arg. Tr. 49, 68. Noting that “there’s a difference between . . . providing placement and actually screening the application[s],” Plaintiffs proposed that the government “or someone else” “take over the application process” and “create a screening process” for prospective foster parents. *Id.* at 57, 62. All prospective foster parents would “have to go through that process” to be directed to the “grantee they would go to” to foster a child. *Id.* at 58–61 (suggesting that “no matter who the individual is, they [would] have a right to walk in and initiate that application process,” with the administering entity “determining who that couple would go to”). This would allow USCCB subgrantees to participate in the URM and UC programs, so long as a non-objecting entity administered the screening process and there was “another provider in the Fort Worth area” that did not object to placing children with same-sex foster couples. *See id.* at 57, 62, 68. While

such a “chang[e in] federal policy” would upend “the whole process of how everything is functioning” in those programs, it would “immediately redress” Plaintiffs’ claims. *Id.* at 65.

LEGAL STANDARD

The Court may grant summary judgment “when the moving party shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.” *Ficken v. Guzman*, No. 19-cv-3281, 2021 WL 1166834, at *3 (D.D.C. Mar. 26, 2021) (citation omitted). A “fact is ‘material’ if it could affect the outcome of the litigation.” *Id.* (citing *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986)). And a “dispute is ‘genuine’ if the evidence is such that a reasonable jury could return a verdict for the nonmoving party.” *Id.* (citing *Scott v. Harris*, 550 U.S. 372, 380 (2007)). Although the moving party must identify the evidence that “demonstrates the absence of a genuine issue of material fact,” *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986), when the moving party has done so, the opposing party must “designate specific facts showing that there is a genuine issue for trial,” *Grimes v. District of Columbia*, 794 F.3d 83, 94–95 (D.C. Cir. 2015). “[C]onclusory allegations and unsubstantiated speculation do not create genuine issues of material fact.” *Bonieskie v. Mukasey*, 540 F. Supp. 2d 190, 195 (D.D.C. 2008).

ARGUMENT

I. Plaintiffs’ Claims Must Be Dismissed as Moot.

As detailed above, since filing their complaint, Plaintiffs narrowed their demand for relief. MTD Op. 20; *supra* pp. 10–11. Their current aim is for “the Federal Defendants to ensure that they may apply to be foster . . . parents under the URM Program or the UC Program without disfavoring them based on their sexual orientation.” MTD Op. 20–21. For some time now, Plaintiffs have been able to do just that. The government has not only set up alternative providers in the Dallas-Fort Worth area who will license and place children with same-sex couples; it has also established the

exact “screening process” Plaintiffs requested. *Supra* pp. 8–12. With Plaintiffs having obtained their requested relief, their claims are moot, which alone entitles USCCB to summary judgment.

“At all stages of litigation, a plaintiff must maintain a personal interest in the dispute.” *Uzuegbunam v. Preczewski*, 141 S. Ct. 792, 796 (2021). “The doctrine of standing generally assesses whether that interest exists at the outset, while the doctrine of mootness considers whether it exists throughout the proceedings.” *Id.* “Mootness has been described as the doctrine of standing set in a time frame: the requisite personal interest that must exist at the commencement of the litigation (standing) must continue throughout its existence (mootness).” *Arizonans for Off. Eng. v. Arizona*, 520 U.S. 43, 68 n.22 (1997) (citations omitted).

Absent “any continuing, present adverse effects,” “[p]ast exposure to illegal conduct does not in itself show a present case or controversy regarding injunctive relief.” *Steel Co. v. Citizens for a Better Env’t*, 523 U.S. 83, 109 (1998). That is because, “[t]o demonstrate standing, the plaintiff must not only establish an injury that is fairly traceable to the challenged conduct but must also seek a remedy that redresses that injury.” *Uzuegbunam*, 141 S. Ct. at 796. If “a court finds that it can no longer provide a plaintiff with any effectual relief, the case generally is moot.” *Id.*

These principles resolve this case. Plaintiffs’ claims are moot because there is no present or future injury they are likely to suffer, much less an injury that an injunction or declaratory relief would solve. Plaintiffs can apply to foster through the URM and UC programs in the Dallas-Fort Worth area, because the government has appointed two additional providers that do not object to licensing same-sex couples. *Supra* pp. 7–9; (App. 208 (the alternative providers “don’t have any objections to working with same sex couples”); App. 52 (same); App. 116 (same); App. 279.) So even if Plaintiffs suffered a cognizable injury when CCFW declined to license them, Plaintiffs

cannot establish “that [they] [are] realistically threatened by a repetition of [this] experience.” *City of Los Angeles v. Lyons*, 461 U.S. 95, 109 (1983).

While the presence of alternative providers alone moots Plaintiffs’ claims, there is more. *First*, USCCB no longer receives funding for long-term foster care in Texas under the UC Program. *Supra* p. 9 n.3. There is thus no possible “remedy” that Plaintiffs could seek with respect to that program, much less the potential for future injury. *Uzuegbunam*, 141 S. Ct. at 796.

Second, with respect to the URM Program, not only has the government provided *what* Plaintiffs demanded, it has done so in the *manner* Plaintiffs themselves proposed. Specifically, the government has instituted a screening process under which a neutral third-party, USCRI, processes inquiries from all prospective foster parents for the URM program in the Dallas-Fort Worth area and makes referrals to appropriate foster-care agencies. *Supra* pp. 8–9. Under this arrangement, there is no basis to claim that anyone in the Dallas-Fort Worth area will be turned away from the URM Program on the basis of his or her sexual orientation. “[T]here [are] no obstacles put in front of [same-sex couples] that [a]ren’t put in front of other couples,” so plaintiffs should no longer “have any objections.” MTD Oral Arg. Tr. 49.

Indeed, *Plaintiffs’ counsel represented in open court* that they would be “satisfied” if the government provided precisely this relief.⁴ If “not quite a judicial admission,” that is surely “the next closest thing” when it comes to proving that no live controversy remains. *Institut Pasteur v. Chiron Corp.*, No. CIV. A. 03-0932 (JDB), 2005 WL 366968, at *13 (D.D.C. Feb. 16, 2005). At

⁴ THE COURT: So if as government counsel said, say there is, tomorrow, another provider in the Fort Worth area that would not discriminate on the basis of your clients being a same-sex couple, would that satisfy you?

[Plaintiffs’ Counsel]: So long as . . . there would be seamless treatment of their applications and they could be treated equally, that would not be a problem.

THE COURT: Okay. I just want to make sure I’m clear on that.

MTD Oral Arg. Tr. 68.

minimum, principles of judicial estoppel should bar Plaintiffs from moving the remedial goalposts after getting what they asked for. *E.g.*, *McCarthy v. Azure*, 22 F.3d 351, 355 n.4 (1st Cir. 1994) (holding that a plaintiff “will be disabled from pursuing any . . . claims” he agreed “to abandon”); *Forbush v. J C Penney Co.*, 132 F.3d 1456 (5th Cir. 1997) (similar).

Nor do any exceptions to mootness apply in this case. “There are two principal exceptions to mootness”: (1) injuries that are “capable of repetition, yet evading review” and (2) cases involving “voluntary cessation.” *Cierco v. Mnuchin*, 857 F.3d 407, 414–15 (D.C. Cir. 2017). This case is not “capable of repetition, yet evading review,” because the “challenged action” is not too “short” in duration to provide time for review. *Id.* Nor does the “voluntary cessation” exception apply. For one thing, the government *created* new opportunities for Plaintiffs, thus obviating any potential injury. And even assuming there was some deficiency in the government’s original policy, “where the harm alleged is a deficient policy and the only relief sought is prospective, it is hard to see[] how any effect could possibly linger after the Agency corrects the policy.” *Citizens for Resp. & Ethics in Wash. v. Wheeler*, 352 F. Supp. 3d 1, 14 (D.D.C. 2019). This conclusion is also supported by the principle that “where the defendant is a government actor—and not a private litigant—there is less concern about the recurrence of objectionable behavior.” *Id.* at 13; *see also Cierco*, 857 F.3d at 415 (“The Government has assured the court that the disputed Notices have been completely withdrawn.”). Simply put, Plaintiffs can obtain the opportunities they want, and there is no evidence that this will change.

Plaintiffs may assert that they can still press a claim for nominal damages. But that is wrong for two reasons. First, this Court narrowed their permissible claims to injunctive relief. MTD Op. 20–21 (“[Plaintiffs] seek injunctive relief requiring the Federal Defendants to ensure that they may apply to be foster or adoptive parents under the URM Program or the UC Program without

disfavoring them based on their sexual orientation.”). And the Court relied on this understanding to distinguish past precedent and allow Plaintiffs’ claims to go forward. *Id.* Second, as Plaintiffs previously admitted, sovereign immunity precludes them from seeking even nominal damages on their pending claims. *See* Pls. MTD Opp’n 22 & n.5.

In short, this Court should dismiss Plaintiffs’ claims as moot.

II. Plaintiffs’ Establishment Clause Claim Fails on the Merits.

Even if Plaintiffs’ Establishment Clause claim was somehow justiciable, it fails on the merits for three reasons. First, to the extent Plaintiffs have reneged on their disavowal of any desire to defund USCCB, the Supreme Court has specifically held that religious organizations may (and sometimes must) be allowed to participate in government foster programs even if they object to placing foster children with same-sex couples. *See Fulton*, 141 S. Ct. at 1868. That is particularly clear where, as here, the government program allows same-sex couples to work with other participating organizations to become foster parents. Second, the history-and-tradition test confirms that result. Religious organizations have long worked with governments to provide care for displaced children—and they have done so in a manner consistent with their religious beliefs. Even setting aside that history, the government’s conduct here bears none of the telltale marks of a religious “establishment” that the First Amendment was designed to prevent. Third, were this Court apply the now-abrogated *Lemon* test, the result would be the same: There is no evidence that the government lacked a secular purpose in allowing USCCB to participate in the URM and UAC programs, and such participation does not have the primary effect of advancing religion.

A. Supreme Court Precedent Precludes Plaintiffs’ Claims.

As an initial matter, Plaintiffs’ Establishment Clause claim must be rejected because it squarely contradicts the Supreme Court’s recent—unanimous—decision in *Fulton*, which held that

the Free Exercise Clause prohibited the City of Philadelphia from excluding a Catholic agency from its public foster-care program. The Establishment Clause and the Free Exercise Clause “appear in the same sentence of the same Amendment,” and they have “‘complementary’ purposes, not warring ones.” *Kennedy v. Bremerton Sch. Dist.*, 142 S. Ct. 2407, 2426 (2022) (citation omitted). Thus, the Establishment Clause cannot *prohibit* what the Free Exercise Clause *compels*. See *Walz v. Tax Comm’n of City of N.Y.*, 397 U.S. 664, 667–72 (1970). Otherwise, governments would violate the Constitution coming and going—with officials facing the impossible task of both including *and* excluding religious organizations from government programs. That scenario is absurd on its face.

But that absurdity is exactly what Plaintiffs peddle here, as their arguments would make an Establishment Clause violation out of the very remedy that the Supreme Court ordered in *Fulton*. In *Fulton*, the Court decided a case on facts very similar to those here: A Catholic foster-care organization declined—for reasons of faith—to place children with same-sex couples, and the City of Philadelphia sought to exclude the organization from its foster program for that reason. 141 S. Ct. at 1874–76, 1882. The Catholic organization sued, and the Supreme Court held—by a *unanimous vote*—that the City’s policy of exclusion violated the Free Exercise Clause. *Id.*; accord *Buck v. Gordon*, 429 F. Supp. 3d 447 (W.D. Mich. 2019) (granting a preliminary injunction that required the state to allow Catholic agency to continue to provide adoption and foster-care services despite its objection to assisting same-sex couples with licensing).

Under *Fulton*, Plaintiffs *necessarily* lose on the merits. *Fulton* held that the Free Exercise Clause *required* the City of Philadelphia to allow a Catholic foster organization to participate in a public foster-care program even though the organization had a religious objection to placing foster children with same-sex couples. 141 S. Ct. at 1874–76, 1882. That remedy, endorsed by a

unanimous Supreme Court, cannot possibly violate the Establishment Clause, or else the First Amendment would be at “war[.]” with itself—which is exactly the proposition that the Supreme Court has rejected. *Kennedy*, 142 S. Ct. at 2426.

Nor do Plaintiffs have any prospect of distinguishing *Fulton*. If anything, this case is even easier from an Establishment Clause perspective. In *Fulton*, if a same-sex couple approached a religious foster organization, it would “refer the couple to another agency that is happy to provide that service.” 141 S. Ct. at 1886 (Alito, J., concurring). Thus, while same-sex couples could ultimately adopt in Philadelphia, they could—at least theoretically—face a situation where an agency they walked into sent them elsewhere for religious reasons. *Id.* No similar possibility exists here now that the government has adopted a consortium model. As things now stand in the Dallas-Fort Worth area, all prospective adoptive couples—gay or straight—receive precisely the same treatment. Each now begins their journey at a third-party intake organization, USCRI. That agency collects demographic information and then sends each couple to an agency prepared to work with them. *Supra* pp. 8–9. With this safeguard in place, Plaintiffs face no risk of even having their initial application rejected or referred elsewhere by a religious organization (much less actually being barred from serving as foster parents).

B. This Case Involves None of the Historical Hallmarks of Establishment.

Even putting *Fulton* aside, the Supreme Court’s other recent precedent makes clear there is no “Establishment of religion” here. As the Court reaffirmed last month, courts must interpret the Establishment Clause by “reference to historical practices and understandings.” *Kennedy*, 142 S. Ct. at 2428 (citation omitted). Any distinction “between the permissible and the impermissible” must “accor[d] with history and faithfully reflec[t] the understanding of the Founding Fathers.” *Id.* (quotation omitted). That is because the Establishment Clause guards

against a defined category of abuses the framers had witnessed at the hands of the British government, including various methods of “control exercised by the Crown and its representatives over religious offices.” *Hosanna-Tabor Evangelical Lutheran Church & Sch. v. EEOC*, 565 U.S. 171, 183 (2012).

Accordingly, to prevail on an Establishment Clause challenge, Plaintiffs must show that the government practice at issue bears the historical “hallmarks of religious establishment[.]” *See Kennedy*, 142 S. Ct. at 2429 & n.5 (citing Michael W. McConnell, *Establishment and Disestablishment at the Founding, Part I: Establishment of Religion*, 44 Wm. & Mary L. Rev. 2105, 2131–81 (2003) (“McConnell”)). Those hallmarks are: (1) “control over [church] doctrine and personnel”; (2) “mandatory attendance” at a church; (3) “punish[ment of] dissenting churches and individuals for their religious exercise”; (4) “restrictions on political participation by dissenters”; (5) “financial support of [an] established church”; and (6) “use of [an] established church to carry out civil functions.” *Shurtleff v. City of Boston*, 142 S. Ct. 1583, 1609 (2022) (Gorsuch, J., concurring); *see also Espinoza v. Mont. Dep’t of Revenue*, 140 S. Ct. 2246, 2258 (2020) (Roberts, C.J.) (citing McConnell); *Our Lady of Guadalupe Sch. v. Morrissey-Berru*, 140 S. Ct. 2049, 2079 (2020) (Sotomayor, J., dissenting) (same); *Town of Greece v. Galloway*, 572 U.S. 565, 605 (2014) (Thomas, J., concurring) (same).

This case involves none of the historical hallmarks of Establishment. No matter how hard one squints, the first four hallmarks have no conceivable application here. As for the fifth, this case does not involve any impermissible “financial support of [an] established church,” because funding under the URM and UAC programs is available on a neutral basis, determined by secular criteria, and without favoritism for any particular faith. Finally, this case does not involve religious

organizations carrying out traditional “civil functions,” because foster care and adoption services were historically handled overwhelmingly by private *religious* organizations, not the government.

1. Government funding. When the Establishment Clause was adopted, it sought to prevent the evil of “government . . . financial support of [an] established church.” *Shurtleff*, 142 S. Ct. at 1609 (Gorsuch, J., concurring). At the Founding, that concern related to the fear that certain favored churches would be singled out for special support, so that “citizens w[ould be] required to pay taxes to support religious institutions with whose beliefs they disagreed.” *Az. Christian Sch. Tuition Org. v. Winn*, 563 U.S. 125, 141 (2011); *see also* McConnell, *supra*, at 2146–58 (overviewing the history of religious funding concerns and noting that they related to religious land grants and compulsory tithes).

That, of course, does not mean that religious organizations can never receive government funds. To the contrary, the Supreme Court has repeatedly rejected the argument that “religious institutions are disabled by the First Amendment from participating in publicly sponsored social welfare programs.” *Bowen v. Kendrick*, 487 U.S. 589, 609 (1988). And “[i]t long has been established” that “the State may send a cleric, indeed even a clerical order, to perform a wholly secular task.” *Roemer v. Bd. of Pub. Works of Md.*, 426 U.S. 736, 746 (1976) (plurality op.); *Espinoza*, 140 S. Ct. at 2254 (“We have repeatedly held that the Establishment Clause is not offended when religious . . . organizations benefit from neutral government programs.”).

Countless examples illustrate that point. For instance, religious groups may receive government funds “for services and research in the area of premarital adolescent sexual relations and pregnancy.” *Bowen*, 487 U.S. at 593, 608. Likewise, religious schools may receive government aid to carry out their programs. *Mitchell v. Helms*, 530 U.S. 793, 801 (2000) (plurality op.); *id.* at 837 (O’Connor, J., concurring in the judgment); *accord* *Agostini v. Felton*, 521 U.S.

203, 209 (1997). Religious hospitals can be constructed with federal funds. *See Bradfield v. Roberts*, 175 U.S. 291, 299 (1899). And faith-based groups cannot be made to choose between “participat[ing] in an otherwise available benefit program or remain[ing] a religious institution.” *Trinity Lutheran Church of Columbia, Inc. v. Comer*, 137 S. Ct. 2012, 2021–22 (2017).

Tellingly, other courts have reached similar conclusions even in cases where the funding recipients’ religious commitments affected their administration of the programs. The U.S. District Court for the Southern District of New York, for example, held that the government does not violate the Establishment Clause merely by providing funds to the Salvation Army to provide social services, even though the Salvation Army used those funds to hire employees based on religious criteria. *See Lown v. Salvation Army, Inc.*, 393 F. Supp. 2d 223, 249–52 (S.D.N.Y. 2005). More recently, the U.S. District Court for the Northern District of California upheld the award of government funds to USCCB to care for trafficking victims, even though USCCB will not, for religious reasons, provide abortions or contraception to its clients. *See ACLU of N. Cal. v. Azar*, No. 16-CV-03539-LB, 2018 WL 4945321, at *14 (N.D. Cal. Oct. 11, 2018).

This case fits the same mold. The government has elected to contract with private entities to help place vulnerable children in homes where they will receive care. To accomplish this task, it has created a neutral funding program that allows federally subsidized foster-care services to be provided by any organization that can meet certain requirements, regardless of whether it is religious or not. Plaintiffs have never alleged that the government has applied any sort of “religious test” in determining which agencies to partner with, *Torcaso v. Watkins*, 367 U.S. 488, 490 (1961), or impermissibly “favor[s] the adherents” of one belief system over another, *Tex. Monthly, Inc. v. Bullock*, 489 U.S. 1, 9 (1989) (quotation omitted). Nor could they, given that the government’s selection criteria are secular and neutral, and it funds multiple organizations from both religious

and secular backgrounds. *Supra* pp. 3, 7–9. Under these circumstances, the government is not providing financial support for any church as such—and certainly not an established church—but is instead providing fair compensation for services rendered. *See, e.g., Rosenberger v. Rector & Visitors of Univ. of Va.*, 515 U.S. 819, 843–44 (1995) (“Any benefit to religion is incidental to the government’s provision of secular services for secular purposes on a religion-neutral basis.”). That does not offend the Establishment Clause; any contrary conclusion would require excluding religious entities from bidding for public contracts—a result that would plainly violate the Free Exercise Clause. *Supra* pp. 12–16.

2. Civil functions. Likewise, for at least three reasons, this case does not involve a church carrying out traditional “civil functions.” *Shurtleff*, 142 S. Ct. at 1609 (Gorsuch, J., concurring).

First, adoption and foster-care services are not traditional “civil functions” at all, much less functions “traditionally exclusively reserved to the State” for purposes of a state actor analysis. *Manhattan Cmty. Access Corp. v. Halleck*, 139 S. Ct. 1921, 1928 (2019); *see Mark v. Borough of Hatboro*, 51 F.3d 1137, 1144 (3d Cir. 1995) (looking for a “near symbiotic relationship” for “[E]stablishment [C]lause purposes”) (quotation omitted); *see also infra* pp. 41–43. Quite the opposite: for much of American history foster care and adoption were the *sole* province of private (and overwhelmingly religious) entities, and the government has only injected itself into this area relatively recently. The history of foster care in the United States emerged from the “privately operated child welfare system,” which significantly “preceded the entry of public agency participation,” and which throughout our history has primarily been “religiously affiliated.” Susan Vivian Mangold, *Protection, Privatization, & Profit in the Foster Care Sys.*, 60 Ohio St. L.J. 1295, 1297–98 & n.7 (1999); *see also Fulton*, 141 S. Ct. at 1885 (Alito, J., concurring) (recounting that history). That history traces back until at least 1727, when Ursuline nuns established what would

become the first orphanage in America. *See* Timothy A. Hasci, *Second Home: Orphan Asylums and Poor Families in America* 17 (1997). More soon followed: A Lutheran orphanage in what is now West Seneca, New York, and a Methodist orphanage in what is now Bethesda, Georgia. *Id.* at 17–18. This pattern—“individuals with strong religious convictions” seeing “children who desperately needed help, and responding by creating an orphan asylum”—would be “repeated time and time again over the following century.” *Id.* at 17–18. By “1830, the vast majority of asylums in existence were being managed by members of [various] churches.” *Id.* at 19. Between 1830 and 1850, fifty-six additional children’s institutions sprung up, *see Orphanages: An Historical Overview*, Minn. Dep’t of Human Servs. (Mar. 16, 1995), and by 1880, there were more than 600 orphanages in the United States, *see* Catherine E. Rymph, *Raising Government Children: A History of Foster Care and the American Welfare State* 19 (2017). These were overwhelmingly run by religious organizations. *See* Linda Gordon, *Child Welfare: A Brief History*, Social Welfare History Project (2011).

Religious organizations played an equally significant role in the development of adoption. In 1853, minister Charles Loring Brace founded the Children’s Aid Society, which placed roughly “150,000 poor and homeless children from the streets of New York” with “families in the Midwest.” *Nicholson v. Williams*, 203 F. Supp. 2d 153, 195 (E.D.N.Y. 2002) (Weinstein, J.). Following his formula, a groundswell of other private organizations—the vast majority religious—rose up to “provide[] houses of refuge for children” and “to place [those children] with foster families, either locally or in other parts of the country.” Naomi Cahn, *Perfect Substitutes or the Real Thing?*, 52 Duke L.J. 1077, 1091 (2003).

In noted contrast, government agencies came late to the adoptive services enterprise. At the time of the Founding, “social welfare was rudimentary at best, and entirely entrusted to the

church.” McConnell, *supra*, at 2170. Governments placed responsibility on religious entities to “car[e] for . . . orphans and other homeless children.” *Id.* Only in the latter half of the 1800s did governments first begin to take an interest in adoption. But even then, most states and localities elected to merely “aid[] private institutions” so as to avoid having to “accept responsibility for the care” of children, and to keep costs low. Brenda G. McGowan, Historical Evolution of Child Welfare Services, in *Child Welfare for the Twenty-First Century: A Handbook of Practices, Policies, and Programs* 18 (2005) (quotation omitted). “[I]nto the early twentieth century, the care of orphaned and abandoned children in the United States remained largely in the hands of private charitable and religious organizations.” *Fulton*, 141 S. Ct. at 1885 (Alito, J., concurring). A century later, little has changed. While some states have created “public agencies that directly place children in foster homes,” “most continue to contract these services out to private nonprofit organizations,” who “in turn contract[] with individual families to provide foster homes.” Kelsi Brown Corkran, *Principal-Agent Obstacles to Foster Care Contracting*, 2 J.L. Econ. & Pol’y 29, 32 (2006). Accordingly, it cannot plausibly be maintained that adoption or foster-care services are the type of traditional “civil function” off-limits to religious organizations.

The story is much the same with respect to the specific programs in this case. USCCB has been providing foster-care services to unaccompanied immigrant children since before either ORR or the URM and UC programs were established. *Supra* pp. 3–4. Indeed, the government relied on USCCB’s prior experience and expertise to shape and develop both programs. *Supra* pp. 3–4. It would beggar belief to suggest that the government’s entry into this field somehow transformed USCCB’s longstanding efforts—and religious obligation—to care for immigrants into a “civil function”; USCCB is simply doing what it has always done.

Second, even if providing foster services qualified as a “civil function,” the government has not surrendered that function here. While the government *collaborates* with private entities (including some religious entities) in carrying out those programs, it has in no way passed the “statutory responsibility” for administering them off to a particular church. *See McConnell, supra*, at 2171. In noted contrast to the civil functions that were controlled by the Church of England in Great Britain and in the early American colonies, here the secular government retains exclusive control of the UC and URM programs. It sets and monitors performance benchmarks. (*E.g.*, App. 16–18, 74–76, 550–51, 524–25, 546.) It periodically decides whether or not to issue or renew its grant awards. *Supra* pp. 3–4. At all times, the distinction between the government (as grantor) and the foster care agencies (as grantees) is readily apparent to all parties. No one could confuse the one with the other. *E.g., infra* p. 32. In all those respects, the government’s collaboration with USCCB here no more abdicates responsibility for the URM and UC programs than purchasing B-52s from Boeing abdicates responsibility for the national defense.

Third, even if the Court found that the government here did in fact abdicate a genuinely “civil function,” that *still* would not offend the Constitution because USCCB and its subgrantees are not an “established church.” First and most obviously, the government’s programs are neutral and open to all applicants. No evidence suggest that the government imposed religious conditions on applicants, or else indicated that it would favor religious applicants over secular ones. To the contrary, the evidence is exactly the opposite. *Supra* p. 3. And the fact the government is simultaneously working with Catholics, Baptists, *and* the Lutherans belies any notion that one religious group is singled out for favorable treatment. *Supra* pp. 3, 7–8. Contrast that with early establishments, where a single church assumed statutory responsibility for core social functions,

carried them out via individuals who were part clergy, part government official, and bankrolled them via tithes on the general public.

If any doubt remains, it helps to maintain perspective: The services provided by foster agencies look *far* less like a traditional civil function than, for instance, education. And it is by now beyond dispute that religious schools' receipt of government funds via neutral grant programs is of no constitutional concern. *See, e.g., Carson ex rel. O.C. v. Makin*, 142 S. Ct. 1987, 1997 (2022); *Espinoza*, 140 S. Ct. at 2255; *Zelman v. Simmons-Harris*, 536 U.S. 639, 644 (2002). In just the same way, the Constitution does not forbid—and indeed the Constitution *requires*—religious organizations having the freedom to collaborate with the government for the ends of social welfare in just the same manner any secular organization could.

C. Even Under the Now-Abrogated *Lemon* Test, Plaintiffs' Claims Fail.

The Supreme Court has now clarified that history and tradition serve as the guides for mapping the Establishment Clause's contours, and that the test set forth in *Lemon v. Kurtzman*, 403 U.S. 602 (1971), was “long ago abandoned.” *Kennedy*, 142 S. Ct. at 2427. However, should this Court choose to apply the *Lemon* test, USSCB would still prevail. Under that test, as refined by *Agostini*, 521 U.S. 203, governmental action does not violate the Establishment Clause if (1) it has a secular purpose and (2) its primary effect neither advances nor inhibits religion. 521 U.S. at 222–23. Plaintiffs cannot satisfy either prong.

1. There is no evidence the government lacked a secular purpose.

To begin, there is “no evidence” that any of the government's dealings with USSCB lacked a secular purpose. *See ACLU*, 2018 WL 4945321, at *14. The Supreme Court has explained that courts should be “reluctan[t] to attribute unconstitutional motives” to the government. *Mueller v. Allen*, 463 U.S. 388, 394 (1983). As a result, the bar for finding a secular purpose is “low.” *Ehlers-*

Renzi v. Connelly Sch. of the Holy Child, 224 F.3d 283, 288 (4th Cir. 2000) (citation omitted). Government activity lacks a secular purpose only when there is “no question that the statute or activity was motivated wholly by religious considerations,” *Lynch v. Donnelly*, 465 U.S. 668, 680 (1984), or where “the government acts with the ostensible and predominant purpose of advancing religion,” *McCreary Cnty. v. ACLU of Ky.*, 545 U.S. 844, 860 (2005). Even in cases where “substantial” benefits have flowed to religious organizations from government action courts have found a secular purpose. *Lynch*, 465 U.S. at 681–82; *see also Hsu v. Roslyn Union Free Sch. Dist. No. 3*, 85 F.3d 839 (2d Cir. 1996) (student group could receive religious accommodation from nondiscrimination policy and official recognition, including access to school resources, despite its exclusionary leadership policy); *Forest Hills Early Learning Ctr., Inc. v. Grace Baptist Church*, 846 F.2d 260, 263–64 (4th Cir. 1988) (noting that “statute’s singular exemption of religious groups” did not “render its purpose suspect,” since “lifting a regulation that burdens the exercise of religion” is a permissible purpose (quoting *Corp. of Presiding Bishop of Church of Jesus Christ of Latter-day Saints v. Amos*, 483 U.S. 327, 338 (1987))).

Here, Plaintiffs do not come anywhere close to meeting this test. The purpose of the grants to USCCB is as secular as it is plain—to care for unaccompanied immigrant children—as the Plaintiffs themselves repeatedly acknowledge. *See, e.g.*, FAC ¶¶ 19, 59. USCCB is one of the largest providers of services to this population in the world. *Supra* pp. 3–4. It is an acknowledged expert in the field of migrating children. *Id.* And it draws on years of experience of care for these children that pre-date the very programs at issue. *Id.* The government selected USCCB because of this experience and its unquestioned ability to perform important foster-care services for unaccompanied children. (App. 61, 121–24, 126.) In fact, USCCB’s efforts helped solve the “crisis” that ORR was facing when the State of Texas withdrew from the URM Program in 2017.

(App. 87, 90, 145–46.) And there is no dispute the government elsewhere awards grants to secular organizations similarly capable of providing relevant services. (FAC ¶ 21; App. 20–21, 543.)

In contrast, there is no evidence that the government agreed with USCCB’s religious beliefs, much less wanted to advance them. The government encourages the placement of children with same-sex foster parents, has no policy against it, and, most telling of all, sought and secured alternative providers in the Dallas-Fort Worth area that would license and place children with same-sex couples. (*E.g.*, App. 40–46.) It then went even further, and has now promised to adopt the very “screening process” Plaintiffs previously indicated would alleviate their objections, even though it will upend “the whole process of how everything is functioning” in the URM Program in the Dallas-Fort Worth area. *See supra* pp. 7–9, 12. It did all this even though numerous cities and states in America have no URM or UC Program at all. *Supra* p. 7. Because of the government’s efforts, Plaintiffs now have opportunities unavailable to the many Americans. Ultimately, by taking steps to ensure Plaintiffs could foster a child through the URM and UC programs, “the government acted in a manner that is in opposition to [USCCB]’s religious beliefs,” which undercuts Plaintiffs’ Establishment Clause claim. *See ACLU*, 2018 WL 4945321, at *15.

To the extent the government did not take the additional step of canceling USCCB’s grants (a step even Plaintiffs at one point conceded is unwarranted, *supra* pp. 10–11), there is again no evidence that the motive was to abet USCCB’s religious views. The government had a significant interest in preserving existing foster-care capacity for a highly vulnerable population of minors and avoiding the dislocation of minors in the care of USCCB subgrantees—both of which are valid, secular purposes. (*See* App. 67–68, 87–88 (describing the “real concern” that there would be “no gap in services” after Texas withdrew from the URM Program); App. 49–50 (if a grantee left the program, ORR “would have to make arrangement” for children under the grantee’s care).)

It is also a valid, secular purpose to accommodate religious practice and belief. *See, e.g., Amos*, 483 U.S. at 338 (sustaining religious exemption from Title VII’s non-discrimination mandate, noting that government acts with a “proper purpose” where it “lift[s] a regulation that burdens the exercise of religion”); *Forest Hills Early Learning Ctr.*, 846 F.2d at 263–64 (stating that a “statute’s singular exemption of religious groups” from generally applicable child-care regulations did not “render its purpose suspect”).

Moreover, even before ORR received Plaintiffs’ complaint in February 2017, there is no evidence the government had any purpose to advance or affirm USCCB’s views on same-sex marriage. In its application materials, USCCB indicated that it would ensure that services provided under its grants were consistent with its religious beliefs. *Supra* p. 6. But the government did not consider or appreciate how that language would apply in the context of foster-parent licensing and placement decisions. In fact, government officials did not anticipate or consider the same-sex foster-parent issue at all. (*See* SUMF ¶¶ 47–50; App. 51, 96, 98, 106–07, 197, 199–203, 210–13, 217, 230, 233–34, 255, 262–63, 265, 267–68.) This is understandable. The government had never before received a complaint involving a refusal to license same-sex couples under the programs. (SUMF ¶ 43.) And prior discussions or invocations of USCCB’s conscience clauses had involved the provision of abortion and contraception to children in the programs. (SUMF ¶¶ 47–49.) The government thus did not consider whether or how they would apply to the recruitment and selection of foster parents or implicate USCCB’s religious beliefs regarding same-sex marriage. (*See* SUMF ¶ 50; App. 51, 96, 98, 106–07, 197, 199–203, 210–13, 217, 230, 233–34, 255, 262–63, 265, 267–68.) On top of that, it appears that only one government official even knew of USCCB’s views on same-sex marriage—and, more importantly, that none appreciated that those

views would preclude it from licensing same-sex couples. (*See* SUMF ¶ 50; App. 51, 96, 98, 106–07, 197, 199–203, 210–13, 217, 230, 233–34, 255, 262–63, 265, 267–68.)

In summary, the grants USCCB received represent nothing more than the government’s confidence in USCCB’s ability to serve unaccompanied immigrant children. (App. 61, 121–24.) That is a secular purpose, which the government has long held and never abandoned. Plaintiffs’ claim thus fails under the first *Lemon* prong.

2. The government’s funding activity did not have the primary effect of advancing religion.

Just as the government had no purpose to advance religion, the “primary effect” of its conduct does not do so either. *Agostini*, 521 U.S. at 234. To determine whether governmental funding has the primary effect of advancing religion, courts consider whether it “result[s] in governmental indoctrination,” “define[s] its recipients by reference to religion,” or “create[s] an excessive entanglement.” *Agostini*, 521 U.S. at 234; *see also Mount Royal Joint Venture v. Kempthorne*, 477 F.3d 745, 758 (D.C. Cir. 2007). These same criteria inform whether the activity constitutes an unconstitutional “endorsement” of religion. *Agostini*, 521 U.S. at 235.

Under these standards, courts have sustained governmental action that would undisputedly *enhance* religious organizations’ ability to conduct distinctively religious activities, including exemptions from otherwise applicable antidiscrimination provisions. *See Amos*, 483 U.S. at 335. Courts have reached this conclusion even in the government-funding context. *See Hsu*, 85 F.3d 839 (student group could receive official recognition, including access to school resources, despite its exclusionary leadership policy); *ACLU*, 2018 WL 4945321, at *14 (USCCB could receive government grants to care for trafficking victims, despite its religious refusal to provide abortion and contraceptive services); *Lown*, 393 F. Supp. 2d at 249–52 (government could provide funds to the Salvation Army to provide social services, even though the Salvation Army used those funds

to hire employees based on religious criteria). This is because an unconstitutional “effect” occurs only when “the government itself has advanced religion through its own activities and influence.” *Amos*, 483 U.S. at 337.

In this case, the only effect of the government’s grant decisions is to advance purely secular ends—namely, a broader pool of organizations serving unaccompanied immigrant children. It is thus no surprise that all of the “unconstitutional effects” criteria point in the same direction—that the government’s conduct has not unconstitutionally advanced religion.

(a) The grants do not result in indoctrination.

The first factor under the “effects” prong is whether the activity “result[s] in governmental indoctrination.” *Agostini*, 521 U.S. at 234. This requires a plaintiff to show that the governmental activity (1) “constitutes or results in indoctrination,” and (2) “that such indoctrination is attributable to the government.” *DeStefano v. Emergency Hous. Grp., Inc.*, 247 F.3d 397, 414 (2d Cir. 2001). Neither element is implicated here.

Both the URM and UC programs focus on providing services to children through grantees. Regulations prohibit grantees from using those funds to engage in any explicitly religious activities. 45 C.F.R. § 87.3(b). And there is no evidence that USCCB or CCFW violated this provision. (*See* App. 503 (“USCCB never received [an ORR] finding that we were advancing our religious beliefs.”).) Indeed, there is no challenge to those services at all.

Instead, at the heart of Plaintiffs’ claim is CCFW’s refusal to license same-sex couples and the government’s supposed failure to address it. But neither action is indoctrination. The term “indoctrinate” means “to instruct in a body of doctrine or principles” or “[t]o imbue with a partisan or ideological point of view.” *Cnty. House, Inc. v. City of Boise*, 490 F.3d 1041, 1056–57 (9th Cir. 2007) (brackets and quotation marks omitted). It entails “impress[ing] (something) upon the mind

of another by frequent instruction or repetition.” *DeStefano*, 247 F.3d at 414. In *DeStefano*, the Second Circuit concluded that even active encouragement of program beneficiaries to attend a religious program did not qualify as indoctrination. *Id.* at 414–15. If active encouragement toward religious programming is not indoctrination, then a *refusal* to engage with third parties is not either. There is no risk that such a refusal will somehow “impress” beliefs on the refused or “imbue” them with a particular “point of view.” This is especially obvious in this case, where CCFW was not didactic or proselytizing but merely explained its desire to ensure that its own conduct comported with Catholic teaching. (See SUMF ¶ 40; App. 181–85.)

There is also no way to “attribut[e]” to the government CCFW’s approach to same-sex foster parents, even if that approach were somehow indoctrinating. *DeStefano*, 247 F.3d at 414. For one thing, Plaintiffs knew that it was CCFW’s religious views at work: Plaintiffs could readily infer it was not the government that required aspiring foster parents to “mirror the holy family.” (App. 7, 10.) And, as noted, the government has no policy against the placement of children with same-sex foster parents; it encourages the practice, and in fact sought and secured alternative arrangements to facilitate fostering by same-sex couples in the Dallas-Fort Worth area. *Supra* pp. 7–9. Given these circumstances, no reasonable observer would mistake CCFW’s views on recruiting and licensing same-sex foster parents for the government’s. See *Smith v. Jefferson Cnty. Bd. of Sch. Comm’rs*, 788 F.3d 580, 590 (6th Cir. 2015) (the “reasonable observer” is “deemed aware of the history and context of the community, as well as the context in which the challenged government activity took place”); *ACLU*, 2018 WL 4945321, at *1 (“A reasonable person would not view the government, which facilitated access to abortion by transferring unaccompanied minors who want abortions to shelters where they can obtain them, to be endorsing [USCCB]’s anti-abortion views.”).

(b) The government’s grant criteria are secular and neutral.

Nor did the government define grant recipients “by reference to religion.” *Agostini*, 521 U.S. at 234. The Supreme Court has explained that if the government determines funding recipients using religious criteria, then “the criteria might themselves have the effect of advancing religion by creating a financial incentive to undertake religious indoctrination.” *Id.* at 230–31. “This incentive is not present, however, where the aid is allocated on the basis of neutral, secular criteria that neither favor nor disfavor religion, and is made available to both religious and secular beneficiaries on a nondiscriminatory basis.” *Id.* at 231.

Here, the government awards grants on the basis of such “neutral, secular criteria” and makes them available to “both religious and secular beneficiaries” alike. *Id.* The governing regulations provide that “religious organizations are eligible, *on the same basis as any other organization*, to participate in any HHS awarding agency program for which they are otherwise eligible.” 45 C.F.R. § 87.3(a) (emphasis added). Plaintiffs do not allege that the government has violated those regulations. Nor could they. The government does not ask applicants to identify their religious affiliation (if any), does not use religious selection criteria, and regularly awards grants to both religious and secular organizations. (SUMF ¶ 11; App. 20–21, 27, 58–59, 118–22, 543; FAC ¶ 21.) Nor did the government select USCCB to advance USCCB’s religious beliefs or because USCCB would refuse to license same-sex couples. (App. 59–60, 220–21, 270–71.) In short, the government made the grants “available to both religious and secular beneficiaries on a nondiscriminatory basis,” which means it has not selected grant recipients on the basis of religion. *Agostini*, 521 U.S. at 231.

(c) The grants do not foster excessive entanglement.

Finally, Plaintiffs have not alleged an entanglement theory, which is understandable. The relationship between USCCB and the government “does not resemble the kinds of relationships that give rise to entanglement problems.” *Smith*, 788 F.3d at 593. That is because USCCB was not receiving governmental aid but reimbursement for services performed at the government’s behest. This fact alone significantly diminishes the risk of entanglement. *See id.* (“An important difference between this case and many other Establishment Clause cases is that, although money changed hands between the government and a religious institution, the School Board paid money under a contract for a specific, essential service. In other words, this case does not involve government aid.”). Regardless, there is no risk of entanglement here. Though itself religious, USCCB is providing secular services for eligible children. And there is no allegation that USCCB has used government funding for religious activities or that the government has become entangled in religious matters by enforcing the prohibition on religious activity in the URM or UC programs.

* * * * *

As noted above, the Supreme Court has affirmed the ability of religious organizations to provide federally funded social services, *Bowen*, 487 U.S. at 617–18, and has vigilantly guarded against the exclusion of such organizations, *Fulton*, 141 S. Ct. at 1874–76; *Trinity Lutheran*, 137 S. Ct. at 2021–22. This would be a hollow promise if organizations wishing to provide such services must check their religious character at the program door, *Lown*, 393 F. Supp. 2d at 249 (“The notion that the Constitution would compel a religious organization contracting with the state to secularize its ranks is untenable in light of [*Bowen*].”), or applied only where the government is able to find secular alternatives whenever a religious objection arises. While the government managed in this case not only to find alternative services providers in the Dallas-Fort Worth area,

but also to adopt Plaintiffs’ own proposal for how the services at issue would be provided, that will not necessarily be true in every instance. And, in any event, nothing in *Bowen* and related cases turned on the availability of secular alternatives. Allowing the government to rely on religious organizations to provide social services, even where they have conscience-based objections to aspects of those services, expands the availability of those services while accommodating religious beliefs, both of which are valid secular purposes and effects. *See Amos*, 483 U.S. at 339 (“limiting governmental interference with the exercise of religion” is a “permissible purpose”); *Hsu*, 85 F.3d at 864–65 (concluding that exempting exclusionary student group from public school’s nondiscrimination policy had a secular purpose).

The implications of Plaintiffs’ contrary position are startling. Their position would exclude religious organizations from participating in all kinds of government funding programs. The Little Sisters of the Poor, who do not admit men as nuns for religious reasons, could not run government-funded retirement homes with an all-female staff. *Contra Lown*, 393 F. Supp. 2d at 251 (“A religious organization that receives federal funds is not required to waive its eligibility for [the religious exemption from Title VII’s nondiscrimination mandate].”). A hospital with religious objections to abortion would also be excluded, despite the fact that, for secular reasons, the government may ban contractors from using Federal funding for abortions. *See Rust v. Sullivan*, 500 U.S. 173 (1991). Indeed, Plaintiffs’ position is all the more shocking because it would (apparently) preclude religious groups from receiving government funds *even where there are secular alternatives at hand*. *Contra, e.g., Fulton*, 141 S. Ct. 1868, 1875 (requiring Philadelphia to allow Catholic Charities to decline to certify same-sex foster parents where there were “other agencies” available to certify same-sex couples). That is not neutrality toward religion, but hostility. And nothing in the Establishment Clause countenances, much less compels, that result.

Cf. Am. Legion v. Am. Humanist Ass’n, 139 S. Ct. 2067, 2074 (2019) (stating that “removal or radical alteration [of monument] at this date would be seen by many not as a neutral act but as the manifestation of a hostility toward religion that has no place in our Establishment Clause traditions” (internal quotation marks and citation omitted)).

III. Plaintiffs’ Equal Protection and Due Process Claims Fail on the Merits.

Plaintiffs further allege that the government’s provision of funding to USCCB also violates the equal-protection and due-process components of the Fifth Amendment. These claims fail, however, for two independent reasons. First, if a government action that allows religious organizations to act in accordance with their beliefs comports with the Establishment Clause, it will receive (at most) only rational basis review under “more generalized” constitutional provisions. *Connecticut v. Gabbert*, 526 U.S. 286, 293 (1999); *Amos*, 483 U.S. at 339. This standard is easily satisfied here, which alone requires dismissal of Plaintiffs’ remaining claims.

Second, even taking Plaintiffs’ claims at face value, they fail because there is no evidence that the government itself acted with the requisite “discriminatory purpose,” *Washington v. Davis*, 426 U.S. 229, 239 (1976), much less infringed a fundamental right, *Empresa Cubana Exportadora de Alimentos y Productos Varios v. U.S. Dep’t of Treasury*, 638 F.3d 794, 800–01 (D.C. Cir. 2011). The Complaint does allege that CCFW—a private organization two levels removed from any government actor—refused to license Plaintiffs, but this act is not “fairly attributable to the State.” *Rendell-Baker v. Kohn*, 457 U.S. 830, 838 (1982). This is an independent reason these claims fail on the merits.

A. Because Plaintiff’s Establishment Clause Claim Fails, the Remaining Claims Receive and Easily Survive Rational-Basis Review.

At bottom, Plaintiffs challenge conduct that has allowed Catholic organizations that draw distinctions “based on [their] religious beliefs” to participate alongside secular entities in receiving

federal funds. FAC ¶¶ 31–34, 56–57, 60–66. But the Supreme Court has held that where government action does not violate the Religion Clauses, it receive only minimal scrutiny under other constitutional provisions. *See Amos*, 483 U.S. at 338–39; *Locke v. Davey*, 540 U.S. 712, 720 n.3 (2004) (“Because we hold that the program is not a violation of the Free Exercise Clause . . . we apply rational-basis scrutiny to [the] equal protection claims.”).

In *Amos*, the appellee argued that Title VII’s religious accommodation—which allows religious employers to hire and fire on the basis of religion—violated both the Establishment Clause and equal-protection principles. *Amos*, 483 U.S. at 330, 338–39. After upholding the exemption against the Establishment Clause challenge, *id.* at 334–38, the Supreme Court applied only rational-basis review to the equal-protection claim, *id.* at 339. The Court explained that, “[i]n cases such as these, where a statute is neutral on its face and motivated by a permissible purpose of limiting governmental interference with the exercise of religion, we see no justification for applying strict scrutiny to a statute” that comports with the Establishment Clause. *Id.* The “proper inquiry is whether Congress has chosen a rational classification to further a legitimate end.” *Id.* Under that test, the Court concluded that Title VII’s religious accommodation was “rationally related to the legitimate purpose of alleviating significant governmental interference with the ability of religious organizations to define and carry out their religious missions.” *Id.*

This principle is consistent with the rule that courts will analyze constitutional claims under “explicit provision[s]” rather than “more generalized notions of substantive due process.” *Gabbert*, 526 U.S. at 293. Where a court, for example, determines that a religious accommodation comports with the Establishment Clause, it has necessarily concluded that the government does not endorse—and is certainly not responsible for—conduct undertaken by religious groups pursuant to the accommodation. As the Supreme Court has explained, a religious accommodation “allows

churches,” rather than “the government itself,” “to advance religion.” *Amos*, 483 U.S. at 337 (emphasis omitted). Thus, any resulting conduct must be attributed to the private actor, not to the government. *See id.* at 337 n.15 (“Undoubtedly, [the employee’s] freedom of choice in religious matters was impinged upon, but it was the Church . . . and not the Government, who put him to the choice of changing his religious practices or losing his job.”).

This principle provides an independent reason to dispose of Plaintiffs’ equal-protection and due-process claims. The Establishment Clause does not forbid the government from allowing USCCB to participate in the grant programs. *Supra* pp. 16–36. Like the Title VII exemption in *Amos*, that action is subject to only rational-basis review under the Fifth Amendment. It easily passes that test. Allowing USCCB to participate in the URM and UC programs is rationally related to the legitimate ends of providing foster services for immigrant and refugee children, and ensuring that religious groups may compete for government grants without violating their faith.

B. There Is No Unconstitutional Action by the Government.

But even taken on their own terms, Plaintiffs’ claims fail on the merits. It is a “time-honored principle” that the Constitution “prohibits only state action,” not “private conduct.” *United States v. Morrison*, 529 U.S. 598, 621 (2000). Thus, to establish a claim under either the equal-protection or due-process components of the Fifth Amendment, Plaintiffs must prove that the government intentionally discriminated against them or deprived them of a constitutionally protected liberty interest. Here, there is no evidence that the government itself did either.

1. A valid equal-protection claim requires proof that the government itself engaged in unlawful discrimination by acting with a “discriminatory purpose.” *Davis*, 426 U.S. at 239. This requirement dooms Plaintiffs’ claim. The government has no policy against same-sex foster parents and, as detailed above, did not select grantees for the purpose of excluding such parents

from the URM or UC programs. *See supra* pp. 3, 6–9; App. 57–60, 119–23. Indeed, there is no evidence that ORR was even aware that USCCB or CCFW would refuse to place children with same-sex couples when it awarded the grants at issue. *See supra* pp. 6–7. There is thus no basis to conclude the government acted with “discriminatory purpose” in selecting USCCB as a grantee.

There is also no basis to conclude that the government acted with discriminatory purpose after learning that CCFW had refused to license Plaintiffs. To start, knowledge does not establish purpose. *Ashcroft v. Iqbal*, 556 U.S. 662, 676 (2009) (“Under extant precedent, purposeful discrimination requires more than intent as volition or intent as awareness of consequences.”). Plaintiffs must therefore show that the government acted (or refused to act) “‘because of,’ not merely ‘in spite of,’” USCCB’s alleged “disfavoring” of same-sex couples. *Id.* at 677. But they cannot make that showing. Even after the government received notice of CCFW’s refusal to license Plaintiffs, its purpose in retaining USCCB was to preserve the already limited universe of service providers, not to discriminate against same-sex couples. Indeed, the government sought and secured alternative providers in the Dallas-Fort Worth area not once, but twice—first to ensure Plaintiffs had the opportunity to foster through the URM and UC Programs, and then to accommodate Plaintiffs’ wishes as to how those programs would be structured. *See supra* pp. 7–9. And the government maintains a general policy *against* discrimination in the administration of these grant programs. FAC ¶¶ 41–42 (citing 45 C.F.R. § 75.300(c)–(d)). Together, these actions and policies paved the way for same-sex couples like Plaintiffs to serve as foster parents in the Dallas-Fort Worth area, even if they cannot do so through a USCCB subgrantee. This confirms that the government itself has not engaged in purposeful discrimination. *See Lown*, 393 F. Supp. 2d at 236.

2. Likewise, the Due Process Clause provides “heightened protection” for “certain fundamental rights and liberty interests”—but only “against *government* interference.” *Washington v. Glucksberg*, 521 U.S. 702, 720 (1997) (emphasis added). Even assuming the ability to foster children amounts to a “fundamental right” or “liberty interest,” there would be no government interference here because no law or regulation prevents Plaintiffs from fostering children. Plaintiffs are free to avail themselves of any of the myriad public and private programs dedicated to that end. (*E.g.*, App. 554–56.) Even assuming further that the right at issue extends to the ability to foster children through a specific government program in a specific geographic location, thanks to the additional providers the government has made available, Plaintiffs may now participate in the URM and UC programs in the Dallas-Fort Worth area—and they can do so on terms they themselves proposed. *Supra* pp. 7–9. There is thus no government-imposed obstacle to Plaintiffs’ efforts to foster.

But even if there were, the Supreme Court has long distinguished between government *interference* with rights protected by the Due Process Clause, and government *subsidy* for programs that may enhance the exercise of such rights. Only the latter is at issue here, and this type of subsidy program does not implicate the Due Process Clause, especially given the available alternative providers in the very programs at issue. *See, e.g., Rust*, 500 U.S. 173; *Harris v. McRae*, 448 U.S. 297 (1980).

C. The Conduct of USCCB and CCFW Cannot Be Attributed to the Government.

While there is no evidence that the government itself engaged in unconstitutional conduct, Plaintiffs allege that “USCCB and its sub-grantee used federal funds provided by Federal Defendants to discriminate against [Plaintiffs’] based on USCCB’s religious beliefs.” FAC ¶ 63. These allegations, however, have no constitutional significance unless the alleged conduct is

“fairly attributable to the State.” *Rendell-Baker*, 457 U.S. at 838 (quotation marks omitted). And in this case, no such attribution can be made.

The Supreme Court has sharply limited the circumstances in which the conduct of private actors can be attributed the government. *See Halleck*, 139 S. Ct. at 1928. While there is no single test for state action, the Court has held that a challenged activity may be state action “(i) when the private entity performs a traditional, exclusive public function; (ii) when the government compels the private entity to take a particular action; or (iii) when the government acts jointly with the private entity.” *Id.*

Here, the conduct at issue is not attributable to the government. The Complaint alleges that the government “provided and continues to provide federal taxpayer funds to USCCB and its subgrantees.” FAC ¶ 59. But the Supreme Court has held that government funding does not transform private conduct into state action. For example, the Court has held that a private school’s decision to fire employees was not state action even though “virtually all of the school’s income was derived from government funding” provided under government contracts. *Rendell-Baker*, 457 U.S. at 840. As the Court explained, the school was “not fundamentally different from many private corporations whose business depends primarily on contracts to build roads, bridges, dams, ships, or submarines for the government.” *Id.* at 840–41. Although these private corporations receive government funding, their acts “do not become acts of the government by reason of their significant or even total engagement in performing public contracts.” *Id.* at 841; *accord Blum v. Yaretsky*, 457 U.S. 991, 1011 (1982) (holding that nursing homes were not state actors even though the government subsidized “the operating and capital costs of the facilities” and paid “the medical expenses of more than 90% of the patients in the facilities”); *Lown*, 393 F. Supp. 2d at 228, 243–

44 (holding that the Salvation Army was not a state actor even though it “derive[d] more than 95% of its approximately \$50 million budget from its contracts with government entities”).

Plaintiffs also allege the government was “on notice” that USCCB and CCFW “would administer the grants in a discriminatory manner,” FAC ¶ 61, but “failed to implement adequate safeguards” to prevent them from doing so, FAC ¶ 62, and “failed to take any corrective action” after learning of the alleged discrimination, FAC ¶ 64. Setting aside the fact that these allegations have been overtaken by subsequent events, *supra* pp. 7–9, they are immaterial because the conduct of neither USCCB nor CCFW can be attributed to the government: “[a]ction taken by private entities with the mere approval or acquiescence of the State is not state action.” *Am. Mfrs. Mut. Ins. Co. v. Sullivan*, 526 U.S. 40, 52 (1999).

Particularly instructive on this point is *Jackson v. Metropolitan Edison Co.* There, a utility company exercised its right under state law to terminate the plaintiff’s electric service for nonpayment of bills. 419 U.S. 345, 346–47 (1974). Although state law authorized the termination, the Court held that the utility company was not a state actor. The “[a]pproval by a state utility commission of such a request from a regulated utility, where the commission has not put its own weight on the side of the proposed practice by ordering it, does not transmute a practice initiated by the utility and approved by the commission into ‘state action.’” *Id.* at 357. “At most, the Commission’s failure to overturn this practice amounted to no more than a determination that a Pennsylvania utility was authorized to employ such a practice if it so desired.” *Id.* Thus, the company’s “exercise of the choice allowed by state law where the initiative comes from it and not from the State, does not make its action in doing so ‘state action.’” *Id.* (footnote omitted); *see also Rendell-Baker*, 457 U.S. at 841 (holding that a private actor’s decision to fire an employee was not state action when the government “showed relatively little interest in the school’s personnel

matters”); *Lown*, 393 F. Supp. 2d at 243–44 (holding that the Salvation Army was not a state actor when the plaintiffs “proffer[ed] no allegations indicating that the state had any role whatsoever in the development or effectuation of the Salvation Army’s allegedly discriminatory policies”).

Nor can Plaintiffs contend that USCCB and CCFW were performing a “traditional, exclusive public function” such that their conduct could be attributable to the state. *Halleck*, 139 S. Ct. at 1928. To qualify as a “public function,” “[i]t is not enough that the federal, state, or local government exercised the function in the past, or still does.” *Id.* “And it is not enough that the function serves the public good or the public interest in some way.” *Id.* at 1928–29. Instead, “the government must have traditionally and exclusively performed the function.” *Id.* “While many functions have been traditionally performed by governments, very few have been exclusively reserved to the State.” *Flagg Bros. v. Brooks*, 436 U.S. 149, 158 (1978) (quotation marks omitted).

The federal government plainly does not have a monopoly on foster-care services. As detailed above, these service have long been performed by private entities, including religious organizations that have been providing such care far longer than the government. *Supra* pp. 22–26. Even in the specific context of unaccompanied immigrant children, USCCB’s services predates both the URM and UC programs, as well as the very existence of ORR. *Supra* p. 24. As this history suggests, such services are neither traditionally nor exclusively performed by government, which forecloses this theory of liability.

CONCLUSION

USCCB is an acknowledged leader in service to unaccompanied immigrant children. (App. 150.) It maintains one of the largest network of providers in the country to serve this vulnerable population. (SUMF ¶ 15.) It has been engaged in this charitable work before ORR or the programs at issue even existed. (SUMF ¶ 16.) It stepped into the URM Program to help ORR solve the

“crisis” created by the State of Texas’s withdrawal from the program in 2017. *See supra* pp. 4–5. And its performance has “exceeded expectations” and “helped improve the lives of vulnerable children.” (App. 126–27; *see also* App. 62 (describing USCCB’s performance as “very good” and affirming its “positive impact” on the UC Program).) Losing USCCB’s contributions—its capacity, expertise, and historical knowledge of the programs—would be devastating and not easily replicated. (App. 150–51; *see also* App. 62, 131–34 (USCCB’s withdrawal “would have a substantial impact on ... our ability to carry out ... the program” and would be “a substantial loss in experience for the program”).) Any gains from a categorical exclusion of organizations with religious objections to same-sex placements would not compensate for the foster capacity that would be lost. (App. 154; *see also* App. 134–35 (agreeing that USCCB’s exclusion from the program would cause “a substantial loss in family placement options”).) Ultimately, USCCB “seeks . . . only” to “continue” to do what it has done for decades: to “serv[e] the children [in the URM and UC Programs] in a manner consistent with its religious beliefs.” *Fulton*, 141 S. Ct. at 1882. “[I]t does not seek to impose those beliefs on anyone else.” *Id.*

Nothing in the Constitution requires this Court to upend this arrangement. The best evidence for this is, once again, the Supreme Court’s decision in *Fulton*. No member of the Court breathed even a hint of concern that it was establishing a religion or violating the constitutional rights of aspiring same-sex foster parents when they unanimously ordered the City of Philadelphia to accommodate a Catholic foster-care agency that objected to placing children with same-sex couples. Yet if Plaintiffs are right here, the Supreme Court was wrong there. While the evidence and case law is enough reason to dismiss Plaintiffs’ claims, dismissal is doubly warranted to avoid impugning relief unanimously ordered by the Supreme Court and destroying an arrangement that serves the “most vulnerable” among us (App. 237.).

For these reasons, this Court should grant USCCB's motion for summary judgment.

Dated: July 27, 2022

Respectfully submitted,

/s/ David T. Raimer.

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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

FATMA MAROUF, *et al.*,

Plaintiffs

V.

XAVIER BECERRA, *et al.*,

Defendants.

Civil Action No. 1:18-cv-00378 APM

**STATEMENT OF UNDISPUTED MATERIAL FACTS IN SUPPORT OF
DEFENDANT USCCB’S MOTION FOR SUMMARY JUDGMENT**

Pursuant to Federal Rule of Civil Procedure 56, Local Civil Rule 7(h), and this Court’s August 23, 2021 Order (Dkt. 94), Defendant United States Conference of Catholic Bishops (“USCCB”), by and through its undersigned attorneys, respectfully submits this statement of material facts as to which there is no genuine issue to be tried in support of its motion for summary judgment.

A. Unaccompanied Immigrant Children Programs

1. The Office of Refugee Resettlement (“ORR”) is a component of the U.S. Department of Health and Human Services. (Fed. Def’ts’ Answer to Amend. Compl. ¶ 10.)

2. ORR administers grants and funding for the Unaccompanied Refugee Minor Program (“URM Program”). (Fed. Def’ts’ Answer to Amend. Compl. ¶ 17; App. 8, 519–20.)

3. The URM Program operates to care for children who are unaccompanied by a parent or guardian but have legal status in the United States. (App. 130, 451, 507–10; *see also* 8 U.S.C. § 1522.)

4. Through the URM Program, children receive foster-care services and benefits, which may include long-term foster-care placements. (App. 130, 451, 507–12.)

5. Eligible children include refugees, victims of trafficking, and asylees. (App. 130, 506, 508–09.)

6. ORR administers the Unaccompanied Alien Children Program (“UC Program”). (App. 8, 362, 529; *see also* 6 U.S.C. § 279(g).)

7. The UC Program operates to care for unaccompanied children who lack lawful immigration status. (App. 363–64, 528–29, 543–44, 546–47.)

8. Like the URM Program, the UC Program provides eligible children with foster-care services and benefits, which may include long-term foster-care placements. (App. 191, 364, 530–37, 541–44, 546–47.)

9. ORR does not provide foster-care services directly in its administration of either program. (App. 42, 484–87, 513–14, 521–23.)

10. Instead, ORR issues grants to a network of public and private agencies to care and provide services for eligible children. (App. 8, 19–21, 69, 72–73, 79, 216, 248, 264, 322, 364, 506–10, 517–20, 530–33, 540–44, 546–47.)

11. ORR’s criteria for selecting grantees in the URM Program and the UC Program are secular and neutral. (App. 57–60, 119–23, 411–14, 464–67.)

12. Faith-based organizations participate in both programs. (App. 8, 19–22, 32–33, 44–48, 63–64, 123, 275, 481, 496; *see also* 45 C.F.R. § 87.3(a).)

B. USCCB and Its Historical Partnership with the Federal Government To Care for Unaccompanied Immigrant Children.

13. USCCB is an assembly of Catholic bishops that organizes and conducts religious and charitable activities in the United States and abroad. (App. 2)

14. USCCB's religious mission includes, and has included for decades, "car[ing] for immigrants." (App. 2, 237.)

15. In executing its mission, USCCB became and continues to be one of the largest refugee-settlement agencies in the world. (App. 2.)

16. USCCB has worked with the government on refugee resettlement since before ORR and the programs at issue were established. (App. 3, 62, 149–50, 156, 451.)

17. ORR has regularly awarded grant funds to USCCB under the URM and UC Programs since their inception. (App. 3, 6, 8.)

18. ORR awarded a grant to USCCB under the URM Program for the Fiscal Year 2017 grant period encompassing February 2017. (App. 6, 296.)

19. Likewise, ORR awarded a grant to USCCB under the UC Program for Fiscal Year 2017 grant period encompassing February 2017. (App. 6, 34–35, 329, 456.)

20. USCCB does not provide foster-care services directly. (App. 8.)

21. Instead, it awards subgrants to various organizations for that purpose. (App. 8.)

22. USCCB allocates funds provided by ORR in a manner consistent with its sincerely held religious beliefs. (App. 8.)

23. Among other things, it would violate USCCB's sincerely held religious beliefs to fund any program that provides services contrary to Catholic teaching. (App. 6–8.)

24. While USCCB may allocate funds to organizations that do not share its religious beliefs, USCCB will not and does not allocate funds to any organization that would use those funds to provide services contrary to the teaching of the Catholic Church. (App. 6–8.)

25. Services contrary to the teaching of the Catholic Church, include, but are not limited to licensing or placing children with foster parents who are same-sex couples. (App. 6–8.)

26. USCCB has no objection to serving, or allocating grant funds to organizations who will serve, all children in the URM and UC Programs, “including lesbian, gay, bisexual, and transgender (LGBT) populations.” (App. 155, 247–48, 452.)

27. One USCCB subgrantee (under both the URM and UC Programs) was Catholic Charities of Fort Worth (“CCFW”). (App. 7, 10.)

28. CCFW provided foster services for unaccompanied refugee minors and unaccompanied alien children in Fort Worth, Texas. (App. 7, 10.)

C. Texas Becomes First State to Withdraw from URM Program.

29. In January 2017, the State of Texas withdrew from the URM Program. (App. 85–88, 90)

30. Texas’s withdrawal required ORR to find a “replacement designee” to operate the URM Program in Texas on a “very short time frame.” (App. 87–90, 92–93, 145–46.)

31. Texas’s size and the nature of the URM Program made the task of filling the role a “large undertaking.” (App. 88–89, 92, 124.)

32. ORR identified two organizations as capable of filling the “replacement designee” role. (App. 123–24, 129.)

33. In ORR’s view, of the two viable options, USCCB was “best equipped” for the role. (App. 123–24, 129.)

34. On November 16, 2016, USCCB submitted an application to ORR to serve as replacement designee in Texas. (App. 461–62.)

35. ORR approved a revised version of USCCB’s application to serve as replacement designee in Texas in mid-January 2017. (App. 124–25, 254, 296, 474–77; *see also* App. 450–54 (final application for FY 2017).)

D. Plaintiffs Cannot Foster Through CCFW Due to Its Religious Beliefs.

36. Plaintiffs Fatma Marouf and Bryn Esplin are a legally married same-sex couple. (App. 6.)

37. Plaintiffs have lived in the Fort Worth, Texas area since August 2016. (App. 159.)

38. On February 16, 2017, Plaintiff Marouf emailed CCFW about fostering a refugee child. (App. 342.)

39. Like USCCB, CCFW believed that it could not, consistent with its religious beliefs, license or place foster children with same-sex couples. (App. 7, 10, 184–85.)

40. Accordingly, CCFW informed Plaintiffs Marouf and Esplin that it would not accept their application to be foster parents. (App. 7, 160, 167, 171, 181, 353.)

41. Plaintiffs emailed ORR’s URM Program office about their interaction with CCFW. (App. 7, 161, 338–40.)

42. Plaintiffs’ email came as a “surprise” to ORR. (App. 42–43, 104–05.)

43. To ORR officials’ knowledge, ORR had never before received a complaint about any provider refusing to place children with same-sex couples. (App. 36–37, 54–56, 104–05, 192–93, 218, 222–23, 261.)

44. USCCB's URM grant application for fiscal year 2017 stated that it would have to "ensure that services provided under this application are not contrary to the authentic teaching of the Catholic Church, its moral convictions, and religious beliefs." (App. 8, 452.)

45. USCCB's UC grant application for fiscal year 2017 stated that it would have to "ensure that services provided under this application are not contrary to the authentic teaching of the Catholic Church, its moral convictions, and religious beliefs in an approach that is consistent with the ACF Policy on Grants to Faith-Based Organizations." (App. 8, 456.)

46. The sample Third-Party Agreement attached as Appendix A-8 to USCCB's UC Program grant application to ORR for fiscal year 2017 includes a provision entitled "Catholic Identity," which states that "USCCB/MRS must ensure that services provided to those serviced under this Agreement are not contrary to the authentic teaching of the Catholic Church, its moral convictions, and religious beliefs. Accordingly, USCCB/MRS expects that the Sub-recipient will provide services under this Agreement within certain parameters including, among other things, that the Sub-recipient will not provide, refer, encourage, or in any way facilitate access to contraceptives or abortion services." (App. 8–9, 458–59.)

47. Prior to Plaintiffs' inquiry, ORR had encountered USCCB's and its subgrantees' religious objections only in the context of the provision of certain services to children—namely, abortion and contraception. (App. 30–31, 38–39, 95, 98–99, 108–09, 202, 204, 240–41, 262–63.)

48. Likewise, the application process for both the URM and UC Programs focused not on prospective foster parents, but rather on what services, if any, organizations could or could not provide to unaccompanied minors. (App. 130–31, 197–98, 212–15, 244–45.)

49. Prior to the incident at issue in this case, there were no communications between USCCB and the Federal Defendants regarding the specific question of how the religious beliefs of

USCCB or its subgrantees applied to the placement of children with foster parents who are same-sex couples. (App. 28–29, 59, 100–01, 122, 148, 202, 212–15, 263, 500.)

50. ORR was thus not aware that USCCB’s and CCFW’s adherence to their religious beliefs would result in the denial of same-sex couples as foster parents. (App. 43, 93–98, 102–03, 139–44, 179–80, 212–15, 265.)

51. Due to a refocusing of its mission, CCFW no longer provides foster-care services. (App. 178, 186–88; 469–72.)

52. As of July 1, 2019, USCCB began allocating funds received from ORR to Catholic Charities of Dallas (“CCD”), which has taken over services for unaccompanied alien children or unaccompanied refugee minors previously provided by CCFW. (App. 10, 186–88, 357, 469–72.)

E. ORR Seeks Alternative Providers to Accommodate Plaintiffs.

53. To accommodate Plaintiffs’ desire to foster immigrant children from the programs, ORR searched for organizations that could provide additional foster-care services in the Dallas-Fort Worth area. (App. 44–45, 53, 57, 115–16, 194–96, 206–07, 224–29, 252.)

54. In May 2020, ORR appointed Lutheran Immigration and Refugee Services (“LIRS”) as a second replacement designee for the URM Program in Texas. (App. 115–16, 252–54, 482, 494–95)

55. LIRS provides services under the URM Program in the Dallas-Fort Worth area through its subgrantee, Upbring. (App. 115–16, 252–54, 275, 482, 494–95.)

56. Around the same time, Baptist Children Family Services (“BCFS”) received a grant for the UC Program in the same area. (App. 47–48, 194–95, 206–07.)

57. Both programs are in operation today. (App. 47–48, 115–16, 194–95, 226, 252, 279, 491.)

58. Both programs are willing to license and make placements with same-sex couples. (App. 52, 116, 206, 268, 491.)

59. The government has also named “a neutral third party”—the U.S. Committee for Refugees and Immigrants (“USCRI”)—“to field all inquiries from prospective URM foster parents in the Dallas/Fort Worth, Texas area.” (App. 427, 444, 482.)

60. As of March 28, 2022, (Dkt. 102 at 1; App. 280, 481), USCRI works in consortium with LIRS and its subgrantee Upbring, as well as USCCB and its subgrantee CCD, to “ensure that all prospective foster parents in the Dallas-Fort Worth area have the opportunity to work with a URM provider.” (App. 274, 284, 293.)

61. Specifically, USCRI is tasked with “establish[ing] a hotline and email address to receive inquiries from individuals or couples interested in fostering minors in the URM program in the Dallas/Fort Worth, Texas area”; “respond[ing] to all inquiries from individuals or couples interested in fostering minors in the URM program in the Dallas/Fort Worth, Texas area”; and “conduct[ing] initial intakes of the individuals or couples, to collect basic demographic and family composition information.” (App. 285–87, 431–40, 442, 444, 482.)

62. Following intake, USCRI will “refer such prospective foster parents to either Catholic Charities Dallas or Upbring for training and licensing in accordance with applicable Texas law.” (App. 285–87, 431–40, 442, 444, 481–82.)

63. USCRI’s referrals are based on information collected during the intake process, including, “[d]emographic information, household and background information,” as well as “criteria” established by each consortium partner, which can include religious objections. (App. 277–78, 281–82, 288–89, 434, 442.)

64. CCD and Upbring have committed to “refer all” prospective foster parents to USCRI, to “respond to referrals from USCRI” within established timeframes, and to “license all [prospective foster parents] that meet Texas state licensing, agency, accreditation, and home study requirements.” (App. 276–78; 431, 442.)

65. In the event it becomes apparent that either CCD or Upbring is unable to work with certain prospective foster parents “for reasons unrelated to Texas licensing requirements,” they will refer those individuals to the other subgrantee or back to USCRI. (App. 283, 290–92, 434.)

66. The government has confirmed that neither USCRI nor LIRS (i.e., Upbring) has any “objection to working with same-sex couples seeking to foster children through the URM program.” (App. 279, 491.)

67. ORR has elected not to fund USCCB’s long-term foster-care services in the UC Program as of February 28, 2021. (App. 3.)

Dated: July 27, 2022

Respectfully submitted,

/s/ David T. Raimer

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FATMA MAROUF, *et al.*,

Plaintiffs

v.

XAVIER BECERRA, *et al.*,

Defendants.

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) Civil Action No. 1:18-cv-00378 APM
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DEFENDANT UNITED STATES CONFERENCE OF CATHOLIC BISHOPS'
APPENDIX OF CITED MATERIAL

Exhibit 1

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

FATMA MAROUF, *et al.*,

Plaintiffs

v.

XAVIER BECERRA, *et al.*,

Defendants.

Civil Action No. 1:18-cv-00378 APM

DECLARATION OF WILLIAM CANNY

I, William Canny, declare as follows:

1. I am the Executive Director of Migration and Refugee Services, employed by the United States Conference of Catholic Bishops (USCCB) in Washington, D.C. The matters set forth below are within my knowledge, and if called upon as a witness I could and would testify competently as follows.

2. USCCB is an assembly of Catholic bishops that organizes and conducts religious and charitable activities in the United States and abroad.

3. As part of its longstanding religious mission to care for immigrants, USCCB has for decades served unaccompanied immigrant children.

4. USCCB is one of the largest refugee settlement agencies in the world. It maintains one of the largest network of providers in the United States to serve unaccompanied immigrant children, and is also one of the largest providers of services to unaccompanied immigrant children in the world.

5. Through its work with this population, USCCB has acquired a reputation globally as an expert on migrating children.

6. USCCB has long-assisted the federal government with providing foster-care services to unaccompanied immigrant children. USCCB's work in this area was ongoing before Congress established the Office of Refugee Resettlement (ORR) and the Unaccompanied Refugee Minor (URM) Program. In particular, USCCB had been working with the U.S. Department of State to place unaccompanied refugee children in foster-care programs even prior to establishment of ORR and the URM Program.

7. USCCB had also been working with the federal government to place unaccompanied immigrant children in foster-care programs before ORR began administering the Unaccompanied Alien Children (UC) Program in 2003.

8. ORR has regularly awarded grant funds to USCCB under the URM and UC Programs since their inception.

9. While USCCB was providing long-term foster-care services under the UC Program at locations in Texas at the time this litigation was initiated, USCCB no longer receives grant funding to provide—and thus no longer provides—any long-term foster-care services under the UC Program in Texas. USCCB's most recent grant for this work expired on February 28, 2021. No grant funds have been used since then. There are thus no longer any opportunities for prospective foster parents to participate in the UC Program through a USCCB subgrantee in Texas.

10. USCCB uses private resources to help fund the long-term foster-care services that USCCB provides under the URM and UC Programs, as our expenses regularly exceed government-imposed reimbursement limits under those programs.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on this the 7 Day of July 2022, in Washington, D.C.

Respectfully submitted,


William Canny

Exhibit 2

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

FATMA MAROUF AND BRYN ESPLIN,
a married couple,

Plaintiffs,

v.

ALEX AZAR, in his official capacity as
Secretary of the UNITED STATES
DEPARTMENT OF HEALTH AND HUMAN
SERVICES, *et al.*,

Defendants.

Case No. 1:18-cv-378 (APM)

JOINT STIPULATIONS

The parties to this action stipulate to the following:

1. Plaintiffs Fatma Marouf and Bryn Esplin are a legally married same-sex couple, and were a legally married same-sex couple in February of 2017, when they sought to submit an application to be foster parents through Catholic Charities of Fort Worth (“CCFW”) for a child in the Unaccompanied Alien Children (“UAC”) or Unaccompanied Refugee Minor (“URM”) Program.

2. Federal Defendants (as defined in the First Amended Complaint) awarded UAC and URM program grants to Defendant United States Conference of Catholic Bishops (“USCCB”) for the UAC and URM program grant periods encompassing February 2017, when Plaintiffs Marouf and Esplin sought to apply to be foster parents (the “Relevant Period”).

3. USCCB stipulates, and Federal Defendants do not contest, that USCCB’s religious beliefs include a religious belief that children should not be placed with foster parents who are same-sex couples. Consequently, USCCB does not, on the basis of its religious beliefs,

allocate funds to organizations that would use those funds to place children with foster parents who are same-sex couples.

4. USCCB's religious belief regarding the placement of children with foster parents who are same-sex couples was publicly posted before, during, and after the process by which it applied for the UAC and URM program grants for the UAC and URM program grant periods encompassing the Relevant Period.

5. In February of 2017, CCFW, acting as a subgrantee of USCCB for the purpose of providing services for children in the UAC and URM program, informed Plaintiffs Marouf and Esplin that it would not accept their application to be foster parents based on CCFW's religious belief regarding the placement of children with foster parents who are same-sex couples. USCCB stipulates that CCFW would have been in violation of its subgrant agreement with USCCB had it accepted Plaintiffs' application.

6. USCCB stipulates that USCCB requires its UAC and URM program subgrantees to agree to provide services under the subgrant in a manner consistent with USCCB's religious beliefs. USCCB stipulates that, to be considered compliant with the terms of its agreement with USCCB, such a subgrantee of USCCB's, including any subgrantee in the Dallas-Fort Worth area, including Catholic Charities of Dallas ("CCD"), would decline to accept a foster parent application from Plaintiffs Marouf and Esplin or any other same-sex couple.

7. On February 22, 2017, Plaintiff Marouf emailed ORR, stating that during an "initial interview" with CCFW concerning "Refugee Foster Care Programs," Plaintiff Marouf was informed by CCFW that it would not accept the application of Plaintiffs Marouf and Esplin to be foster parents for a child in the UAC or URM program solely because they did not "mirror the holy family." Plaintiffs have since been offered no opportunity to apply.

8. USCCB receives grants from the Office of Refugee Resettlement (“ORR”), an office of the U.S. Department of Health and Human Services, under both the Unaccompanied Refugee Minor (“URM”) and Unaccompanied Alien Children (“UAC”) programs.

9. After receiving UAC and URM program funds provided by ORR, USCCB allocates those funds to subgrantee organizations to provide foster services for unaccompanied refugee minors and unaccompanied alien children.

10. USCCB allocates funds provided by ORR in a manner consistent with its sincerely held religious beliefs.

11. It would violate USCCB’s sincerely held religious beliefs to fund any program that provides services contrary to Catholic teaching. Accordingly, while USCCB may allocate funds to organizations that do not share its religious beliefs, USCCB will not and does not allocate funds to any organization that would use those funds to provide services contrary to the teaching of the Catholic Church, including but not limited to placing children with foster parents who are same-sex couples.

12. USCCB’s URM grant application to ORR for fiscal year 2017 states that “USCCB/MRS must ensure that services provided under this application are not contrary to the authentic teaching of the Catholic Church, its moral convictions, or religious beliefs.”

13. USCCB’s UAC program grant application to ORR for fiscal year 2017 states that “USCCB must ensure that services provided under this application are not contrary to the authentic teaching of the Catholic Church, its moral convictions, and religious beliefs in an approach that is consistent with the ACF Policy on Grants to Faith-Based Organizations.”

14. The sample Third-Party Agreement attached as Appendix A-8 to USCCB’s UAC program grant application to ORR for fiscal year 2017 includes a provision entitled “Catholic

Identity,” which states that “USCCB/MRS must ensure that services provided to those serviced under this Agreement are not contrary to the authentic teaching of the Catholic Church, its moral convictions, and religious beliefs. Accordingly, USCCB/MRS expects that the Sub-recipient will provide services under this Agreement within certain parameters including, among other things, that the Sub-recipient will not provide, refer, encourage, or in any way facilitate access to contraceptives or abortion services.”

15. USCCB’s website currently states that, “[w]hen placing children with couples, Catholic Charities ensures those children enjoy the advantage of having a mother and a father who are married.” This statement reflects USCCB’s sincerely held religious beliefs. This statement has continuously appeared on USCCB’s publicly available website since before USCCB applied for the UAC and URM grants for the UAC and URM program grant periods encompassing the Relevant Period.

16. The section of USCCB’s website entitled “Frequently Asked Questions About the Defense of Marriage” currently states that, “[w]hile placing a child in the care of two men or two women may be well-intentioned, it ultimately deprives the child of either a mother or a father, and in the place of one, substitutes another.” This statement reflects USCCB’s sincerely held religious beliefs. This statement has continuously appeared on USCCB’s publicly available website since before USCCB applied for the UAC and URM grants for the UAC and URM program grant periods encompassing the Relevant Period.

17. On March 9, 2015, USCCB published a press release announcing its support for the Child Welfare Provider Inclusion Act of 2015. According to the press release, “[t]he Act would forbid the federal government, and any state receiving federal funds for child welfare services, from taking adverse action against a provider that, for religious or moral reasons,

declines to provide a child welfare social service.” This press release reflects USCCB’s sincerely held religious beliefs. This press release has continuously appeared on USCCB’s publicly available website since March 9, 2015.

18. After receiving UAC and URM program funds from ORR, USCCB has allocated those funds to Catholic Charities of Fort Worth (“CCFW”), which performed foster services for unaccompanied refugee minors and unaccompanied alien children in Fort Worth, Texas.

19. On February 22, 2017, Plaintiffs spoke with Dana Springer, a CCFW employee, about fostering a child.

20. During the call, Plaintiffs informed Springer that they are a legally married same-sex couple. Springer explained that CCFW is a Catholic organization, and as a result, does not approve or place children with same-sex foster parents. Springer informed Plaintiffs that prospective foster parents must “mirror the holy family.”

21. CCFW declines to license same-sex foster parents on the basis of its sincerely held religious beliefs.

22. On the basis of its sincerely held religious beliefs, USCCB will allocate funds received from ORR only to organizations that will use those funds in a manner consistent with USCCB’s religious beliefs, which include declining to license or place children with same-sex foster parents.

23. On April 25, 2017, Plaintiff Fatma Marouf emailed CCFW and asked for the contact information of the individuals she had spoken with.

24. As of July 1, 2019, USCCB has begun allocating funds received from ORR to Catholic Charities of Dallas (“CC Dallas”), which will take over all services for unaccompanied alien children or unaccompanied refugee minors previously provided by CCFW.

STIPULATED AND AGREED TO:

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Exhibit 3

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

- - - - -X

FATMA MAROUF, et al., :

Plaintiffs, : Case No.

vs. : 1:18-cv-378 (APM)

ALEX AZAR, in his official :

capacity as Secretary of the :

UNITED STATES DEPARTMENT OF :

HEALTH AND HUMAN SERVICES, :

et al., :

Defendants. :

- - - - -X

Remote Videotape Deposition Of JALLYN N. SUALOG

Wednesday, August 26, 2020

9:05 a.m. (EDT)

Job No. 314851

Pages: 1 - 269

Reported by: Dana C. Ryan, RPR, CRR

1 So it would be interviews with staff,
2 meetings, entrants' interviews and exit meetings
3 with the GAO or IG and whatever entity that's
4 conducting the engagement.

5 BY MR. GENDALL:

6 Q So, I guess, what would be an example
7 of the UAC program not being in compliance?

8 A What do you mean?

9 Q So one of your responsibilities is that
10 you lead and coordinate internal investigations
11 relating to ORR Division of Children's Services to
12 ensure operational compliance across programs.

13 I'm trying to understand what to ensure
14 compliance means.

15 A Compliance just means -- so, A, I think
16 it's an assumption to say that we're in
17 noncompliance. I think there is a question of
18 whether we are in compliance. And so, for
19 instance, the OIG may look at safety in terms of
20 physical safety of a facility. So then the OIG
21 would look at that, and they would interview
22 staff, and they would issue a report.

23 Q Last question on these bullet points is
24 the next one. Would you please read that one that
25 starts, On behalf of the director, please?

1 A On behalf of the director, it provides
2 UAC services framework for program audit reviews
3 and the monitoring of programs to ensure
4 compliance and follow-up implementation.

5 Q And what are audit reviews in this
6 context?

7 A In this context, audit reviews are any
8 audits, more -- more specifically the A-133 audits
9 that are required for grantees receiving a certain
10 dollar threshold from the federal government. It
11 is looking at monitoring, which is a audit that
12 internally ORR does with each of our facilities
13 with respect to compliance to their state
14 licensing standards and the ORR policies and
15 procedures, and also -- also audits that deal with
16 compliance with certain statutory requirements.

17 Q And are these audits done in the
18 regular course?

19 A Yes.

20 Q How often?

21 A It depends on the type. When you're
22 looking at the financial audits, the A-133, that
23 is done mainly on an annual basis. If you're
24 looking at compliance monitoring that our team
25 does, there is a comprehensive monitoring done.

1 The goal is every other year.

2 And then there is a provision sexual
3 abuse audit that's done right now on a
4 every-three-year cycle. And there are ad hoc
5 monitoring that's done depending on any -- that
6 can be generated ad hoc depending on what's
7 happening at the facility, if there is -- are any
8 notes of concern.

9 Q I want to ask a follow-up question
10 about the compliance monitoring. You describe
11 that as comprehensive.

12 Is that ensuring compliance with all
13 rules and regulations?

14 A It's --

15 MR. POWERS: Objection: form.

16 THE WITNESS: It's primarily under --
17 covers compliance with -- for our policies and
18 procedures and the licensing standards -- receives
19 licensing standards for that level of care.

20 BY MR. GENDALL:

21 Q And, then, Ms. Sualog, who do you
22 report to in the organizational structure at ORR?

23 A I report to the ORR director.

24 Q And before you took over your current
25 position in 2018, did you have any prior positions

1 Q Pulse-release services? I'm just not
2 sure I'm understanding you.

3 A Post-release.

4 Q Post-release. Got you. Thank you.

5 And then going back a minute to the
6 grantees and contractors, are those all
7 nongovernmental entities, as in they're not
8 states?

9 They're not states; correct?

10 A That's correct.

11 Q Are they all nonprofits?

12 A No.

13 Q So all of their -- they're private
14 nonprofits and private for-profit companies?

15 A Yes.

16 Q About how many of them are there?

17 MR. POWERS: Objection: form.

18 THE WITNESS: How many individual
19 organizations or -- can you clarify?

20 BY MR. GENDALL:

21 Q Yeah, we'll start with grantees. About
22 how many grantees are there?

23 A I -- I don't know the exact amount. I
24 would think that there are probably 50 or so.

25 Q Five zero?

1 A Yes.

2 Q And how many contractors about?

3 A Contractors probably -- probably a
4 handful. Maybe five. Or, okay, excuse me. Are
5 you referring to contractors that run facilities?

6 Q Yes, because you said contractors --
7 oh, well, let's ask for both. How many -- yeah,
8 how many contractors that run facilities?

9 A Currently, none. Zero.

10 Q Okay. And about five contractors that
11 run programs?

12 A No -- no -- no contractors provide --
13 run programs either. Just a handful of
14 contractors that provide services.

15 Q Can you give me an example of one of
16 those contractors?

17 A A contractor would be the Vera
18 Institute for Justice that provides legal
19 services, the Young Center that provides child
20 advocacy services, General Dynamics that provides
21 case coordination. Those are contractors.

22 Q And can you give me an example of some
23 grantees? Who would be the grantees?

24 A Grantees that run -- that do not run
25 facilities but provide services? Is that what

1 you're --

2 Q We'll start with those.

3 A There are a handful of grantees that
4 provide post-release and home study services such
5 as USCCB, LIRS, USCRI, to name a few.

6 Q What about grantees that run
7 facilities?

8 A Grantees that run facilities are
9 Southwest Keys [sic], Heartland Alliance, Catholic
10 Charities, Lincoln Hall. There are many.

11 Q About how many of them are religiously
12 affiliated?

13 MR. POWERS: Objection: form.

14 THE WITNESS: I do not know the -- I do
15 not know the -- off the top of my head the number.

16 BY MR. GENDALL:

17 Q Would you -- would you guess that it's
18 a majority?

19 MR. POWERS: Objection: form.

20 THE WITNESS: No, I would not guess
21 it's the majority.

22 BY MR. GENDALL:

23 Q You can put that document aside. And
24 please pull out the document under tab number 3.

25 MR. GENDALL: And we'll mark this as

1 A If you are not already licensed, you
2 could begin by contacting one of the foster care
3 providers who care for unaccompanied alien
4 children, such as the United States Conference of
5 Catholic Bishops and the Lutheran Immigration and
6 Refugee Service, who have provided foster care for
7 unaccompanied refugees and immigrant children for
8 many years.

9 Q Why is ORR directing prospective foster
10 parents to USCCB and Lutheran Immigration and
11 Refugee Service?

12 MR. POWERS: Objection: form.

13 THE WITNESS: Because they are our
14 primary providers or has been historically primary
15 providers of long-term foster care or foster care
16 services.

17 BY MR. GENDALL:

18 Q But there are other providers; correct?

19 A That is correct.

20 Q And do you know why those are the two
21 that -- that are the only two that are referred to
22 here?

23 MR. POWERS: Objection: form.

24 THE WITNESS: I do not.

25 BY MR. GENDALL:

1 approximately 10:03 a.m. And we're going off the
2 record.

3 (Recess -- 10:03 a.m.)

4 (After recess -- 10:17 a.m.)

5 THE VIDEOGRAPHER: The time is
6 approximately 10:17 a.m., and we're back on the
7 record.

8 BY MR. GENDALL:

9 Q Welcome back, Ms. Sualog.

10 Does ORR monitor whether its grantees
11 are properly performing their functions?

12 MR. POWERS: Objection: form.

13 THE WITNESS: Yes.

14 BY MR. GENDALL:

15 Q How does ORR go about doing that?

16 A ORR has -- or the UAC program,
17 specifically, has staff whose function
18 primarily -- primary function is to monitor
19 programs. We have, also, field staff that do
20 regular visits and has oversight of individual
21 cases. We have a project officer who does desk
22 monitoring from headquarters.

23 Q Does ORR have any policies regarding
24 grantees' interactions with prospective foster
25 parents?

1 A No.

2 Q So does ORR monitor grantees'
3 interactions with respect to foster parents?

4 A Part of monitoring is a site visit to a
5 foster home, but the -- but -- I guess I don't --
6 specifically, I don't -- other than that, I'm not
7 quite sure.

8 Q So there's site visits to foster homes,
9 but not prospective foster homes; right?

10 A That is correct.

11 Q And site visits to foster homes
12 wouldn't monitor any interactions with prospective
13 foster parents, would it?

14 A Could you repeat that?

15 Q And site visits to foster homes
16 wouldn't monitor any actions of prospective foster
17 parents, would it?

18 A A visit to a foster home would include
19 an interview with the foster parent, yes.

20 Q With a current foster parent, but not a
21 prospective foster parent; right?

22 A ORR has no interaction with any
23 prospective foster parents, no.

24 Q And ORR doesn't monitor any
25 interactions with respect to prospective foster

1 Q Yes.

2 A -- is that what you're asking me?

3 Q Yes.

4 A Okay. I suppose then they would first
5 have to see if there are any providers for UAC
6 foster care in their area and contact that
7 organization and go through the -- go through the
8 foster parent licensing and vetting process.

9 Q And do you know whether ORR or its
10 grantees advertise for people who are -- to try to
11 recruit people who might be interested in becoming
12 a foster parent to an unaccompanied alien child?

13 A I don't know specifically that they do
14 that, but I assume that they would -- there are
15 recruitment or advertising for foster parents,
16 yes.

17 Q Have you seen any of those
18 advertisements?

19 A Not specifically, no.

20 Q Does ORR have any role with respect to
21 foster parent recruitment?

22 A No. And to clarify, when I say "ORR,"
23 I'm only speaking specifically with the
24 Unaccompanied Alien Children's program.

25 Q Understood. Thank you for clarifying.

1 Okay. So once an interested -- someone
2 interested in being a foster parent has reached
3 out, can you please describe for me how -- what
4 happens next? How are there -- will they apply to
5 be a foster parent?

6 A Just to be clear --

7 Q Yes.

8 A -- I -- I am only -- I'm only
9 estimating what happens. I do not know
10 specifically what happens since I'm not involved
11 in that process. But I can imagine that there is
12 an application and then there is a vetting of
13 security or background clearance and go through a
14 training curriculum before the foster home is
15 fully licensed and able to -- to have children in
16 their home.

17 Q And the grantee does all of that work;
18 correct?

19 A Yes.

20 Q Does ORR involve itself at all in that
21 process in the UAC program?

22 A No.

23 Q Does it involve itself in any oversight
24 of that process?

25 A No.

1 do have religiously affiliated grantees, but that
2 they are not -- they do not make up the majority
3 of our grantees.

4 BY MR. GENDALL:

5 Q How does ORR learn that the grantee is
6 religiously affiliated?

7 A The UAC program, we don't solicit that
8 information directly from the organization. I
9 think by experience I assume that it's likely, you
10 know, something to do with the grantee's name,
11 but --

12 BY MR. GENDALL:

13 Q Right. Sometimes it's obvious.

14 A Yeah.

15 Q So you relied on the organization to
16 tell you or to make it obvious to you?

17 MR. POWERS: Objection: form.

18 THE WITNESS: Yeah, if the grantee
19 wants to disclose, you know -- disclose it. I
20 don't think it's -- we just don't solicit. You
21 know, there's nothing that says we go out and ask
22 grantees are you religiously affiliated, per se.

23 BY MR. GENDALL:

24 Q When you are working -- when ORR,
25 rather, is working with a grantee that's

1 back around 11:22.

2 MR. POWERS: Great.

3 THE WITNESS: All right.

4 MR. GENDALL: Thanks, everyone.

5 THE VIDEOGRAPHER: The time is
6 approximately 11:17 a.m. We're going off the
7 record.

8 (Recess -- 11:17 a.m.)

9 (After recess -- 11:25 a.m.)

10 THE VIDEOGRAPHER: The time is
11 approximately 11:25 a.m., and we're back on the
12 record.

13 BY MR. GENDALL:

14 Q Okay. Ms. Sualog, just a couple of
15 follow-up questions on the line of questioning I
16 was just asking about.

17 I think I asked you if you recalled any
18 conversations that you ever had with USCCB
19 regarding its religious affiliation.

20 Do you recall that question?

21 A Yes.

22 Q Secondly, do you recall any
23 conversations with USCCB about its religious
24 beliefs?

25 A I don't recall any conversations about

1 that.

2 Q And you mentioned two meetings you
3 recall with USCCB, one from 2007 when you were new
4 on the job and one with Ambassador Young that was
5 sort of a meet and greet.

6 Do you recall any other meetings or
7 interactions with USCCB?

8 A Yes. I recall -- I recall a couple of
9 meetings with some of their headquarters staff
10 regarding some legal services-related issues. I
11 believe there was an initial meeting and a
12 follow-up meeting.

13 Q What legal services-related issues?

14 A They just -- it had something to do
15 with some kind of -- something that they were
16 requesting regarding some technical thing that
17 they were asking for. I don't recall exactly
18 what -- pertaining to some of the children in
19 their -- children in their care in their Richmond,
20 Virginia program.

21 Q And there was one meeting and one
22 follow-up meeting relating to that that you
23 remember?

24 A Yeah.

25 MR. CELLIER: Objection: scope.

1 their phone.

2 MR. GENDALL: Thank you. I'm not sure
3 it's -- sorry. I checked. I guess it wasn't me.

4 THE WITNESS: It would have been prior
5 to my arriving at ORR. I believe that they are
6 one of the original grantees in the -- in the UAC
7 program, so I would venture to say it was starting
8 2003 when the program transferred over to ORR.

9 BY MR. GENDALL:

10 Q And this conversation -- or this
11 notification to ORR happened well after 2003;
12 correct? It happened while you were at ORR?

13 MR. CELLIER: Objection: scope.

14 THE WITNESS: This particular
15 conversation -- this particular notification that
16 I'm referring to, yes.

17 BY MR. GENDALL:

18 Q So USCCB was -- USCCB was already a
19 grantee at the time?

20 A Yes.

21 Q And did ORR then make alternative
22 arrangements to ensure that unaccompanied alien
23 children in USCCB's care would have access to
24 family planning services?

25 MR. CELLIER: Objection to scope.

1 MR. POWERS: Scope.

2 THE WITNESS: Yes.

3 BY MR. GENDALL:

4 Q What arrangements did it make?

5 MR. POWERS: Objection to scope.

6 MR. CELLIER: Objection: scope.

7 THE WITNESS: I don't know specifically
8 what -- what arrangements were made. I think it
9 would depend, you know, on -- it would depend on
10 the case and what the -- the specific case issue
11 was, and I'm not aware of -- I don't deal
12 necessarily in specific cases, so I -- I don't --
13 I'm not aware what specifically was made with
14 their arrangements.

15 BY MR. GENDALL:

16 Q Okay. Other than that one instance,
17 has USCCB ever represented to ORR that it could
18 not perform some of the services under the UAC
19 program because of its religious beliefs?

20 MR. CELLIER: Objection: scope.

21 THE WITNESS: That is the only thing
22 that I recall.

23 BY MR. GENDALL:

24 Q And same answer for CCFW?

25 MR. CELLIER: Objection: scope.

Page

1 Q When did the faith-based grant policy
2 go under review?

3 A I do not know.

4 Q Do you know why it's under review?

5 MR. POWERS: Objection to the extent
6 that the witness knows the question calls for
7 information protected by the deliberative-process
8 privilege, and I instruct her not to answer.

9 BY MR. GENDALL:

10 Q Do you know whose decision it was to
11 put this policy under review?

12 MR. POWERS: Same objection. I
13 instruct the witness not to answer.

14 BY MR. GENDALL:

15 Q Is it under review because of this
16 case?

17 MR. POWERS: Objection. Same
18 objection. I instruct the witness not to answer.

19 BY MR. GENDALL:

20 Q Are you involved in this review?

21 MR. POWERS: You can answer.

22 THE WITNESS: I am not.

23 BY MR. GENDALL:

24 Q You can put tab 8 aside, please, and
25 turn your attention to the document that I have --

Page

1 had marked as tab -- as Exhibit 9.

2 And I'll represent to you that I pulled
3 this document from the Wayback Machine. It
4 purportedly shows what this URL displayed on
5 June 4th, 2016.

6 Does this policy language look familiar
7 to you?

8 A It looks familiar.

9 Q Do you have any reason to dispute that
10 this was the ACF policy on grants to faith-based
11 organizations circa 2016?

12 MR. POWERS: Objection to form.

13 THE WITNESS: I do not have any reason
14 to believe it was not, no.

15 BY MR. GENDALL:

16 Q Okay. You can put that document to the
17 side. I want you to refer back to the document
18 that we previously marked as Exhibit 4. It's 119
19 pages long.

20 A The grant application?

21 Q Yeah.

22 So this is the grant application that
23 USCCB sent in in response to the FOA -- to the FOA
24 we just looked at; correct?

25 A I'm -- I mean, I do not know that for a

Page

1 BY MR. GENDALL:

2 Q Okay. You can put that aside. I'm
3 going to now ask you to turn to the document under
4 tab 10.

5 MR. GENDALL: We'll mark that as
6 Exhibit 10, please.

7 (Sualog Deposition Exhibit 10 was
8 marked for identification and attached to the
9 transcript.)

10 THE WITNESS: All right.

11 BY MR. GENDALL:

12 Q Have you ever seen this document
13 before?

14 A Yes.

15 Q What is it?

16 A It is the cooperative agreement -- the
17 cooperative agreement between ORR UAC program and
18 USCCB.

19 Q And if you flip all the way to the very
20 last page --

21 A Uh-huh.

22 Q -- you can see this is the executed
23 agreement; correct?

24 A Yes.

25 Q And the duration of the agreement is

Page

1 from February 1st, 2017 to January 31st, 2020?

2 A Yes.

3 Q So this was the -- this was the end
4 result, right, of the -- we looked before at the
5 funding opportunity announcement and USCCB's
6 application which we saw was granted, and this is
7 the cooperative agreement that came out of that
8 process; right?

9 MR. POWERS: Objection to form.

10 THE WITNESS: Yes.

11 BY MR. GENDALL:

12 Q Okay. So this agreement was in effect
13 in February 2017 -- starting February 1st, 2017?

14 A Yes.

15 Q Is this agreement still in effect
16 today?

17 A I believe this agreement is still -- is
18 still in effect today, yes.

19 Q Do you know if ORR and USCCB executed
20 an amendment extending this agreement because it
21 said it would be (audio distortion) --

22 THE COURT REPORTER: I'm sorry. You
23 cut out on me.

24 "Do you know if ORR and USCCB executed"
25 something.

Page

1 Q Yes.

2 Do you recall any specific instances of
3 those allegations?

4 MR. CELLIER: Objection: scope.

5 THE WITNESS: I don't recall anything
6 specific that I've seen the -- yeah, it could be
7 an employee that says that, you know, their
8 boss -- they were let go or treated unfairly
9 because -- in favor of another person. Through
10 the years, there are -- there's been those reports
11 made to ORR.

12 BY MR. GENDALL:

13 Q And what did ORR do when those reports
14 were made?

15 MR. CELLIER: Objection: scope.

16 THE WITNESS: It really depends on the
17 allegation. If it is discrimination, we could --
18 we made referrals to -- referrals to the -- the
19 grantee to also look at that -- those practices.
20 We have -- if warranted, we made referrals to
21 either child welfare or to Department of Labor.
22 It just depended on what the nature of the reports
23 are.

24 BY MR. GENDALL:

25 Q And has any -- has ORR ever received

Page

1 any reports of discrimination against prospective
2 foster parents?

3 A In the UAC program, not until this
4 case.

5 Q Has it received any reports of
6 discrimination against prospective foster parents
7 since the complaint at issue in this case?

8 MR. CELLIER: Objection: scope.

9 THE WITNESS: At least in the UAC
10 program, I'm not aware of any.

11 BY MR. GENDALL:

12 Q So you don't know for sure?

13 MR. POWERS: Object to form.

14 THE WITNESS: I don't know either way,
15 no, but I've not received any.

16 BY MR. GENDALL:

17 Q Is it permissible for grantees to
18 consider a foster parent's sexual orientation in
19 determining placement of an unaccompanied alien
20 child?

21 MR. POWERS: Objection: form.

22 MR. CELLIER: Objection: form.

23 THE WITNESS: I don't -- I do not know
24 specifically what is permissible or not in terms
25 of foster parent recruitment or -- or

Page

1 Q Do you know if they have a similar
2 provision in their grant application?

3 A I don't think so. I'm not quite sure.
4 But I know that they -- that -- I don't -- I
5 don't -- I'm not sure whether they have a similar
6 provision.

7 Q Were you involved in approving this
8 grant application from USCCB?

9 A This particular one, I would have -- it
10 would have been routed through me, the
11 recommendations for awards.

12 Q So you would have made a recommendation
13 for this award?

14 A And, so, the -- it goes through, you
15 know, the review and then the recommendation in
16 terms of cutoff scores, who gets it and who
17 doesn't, who meets the bar and who doesn't. And
18 it would have been routed through ORR which would
19 include me.

20 Q Did you have an understanding at that
21 point that USCCB, if awarded the grant, would
22 administer the program according to its religious
23 beliefs?

24 A Yes.

25 Q And what was your understanding of what

Page

1 those religious beliefs were?

2 A Just primarily issues regarding family
3 planning. That's been the only issue that's come
4 up in the past.

5 Q So in your understanding at the time,
6 that was the only religious belief relevant to the
7 UAC program?

8 A Yes.

9 Q Do you know any non-Catholic applicants
10 that have included language about administering
11 the program in a way that is not contrary to their
12 religious beliefs?

13 A I don't -- I don't know -- I don't know
14 of any other. I -- only because I don't see all
15 applications, too. So I can only speak to what
16 makes it through to award and what makes it
17 through to operational phase. I don't have a -- I
18 don't have kind of a -- I don't see every single
19 application or read through them, so that's the
20 limitation of my knowledge of it.

21 Q Understood.

22 But is it fair to say you've never seen
23 that?

24 A Never seen such of this clause?

25 Q Correct, from a non-Catholic grantee.

Page

1 have in my career placed many children in foster
2 care programs and certainly at ORR. I just don't
3 know -- I've just never worked directly with a
4 long-term -- or a foster care program to know the
5 mechanics about how they recruit and how to vet or
6 what that process is of -- of getting foster
7 parents.

8 Q How many children would you say you
9 have placed into long-term foster care
10 arrangements?

11 A I mean, directly involved in, I mean,
12 including the UAC program, I would say probably --
13 you know, probably thousands of kids I know of
14 that are -- went into off -- long -- foster home.

15 Q Have you placed any children into
16 foster homes headed by a same-sex couple?

17 A Not personally. Just because I
18 don't -- I don't have -- I don't know a lot about
19 where the kids go, the particular homes they go
20 to. I just know that -- that children go to
21 foster home.

22 I have, in my career, been in those
23 foster homes, talked to foster parents, but, I
24 mean, that is -- that is the extent of -- of my
25 experience in that process. And I -- I can say

Page

1 that in some of those homes were same-sex couple
2 homes.

3 Q Some of them were?

4 A Yeah.

5 Q About how many?

6 A I cannot give you a number. I will say
7 not the majority.

8 Q More than ten?

9 MR. POWERS: Object to form.

10 THE WITNESS: I have not been direct --
11 involved in direct services for quite a long time,
12 so I couldn't hazard kind of, like, a guess or
13 estimate on how many homes.

14 BY MR. GENDALL:

15 Q Were you surprised by the fact that
16 Fatma and Bryn filed this complaint against ORR?

17 MR. POWERS: Object to form.

18 MR. CELLIER: Object to form.

19 THE WITNESS: Was I surprised? Just to
20 be completely honest, I'm not surprised at any of
21 the suits that come through ORR anymore. It's not
22 a -- I would say probably not shocked by anything
23 that comes through this program.

24 BY MR. GENDALL:

25 Q Were you shocked by their allegations?

Page

1 MR. LYNCH: Object to form.

2 MR. CELLIER: Object to form.

3 BY MR. GENDALL:

4 Q Were you shocked by their allegations?

5 MR. POWERS: Object to form.

6 MR. CELLIER: Object to form.

7 THE WITNESS: Was I shocked by their
8 allegations? I wasn't shocked. I would be
9 surprised -- I was surprised because, frankly, ORR
10 is not involved in the process by which foster
11 parents become foster parents. We don't -- we
12 don't have any involvement in that process. In
13 that sense, I was surprised by the -- by that
14 piece.

15 BY MR. GENDALL:

16 Q Let me ask it differently. Were you
17 surprised to learn that this had -- that they say
18 this happened to them?

19 MR. POWERS: Object to form.

20 MR. CELLIER: Object to form.

21 THE WITNESS: Am I surprised that what
22 they say happened to them happened to them? Is
23 that what you're asking?

24 BY MR. GENDALL:

25 Q Yeah. It was a terrible question. Let

Page

me rephrase.

Were you surprised to learn that a same-sex married couple alleged that they were discriminated against in applying to be foster parents under the UAC program?

MR. POWERS: Object to form.

MR. CELLIER: Object to form.

THE WITNESS: Surprised that they would -- surprised they would -- that anyone -- in the UAC program that someone who was a same-sex couple would not be eligible to be foster parents?

BY MR. GENDALL:

Q I'm just trying to understand your answer. You were surprised to learn that a same-sex couple would not be eligible?

A Yeah, I'd be surprised because there's nothing in our policies and procedures prohibiting such a thing.

Q Because they should be eligible; right?

MR. POWERS: Object to form.

MR. CELLIER: Object to form.

THE WITNESS: I don't know of any -- any rule that prohibits them from being -- in becoming foster parents.

BY MR. GENDALL:

Page

1 MR. POWERS: Object to form.

2 MR. CELLIER: Form.

3 THE WITNESS: When we -- when ORR is
4 contacted about a potential discrimination, we do
5 take actions in terms like I mentioned before. We
6 do an investigation. We refer them to appropriate
7 other entities that might also be able to do an
8 investigation.

9 BY MR. GENDALL:

10 Q So you've been on notice for about two
11 years that USCCB subgrantees allegedly is not
12 processing any applications from same-sex foster
13 parents.

14 A Uh-huh.

15 Q Have you done anything to investigate
16 whether that's true?

17 MR. POWERS: Object to the form.

18 MR. CELLIER: Object to form.

19 THE WITNESS: What the UAC program has
20 done is ensure that there is a program in that
21 vicinity that would -- that would be able to have
22 same-sex foster parents available or -- or
23 eligible to be foster parents to UAC.

24 BY MR. GENDALL:

25 Q What program is that?

Page

1 A I believe that the UAC program has some
2 capacity through another organization. It might
3 be -- it might be -- it might be BCFS Health and
4 Human Services, but I know we have another
5 provider in that area.

6 Q And by "that area," you mean Texas?

7 A In -- "in the area," I mean
8 specifically the Dallas/Fort Worth area.

9 Q So if a same-sex couple in Dallas/Fort
10 Worth area wanted to foster an unaccompanied alien
11 child today, would they be able to?

12 MR. POWERS: Object to form.

13 MR. CELLIER: Object to form.

14 THE WITNESS: If a same-sex couple in
15 that area wants to be a foster parent and eligible
16 to provide foster home to unaccompanied children,
17 then they have that opportunity, yes. And
18 a (inaudible) --

19 BY MR. GENDALL:

20 Q And how --

21 A -- send a child obviously, but . . .

22 Q Sorry. What was the last thing you
23 said?

24 A I said I cannot promise any particular
25 foster parent who wants just to be a foster parent

Page

1 for UAC at UAC, right. I can just say that
2 they're afforded an opportunity to be a foster
3 parent --

4 Q So how --

5 A -- for the children.

6 Q How would that couple go about applying
7 today?

8 A They would -- if they're not already a
9 foster home, they would -- they can contact that
10 organization, and that they will put in an
11 application to be a foster -- to be foster
12 parents.

13 Q To what organization?

14 A I believe it's BCFS Health and Human
15 Service. There might be another provider, but
16 that is the one that sticks in my mind, so I think
17 they are the provider.

18 Q And BCFS Health and Human Services,
19 they're a UAC grantee?

20 A Yes, they are.

21 Q For the Dallas/Fort Worth area?

22 A For Texas and California, yes.

23 Q Are there any other geographic areas
24 where a same-sex couple would not be able to apply
25 to foster an unaccompanied alien child?

Page

1 THE WITNESS: I'm sure there are other
2 areas just because it is the grantee that offers
3 up the locations to ORR. ORR does not determine
4 where a grantee wants to set up an infrastructure
5 for a long-term foster care program. We can
6 recommend, but the ultimate decision is with the
7 grantee.

8 MR. POWERS: Mike, can we take a break?

9 MR. GENDALL: Yes, of course.

10 MR. POWERS: Okay.

11 MR. GENDALL: We'll do ten minutes?

12 MR. POWERS: Great. Thanks.

13 MR. GENDALL: So come back at 3:10.

14 THE VIDEOGRAPHER: The time is
15 approximately 3:00 p.m., and we're going off the
16 record.

17 (Recess -- 3:00 p.m.)

18 (After recess -- 3:13 p.m.)

19 THE VIDEOGRAPHER: The time is
20 approximately 3:13 p.m., and we're back on the
21 record.

22 BY MR. GENDALL:

23 Q So, Ms. Sualog, I think you said BCFS
24 Health and Human Services are now a grantee in the
25 Dallas/Fort Worth area for UAC program; correct?

Page

1 A Yes. They had been a grantee, and they
2 now have capacity in that area.

3 Q When did their capacity in that area --
4 when did they start having capacity in that area?

5 A I'm not -- I'm not sure exactly when,
6 but it's probably in the last year or so, like in
7 the last year.

8 Q Do you know why they added capacity in
9 that area?

10 A I believe we at ORR made a
11 recommendation for them to see if they had ability
12 to have long-term foster care in that area.

13 Q Why did ORR make that recommendation?

14 MR. POWERS: Objection. The question
15 calls for information covered by the
16 attorney-client deliberative-process privileges.

17 I instruct the witness not to answer.

18 BY MR. GENDALL:

19 Q Did ORR make that recommendation
20 because of this litigation?

21 MR. POWERS: Objection. I instruct the
22 witness not to answer for the same objection --
23 for the same reasons.

24 BY MR. GENDALL:

25 Q Does ORR have any plans to remove

Page

foster parent processing from USCCB's purview?

A That is not an authority that USCCB has that is conferred by ORR. That is, USCCB through their subcontractors are vetted and allowed by state -- by the state they're in to be able to vet foster parents as part of being a child-placing agency.

Q I guess BCFS Health and Human Services and USCCB are both performing the same service at this point in the Dallas/Fort Worth area; correct?

A I want to say yes.

Q So if -- if one of them ceased to perform that service, that wouldn't necessarily be a problem for ORR, would it?

MR. POWERS: Object to form.

MR. CELLIER: Form.

THE WITNESS: If they stopped providing foster care in that area for ORR; is that --

BY MR. GENDALL:

Q If they stopped recruiting and processing foster parent applications, yes.

A So those are -- there's two different issues in that -- in this question, right. Number one, if they have children in their care -- ORR children in their care, a problem for ORR would be

Page

1 if they stopped being a provider in that area, we
2 would have to make arrangements for those
3 children.

4 And whether or not they process
5 applications is, you know, not a decision that --
6 of ORR if they already have -- if they feel like
7 they have adequate number of foster homes and
8 foster parents in the area, that is not -- that is
9 not an ORR decision.

10 But ORR often also has in many areas
11 multiple providers of the same set of services.

12 Q ORR does not need USCCB to process
13 foster care applications in the Dallas/Fort Worth
14 area in order for the UAC program to operate in
15 the Dallas/Fort Worth area; is that correct?

16 MR. POWERS: Objection: form.

17 MR. CELLIER: Object to form.

18 THE WITNESS: USCCB does not need to
19 process foster parent applications in that area
20 for them to continue their program if they have
21 children -- UACs already in that care. The issue
22 for ORR, the problem would be if they stop or
23 cease operations -- foster care operations in that
24 area. That would be the issue for us, not whether
25 they process applications or not.

Page

1 think that's correct or not, I don't think that
2 that's ever been -- that's ever been in -- that's
3 been a factor that we have considered as something
4 that we would need to have policies and procedures
5 on. Whether or not it is -- you know, as ORR,
6 whether or not that's discriminatory, that's
7 for -- that's a different matter.

8 But we just do not have -- we don't --
9 we don't have say, normally, in the back-end
10 process in terms of, you know, everything we have
11 is kind of from the fact that they have capacity
12 and they have foster parents to provide our
13 children has always been where our relationship
14 with them kind of started.

15 Everything else about how they go about
16 vetting, we have -- the only requirement we have
17 is that it meets the -- the state's licensing
18 requirements in terms of bringing on someone as a
19 foster parent.

20 So that's -- that's been --
21 historically, that has been where that process
22 begins for us in terms of foster parents. We
23 generally have not been -- not -- in particular
24 not be involved in the back-end vetting -- vetting
25 piece for foster parents.

Page

1 area.

2 BY MR. GENDALL:

3 Q A different grantee?

4 A Yes.

5 Q Do you know which grantee?

6 A I do not know the name of the grantee,
7 but there was another long-term foster provider
8 that covers that area that assumed the foster
9 parents -- or the foster homes.

10 BY MR. GENDALL:

11 Q Does BCFS license applicants who are in
12 same-sex relationships to be foster parents?

13 A I believe that they don't prohibit
14 same-sex couples from serving as foster parents.

15 Q You don't know for sure?

16 A I know that they do not prohibit that.

17 Q On page 1, the second email from the
18 top, the one right before your email.

19 A Yes.

20 Q Jonathan Hayes, at 5:23 p.m.

21 Do you see that?

22 A Yes.

23 Q And who is Jonathan Hayes?

24 A At the time, Jonathan Hayes was the
25 director of ORR.

Page

1 And, so, in looking to find a way to --
2 to open up the possibilities for same-sex couples
3 in the area, we -- we were looking at what the
4 possibilities were, what the alternatives were.

5 Q What alternatives did you consider?

6 MR. POWERS: Objection. The question
7 calls for information covered by the
8 attorney-client privilege and deliberative-process
9 privilege. I instruct the witness not to answer.

10 BY MR. GENDALL:

11 Q Do you agree with how Fatma and Bryn
12 were treated by CCFW?

13 MR. POWERS: Objection to form.

14 MR. CELLIER: Object to form.

15 THE WITNESS: I mean, I obviously have
16 not been a part of specific -- I don't have a lot
17 of information on the kind of treatment that they
18 were given as individuals. I do think that -- as
19 I mentioned before, that anyone who wishes to be a
20 foster parent should have the opportunity to be a
21 foster parent.

22 BY MR. GENDALL:

23 Q Including same-sex married couples?

24 A Anyone.

25 Q You don't have any concern with

Page

1 Q And do you see that verification of
2 interrogatories page, the third page from the
3 back?

4 A Yes.

5 Q And that's your signature; correct?

6 A That is.

7 Q And you executed that this summer;
8 right?

9 A Yes.

10 Q If you turn to page 40, please. The
11 last paragraph on that page, the one that starts,
12 Federal defendants have made.

13 A Yes.

14 Q Would you please read that paragraph
15 into the record, please?

16 A Federal defendants have made additional
17 inquiries of multiple ORR employees that have been
18 with the agency for a number of years and whose
19 roles are such that they would have been aware of
20 any complaint to ORR by prospective foster parents
21 that had been unable to foster a URM or UAC with a
22 grantee or subgrantee for reasons related to the
23 grantee's or subgrantee's religious beliefs.

24 These employees are not aware of any
25 such complaint other than the one made by

Page

1 plaintiffs.

2 Q Is this one of the interrogatory
3 responses that you verified?

4 A It is.

5 Q What inquiries did you make in order to
6 arrive at that judgment?

7 A For my side, I made inquiries to my
8 staff in the UAC program, to the federal field
9 specialist staff and the field officers staff.

10 Q How did you go about making those
11 inquiries?

12 A Just asked them if they were aware of
13 any -- if they were aware of any complaints or
14 concerns elevated by anyone regarding not being
15 allowed to be foster parents or not being --
16 complaints by those foster parent applicants.

17 Q Did you ask them individually?

18 A My -- my recollection is that I asked
19 the supervisory staff to poll their staff. I did
20 not ask individual staff myself.

21 Q How many supervisory staff members did
22 you ask about to poll?

23 A I asked primarily two individuals. One
24 who had purview over the project officers and one
25 with purview of the field staff.

Page

1 Q Did you ask them by email?

2 A I might have, or it might be in a
3 meeting. I don't recall.

4 Q Do you know whether they, in fact,
5 conducted those polls that you requested?

6 A They indicated to me that they had
7 polled their staff.

8 Q How did they conduct those polls?

9 A I don't -- I don't know specifically
10 how they did it, but they indicated to me that
11 their staff indicated that there were no such
12 complaints that -- that they were made aware of.

13 Q Do you know how they put the question
14 to their respective staffs?

15 A I do not know exactly how they put the
16 question to their staff.

17 Q But you weren't copied on emails, for
18 instance?

19 A I don't -- I do not recall being copied
20 on any emails.

21 Q Do you know whether they asked their
22 staff individually?

23 MR. POWERS: Objection to form.

24 THE WITNESS: I do not know.

25 BY MR. GENDALL:

Page

1 THE WITNESS: Other than look?

2 BY MR. GENDALL:

3 Q Yes.

4 A Yes. So, as I mentioned, now there's
5 another provider, BCFS, so ORR negotiated and
6 asked to see if BCFS had the ability to create a
7 program in that area.

8 Q That's right. Thank you.

9 So you not only looked, but you found
10 BCFS, and you engaged with them to bring them in
11 as a grantee in Texas.

12 Is there anything else that ORR did at
13 that stage?

14 MR. POWERS: Objection to form.

15 THE WITNESS: I don't recall anything
16 else.

17 MR. GENDALL: No further questions from
18 plaintiffs.

19 MR. CELLIER: USCCB has a few questions
20 it would like to ask.

21 EXAMINATION BY COUNSEL FOR THE DEFENDANT

22 UNITED STATES CONFERENCE OF CATHOLIC BISHOPS

23 BY MR. CELLIER:

24 Q Hi, Ms. Sualog. My name is Jason
25 Cellier. I represent the United States Conference

Page

1 Correct?

2 A That is correct.

3 Q The next page, page 54, has the final
4 of the five criteria which is Budget and Budget
5 Justification.

6 A Correct.

7 Q And it states, The application will be
8 reviewed for fiscal soundness and accountability.

9 Is that correct?

10 A Correct.

11 Q And are these the criteria that the
12 panel, which you described previously, use to
13 determine who will be provided a grant under the
14 UAC program?

15 A This is a criteria the panel uses to
16 score the application. The panel just scores the
17 application. The decisions on who to award, that
18 falls under ORR --

19 Q Okay.

20 A -- not the panel.

21 Q Okay. Thanks.

22 A Uh-huh.

23 Q But these are the criteria that the
24 panel uses?

25 A That is correct.

Page

1 Q Are there any other criteria that the
2 panel would use?

3 A No.

4 Q Okay.

5 A This is it.

6 Q Are any of those criteria that we just
7 talked about religious in nature?

8 A No.

9 Q Does ORR inquire into religious beliefs
10 of its grantees during the UAC selection process?

11 A No.

12 Q Does ORR select grantees in the UAC
13 program with the goal of advancing any religious
14 beliefs?

15 A No.

16 Q Does ORR select grantees in the UAC
17 program for the purpose of discriminating against
18 prospective foster parents who are in a same-sex
19 relationship?

20 A No.

21 Q Does ORR require its grantees in the
22 UAC program to discriminate against prospective
23 foster parents who are in same-sex relationships?

24 A No.

25 Q Does ORR encourage its grantees in the

Page

1 UAC program to discriminate against prospective
2 foster parents who are in same-sex relationships?

3 A No.

4 Q Does ORR require its grantees in the
5 UAC program to discriminate on the basis of
6 religion?

7 A No.

8 Q And does ORR encourage its grantees in
9 the UAC program to discriminate on the basis of
10 religion?

11 A No.

12 Q Okay. Thanks. We can put that one
13 away for now.

14 I would like to take you back to
15 Exhibit 4 which was marked earlier, and, again,
16 this is the Safe Passages project summary for
17 fiscal year 2017 for the UAC program.

18 A This (indicating) one? Or is -- it's a
19 smaller document. Oh, this (indicating) one, the
20 continuation proposal.

21 Q No, we're going to go back to Exhibit 4
22 which was the larger document. I believe it was
23 119 pages.

24 A Got it.

25 Q All right. And if you don't mind going

Page

1 to page -- page 15 of 119, HHS03492.

2 A Okay.

3 Q Ms. Sualog, do you have any
4 understanding of why USCCB was selected as a
5 grantee under the UAC program for fiscal year
6 2017?

7 A Yes.

8 Q Could you expand upon that, please?

9 A So US -- UA -- USCCB was determined to
10 be eligible for award based on the score of which
11 the panel gave -- gave their -- gave their
12 application, and we -- and, also, because they're
13 in good standing as a UAC current grantee.

14 Q Can you discuss a little bit what it
15 means to be in good standing?

16 A Just that they have the ability to
17 provide services, meet the ORR policy and
18 procedures and, in general, meet the general
19 program requirements to provide adequate care to
20 UAC.

21 Q Over the course of your time at ORR,
22 have you had the opportunity to monitor USCCB's
23 performance as a grantee in the UAC program?

24 A Not specifically monitor them as a --
25 but I have had many opportunities to supervise

Page
USCCB

1 A I would say it's been very good.
2 has been providing services to UAC -- their
3 service to UAC predates ORR, so they have been
4 instrumental in -- in assisting ORR in developing
5 the program, you know, from the beginning.

6 Q So would you say that USCCB has had a
7 positive impact on the UAC program as a grantee?

8 A Yes, I would say that.

9 Q Has USCCB helped improve the lives of
10 vulnerable children?

11 MR. GENDALL: Object to form.

12 THE WITNESS: Yes.

13 BY MR. CELLIER:

14 Q Is it fair to say that USCCB and its
15 subgrantees have had a favorable impact on the
16 communities they serve?

17 MR. POWERS: Object to form.

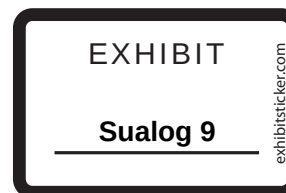
18 THE WITNESS: Yes.

19 BY MR. CELLIER:

20 Q Are USCCB's years of experience and
21 expertise easily replicated by other providers?

22 A No, not easily.

23 Q Setting aside the incident that is the
24 subject of this litigation, has there been
25 anything about USCCB's performance that would



ACF Policy on Grants to Faith-Based Organizations

Listen

The American people have long shown their considerable compassion and generosity through a broad range of community-based entities, including a diverse group of faith-based organizations. Faith-based groups provide critical human services, and, in emergencies, they consistently stand shoulder-to-shoulder with government in the first line of response. Our nation is stronger for their work.

As a result of the considerable capabilities of faith-based organizations, the federal government frequently provides grants or contracts to them to carry out needed services. For the Administration for Children and Families in HHS, faith-based organizations have long been and will continue to be partners in our work.

We are mindful that some potential grantees may have religious objections to providing certain kinds of services, including referrals. This administration is committed to providing the full range of legally permissible services to people who need them, and to doing so in a timely fashion and in a manner that respects the diverse religious and cultural backgrounds of those we serve. At the same time, we also are committed to finding ways for organizations to partner with us even if they object to providing specific services on religious grounds.

The following are ways in which organizations with such objections may be able to participate in human services programs:

- **Serve as subgrantees:** In many cases, subgrantees do not need to provide every service for which the grantee is responsible, so long as all clients served have access to all services required under the grant in a timely and respectful manner. Grantees must ensure that their overall program provides all of the required services, but grantees can use subgrantees to provide some services. Under this arrangement, as long as other subgrantees are readily available to provide clients with the objected-to services, a subgrantee may participate in the grant program while declining to provide services to which they have religious objection.

- **Apply in a consortium:** A second possibility is for faith-based organizations to apply in a consortium with one or more partners. The consortium would allow for a division of responsibility consistent with each organization's principles. Again, as long as clients have timely access to all required services, different organizations could divide up the services provided.
- **Notify grantor:** A third possibility in some circumstances would be for the grantee to notify the federal program office responsible for the grant if a client's needs or circumstances may require services, including referrals, to which the organization has a religious objection. It would then be the federal agency's responsibility to follow through with the needed services, or, if appropriate, transfer the case to another provider.

ACF will consider any combination of these approaches and is open to considering other approaches that would accomplish the goal of ensuring that people have access to a full range of services while enabling qualified faith-based organizations to participate in the delivery of those services in a manner consistent with their principles.

The United States has a unique history of providing a safe haven for people of all faiths while also upholding both the free exercise of religion and the non-establishment of religion, as basic Constitutional principles. In the tradition consistent with this history, the administration will continue to work to provide all necessary services to people in need, recognizing their diverse religious and cultural backgrounds, while respecting our faith-based partners' values.

BACK TO TOP

Exhibit 4

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Case No. 1:18-cv-378 (APM)

- - - - -X

FATMA MAROUF, et al.,
Plaintiffs

VS

ALEX AZAR, in his official
capacity as Secretary of the
UNITED STATES DEPARTMENT OF
HEALTH AND HUMAN SERVICES, et al.,
Defendants

- - - - -X

Videotaped deposition of KENNETH TOTA
taken via videoconference before Clifford Edwards,
Certified Shorthand Reporter and Notary Public, on
September 28, 2020, at 9:12 a.m.

1 a number of questions. And then, the document
2 basically provides the responses to those questions.

3 Q Would you turn to page 12.

4 A Yes.

5 Q So if you'd just sort of flip back, this
6 is in a section where it's describing various
7 employees at ORR and their -- and their
8 responsibilities. And so this section is the
9 responsibilities of the director of refugee
10 programs.

11 Is that your position?

12 A It is.

13 Q So then on page 12, under the fourth
14 bullet point, could you take a moment to read that
15 bullet point.

16 A Yes.

17 Q So what are some controversial matters
18 and confidential and sensitive assignments? Could
19 you provide examples?

20 A Probably one that certainly comes to mind
21 is 2016, after the Paris attacks, we had a -- a
22 number of states withdraw from the program. And
23 obviously at the time, there were very high refugee
24 arrivals or Cuban/Haitian entrant arrivals.

25 So they're -- they're concerned about the

1 withdrawal of those programs and what the next steps
2 would be in terms of wanting to maintain services,
3 certainly for those refugees in the state or even
4 those that would be coming. And so that was a --
5 quite a sensitive nature, elevated sort of to all
6 levels within the Department in terms of
7 discussions. So that -- that's one that certainly
8 comes to mind.

9 Q Any other that come to mind right now?

10 MR. LYNCH: And I just want to
11 clarify: I'm not going to object to his
12 giving examples, but I do want to caution
13 the witness not to go into any agency
14 deliberative discussions regarding those
15 examples or any attorney-client
16 privileged conversations that you had
17 about those examples.

18 A Certainly -- recently, certainly, wanting
19 to provide a response and support to certainly those
20 impacted by COVID, certainly in the refugee
21 resettlement realm as well.

22 BY MR. QUINN:

23 Q Who are your immediate coworkers at ORR?

24 A I supervise division directors.

25 Basically, four division directors. I also have a

1 the record.

2 BY MR. QUINN:

3 Q Welcome back, Mr. Tota.

4 A Thank you.

5 Q I want to talk now about the -- the
6 Unaccompanied Refugees Minor Program.

7 A Okay.

8 Q So if I say "URM," you'll understand that
9 I mean that program?

10 A Yes.

11 Q Okay. What is the URM Program?

12 A It's -- it's a program ORR administers
13 for -- to provide services through State foster care
14 systems for unaccompanied refugee minors referred by
15 the State Department or for other minors who meet
16 other eligibility categories for referral or
17 placement into the URM Program, into those foster
18 care programs for a host of some basically services
19 that would include certainly education and
20 orientation, with a focus certainly on stability
21 and -- and permanency within those programs.

22 Q Any -- and ORR means the Office of
23 Refugee Resettlement?

24 A Yes. Sorry. Yes.

25 Q So you described two sort of streams.

1 A Their -- yes. So it -- depending on the
2 need of the child, they would be -- they could be
3 placed with -- in a -- in a foster care family
4 arrangement. I think about 50 or -- 50 percent or
5 so are usually placed in a foster care arrangement.
6 And then the remainder would be in some of those
7 other types of -- other types of care -- care.

8 Q And could you repeat what the other types
9 of care are?

10 A So it could be a group home, independent
11 living, residential treatment or therapeutic foster
12 care.

13 Q Are any URM services provided to those
14 who are not minors in the program?

15 A No. No.

16 Q Does ORR need to arrange for the
17 recruitment of foster parents for the URM Program?

18 A That's not -- no. That's done at the
19 provider level.

20 Q Does ORR need to arrange for the
21 screening of foster parents?

22 A It's all done through the -- basically
23 through the State and their provider. It's
24 coordinated directly through them.

25 Q And training of foster parents is also

1 done at that level?

2 A Correct.

3 Q So you mentioned the states operating the
4 program. Would -- does every state participate in
5 this program?

6 A No. Only 15 states. So it's not -- it's
7 not throughout ORR's entire resettlement network.

8 Q How many states did you say?

9 A Fifteen.

10 Q Fifteen? One, five?

11 A Right.

12 Q So doing some math, 35 states don't
13 participate in the URM Program?

14 A Correct.

15 Q And in the states where the State does
16 not participate in the URM Program, who runs the URM
17 Program?

18 A It -- in the State that does not
19 participate?

20 Q If the State itself is not participating
21 in the URM Program, what happens?

22 A They -- so we're -- there wouldn't be
23 referrals to those particular State foster care
24 systems.

25 Q Could you repeat that?

1 like -- let me just count.

2 A So of the replacement designees, North
3 Dakota -- North Dakota and Texas have URM Programs.

4 Q So just Texas and North Dakota have
5 replacement designees that operate URM Programs?

6 A Correct. Although -- so North Dakota --
7 some of the -- some of the replacement designees,
8 the states have opted to maybe maintain one part of
9 the program. So they may have opted out on maybe
10 just refugee cash assistance, but they're providing
11 medical services.

12 So it -- sometimes it's not the whole
13 package, like Texas, which is the whole package.

14 Q Uh-huh.

15 A North Dakota, the program -- the -- the
16 foster care program or the URM Program, I believe,
17 is actually administered directly by the State, even
18 though part of that program is a replacement
19 designee. I --

20 Q So then --

21 A That's my -- that's my understanding. I
22 probably would need to clarify that. But, yes.

23 Q So -- so then it seems like -- is it
24 Texas that's really the only State where the State
25 is not administering the foster care sort of side of

1 it?

2 A Yes.

3 Q Okay. So could you walk me through how
4 unaccompanied refugee minors themselves, the
5 children, arrive to the U.S. and then end up in the
6 care of a State or a replacement designee?

7 A So I -- so that we -- so that there are
8 the two streams. So one stream would be the direct
9 referral from State Department working with the two
10 designated URM national providers, who would make
11 the referral directly to their affiliates, and then
12 work with the providers on the ground to sort of
13 identify the -- the placement or secure -- assure
14 the placement within that URM Program.

15 The other track would be those who are
16 identified as eligible within the U -- sorry, I'm
17 tapping -- within the UAC Program. And usually once
18 they're -- they receive some type of eligibility
19 which would make them eligible for the URM Program,
20 there's a consultation certainly with the -- the
21 shelter that's hosting them and the UAC field
22 specialist to kind of determine what would be the
23 next possible appropriate level for care.

24 If it's decided that the URM Program
25 would be a viable direction based on that

1 the direction we moved forward. So it used to come
2 in as replacement for the State because there were
3 multiple provider -- multiple URM foster care
4 providers in Texas.

5 Q So are there many child welfare agencies
6 around the country that provide URM services?

7 A No. It would -- it would be limited to
8 those that we fund for URM services, which would be
9 the -- the 15.

10 Q Sorry. Fifteen states or private
11 entities?

12 A So 15 states to include the designee in
13 Texas. Yeah. Sorry. Yeah. Or -- yes.

14 Q The 15 states, one of which --

15 A I --

16 Q -- which is USCCB?

17 A Correct. Right. I -- well, I tend to
18 refer to replacement designees, once they're in
19 there, as a state.

20 So sorry about that.

21 Yeah. One of the fifteen, yeah.

22 Q Okay. So once a replacement designee is
23 in the program, does ORR care whether a replacement
24 designee is performing adequately?

25 MR. LYNCH: Object to the form of

1 the question.

2 A We do -- we do monitor -- so the --
3 certainly the -- the State plan that the primary
4 provider, USCCB, submits -- or all the replacement
5 designees submit indicate that they will do regular
6 and annual -- annual monitoring of their
7 sub-recipients. And then we also do monitoring of
8 those on -- on our behalf to see if they're carrying
9 out the services appropriately, correct.

10 BY MR. QUINN:

11 Q Uh-huh.

12 So what type -- like, what is the type of
13 monitoring that ORR conducts?

14 A Our team -- so within our -- within the
15 URM team, or the staff that are part of that under
16 supervision of Anne, they have developed protocols
17 that really look at a certain outline of the
18 services required by a regulation and -- and policy.

19 And they go out into those programs
20 and -- and monitor really the -- the provision of
21 service, level of reporting, assurance that they're
22 establishing custody after their arrival in the
23 state, and they work certainly in coordination with
24 the State, 'cause the State oversight is provided by
25 that or under replacement designee, and -- and then

1 do -- conduct that monitoring of the actual service
2 provider.

3 Q Does a replacement designee's conduct
4 reflect back to ORR or reflect on --

5 MR. LYNCH: Object to --

6 BY MR. QUINN:

7 Q -- to ORR?

8 MR. LYNCH: Object to the form of
9 the question.

10 MR. CELLIER: Object to form.

11 A I'm not sure I understand the question.

12 BY MR. QUINN:

13 Q So is a replacement designee serving
14 certain functions for the OR -- for the URM Program
15 that ORR otherwise would need to provide?

16 A So it wouldn't be --

17 MR. LYNCH: Object to the form of
18 the question.

19 A We wouldn't direct --

20 MR. CELLIER: Objection.

21 A We wouldn't directly provide it. It's
22 provided -- it's in replacement of the State.

23 BY MR. QUINN:

24 Q So in replacement of the State, sort of
25 by virtue of that, does it reflect back to ORR?

1 A Not -- not directly, no.

2 Q Does ORR subscribe to them?

3 MR. LYNCH: Object to form.

4 A I'd have to check with our UR -- the
5 Unaccompanied Refugee Minor team to verify that,
6 yeah.

7 BY MR. QUINN:

8 Q So do these standards ensure for
9 providing the best interest of children?

10 MR. LYNCH: Object to form.

11 A I'm sorry, Brendan?

12 BY MR. QUINN:

13 Q Do the standards that ORR subscribe to,
14 do they provide for ensuring the best interest of
15 children?

16 A Yes. That's --

17 MR. LYNCH: Object to form.

18 A Yeah. I mean, we -- every attempt is to
19 provide for the best interests.

20 BY MR. QUINN:

21 Q And do these -- the standards that ORR
22 subscribes to call for infusing the pool of
23 potential foster parents?

24 MR. LYNCH: Objection.

25 A No. That's all done at the State -- the

1 State level.

2 BY MR. QUINN:

3 Q So are -- can states just not provide
4 foster parent services?

5 A Or elect to not be a URM provider? Is
6 that the question or --

7 Q No. I'm -- I'm trying to understand
8 how -- you keep saying that the states are in charge
9 of foster parenting sort of issues, but as a -- a
10 child in the URM Program, are they entitled to a
11 foster family should one be in their best interests?

12 MR. LYNCH: Object to form.

13 MR. CELLIER: Object to form.

14 A If -- if they're in the URM Program and
15 identified for placement within them, then, you
16 know, based -- yeah, based on their best interests
17 and -- and the level of care needed, then foster
18 care would -- you know, could certainly be one of
19 those options.

20 BY MR. QUINN:

21 Q So does ORR need to ensure that foster
22 care is an available option for those children?

23 A So through our -- our basically State
24 plan for services, the State, you know, guarantees
25 that they will provide a -- a host of services or

1 arrived in that state. And then they submit a --
2 kind of a -- we call it our ORR-1, but our budget
3 submission that would provide their estimate for the
4 coming year.

5 A lot of caveats in that. You know, at
6 the time we provide those estimates, it -- our
7 estimates are very much dependent on what the other
8 federal departments may determine for the -- for the
9 next fiscal year, and often we don't know.

10 Right now we're waiting for the final
11 determination of refugees for FY21, and that hasn't
12 been decided yet. So often we use the previous
13 fiscal year's kind of estimate, and that's what's
14 kind of provided as the estimate.

15 We allocate quarterly, but -- but because
16 of the front end, some information is unknown, we
17 end up adjusting the fiscal year.

18 Q Okay. So is this funding model a
19 reimbursement-based model?

20 A It is. So we do only reimburse states
21 for what they actually allocate or spend. That's
22 correct.

23 Q Are there any other funding streams that
24 are -- that are in addition to the reimbursement
25 model?

1 MR. CELLIER: Object to form.

2 A Yes. They would need more foster care
3 parents to carry that out, correct.

4 BY MR. QUINN:

5 Q So replacement designees need to engage
6 in foster parent recruitment so that they can
7 increase foster care placement?

8 MR. LYNCH: Object to form.

9 MR. CELLIER: Object to form.

10 A If -- if they're looking to do that. Not
11 all agencies are looking to increase their
12 placements. There's a lot of kids that age out, and
13 then new kids come in. And so there's not always
14 the need for additional recruitment.

15 BY MR. QUINN:

16 Q Uh-huh.

17 So do URM grant funds, do they pay for
18 expenses related to foster parent recruitment?

19 MR. LYNCH: Object to form.

20 MR. CELLIER: Object to form.

21 A They would include recruitment and
22 training, yes.

23 BY MR. QUINN:

24 Q So foster parent recruitment -- so they
25 would include foster care recruitment?

1 MR. LYNCH: Sorry. Object to the
2 form.

3 I don't think we got to the end of
4 the question, but object to the form of
5 the question.

6 MR. CELLIER: Object to form.

7 (Whereupon, the court reporter
8 requests clarification.)

9 BY MR. QUINN:

10 Q Okay. So ORR would reimburse the
11 replacement designee, who would then reimburse the
12 sub-replacement designee who engaged in those
13 activities?

14 A Yes, that's my understanding.

15 Q Okay. So if this model is
16 reimbursement-based, would it be feasible for ORR to
17 process foster parent applications for a replacement
18 designee if the replacement designee or its
19 sub-recipient objected to performing that service?

20 MR. LYNCH: Object to form.

21 MR. CELLIER: Object to form.

22 A Because the -- those activities are all
23 coordinated within the State licensing, it -- it
24 really needs to happen at the local level. So ORR
25 wouldn't have a role in that process.

1 BY MR. QUINN:

2 Q But ORR is reimbursing for those
3 activities?

4 A Correct. But we're --

5 Q You can continue.

6 A But -- but we're subcontracting -- or
7 contracting, and then those -- those contract
8 activities are subcontracted out with the
9 requirement that they be coordinated with the State
10 licensing entity. So the State licensing entity
11 oversees all of that process.

12 Q But does ORR have any say on this process
13 in terms of --

14 MR. LYNCH: Object to form.

15 A Our -- our role is to make sure that
16 they're following State licensing standards within
17 that state, and they could vary from state to state.

18 BY MR. QUINN:

19 Q Uh-huh.

20 A But the requirement is they follow the
21 standards within that state.

22 Q And ORR -- but ORR does not --

23 A We don't have a role in what -- how those
24 are implemented, except that they be implemented in
25 accordance with the -- with the State.

1 Q Even though the State -- even though ORR
2 is paying for it?

3 A We are paying -- correct.

4 Q So could you walk me through how
5 replacement designees recruit foster parents?

6 MR. CELLIER: Object to form of the
7 question.

8 MR. LYNCH: Object to form.

9 A It -- it would depend on the -- basically
10 the standard set by the State licensing within that
11 state.

12 I -- I don't know the particular process
13 for recruitment of foster parents. We don't have a
14 role in that process.

15 BY MR. QUINN:

16 Q But your role is to fund that -- those
17 activities -- correct? -- or reimburse the
18 replacement designees for those activities?

19 MR. LYNCH: Object to form.

20 A To reimburse the --

21 MR. CELLIER: Object to form.

22 A To reimburse the designee to follow State
23 licensing standards. So they could vary by state to
24 state.

25

1 transfer children from the agencies to the actual
2 foster family?

3 MR. LYNCH: Object to form.

4 MR. CELLIER: Form.

5 A The local -- the local agency that they
6 work directly with or subcontract with would
7 actually identify and secure and train the -- the
8 local foster care family. So they would have the
9 primary role on that.

10 BY MR. QUINN:

11 Q And so are you aware of how that process
12 works?

13 A Not -- not directly, no.

14 Q But indirectly?

15 A I probably -- there -- I mean, it -- it
16 depends, I think, much on the State licensing and
17 the requirements in terms of training, on
18 orientation that they do for the -- certainly the
19 foster care parents before they bring them -- bring
20 them on as foster care parents.

21 So it would really depend on -- on those
22 processes at the local level. I don't know kind of
23 individually what happens at the local level. It's
24 really carried out at the local level, yeah.

25 Q But to go back to our point from earlier,

1 Program.

2 A Brendan, specific to the URM Program or
3 just the process overall?

4 Q So is there a difference?

5 A Not really, but I just want to make sure,
6 just to verify the question, yeah.

7 Q Just sort of, like, Texas announced it's
8 withdrawing. What happened?

9 A Okay. When -- so when Texas announced,
10 that we had a sense certainly they were going to
11 withdraw. Finally, they did send a notice to
12 withdraw from the program. There were sort of a --
13 certainly a number of sort of discussions internally
14 to see how we would go about approaching, really to
15 maintain services.

16 As I mentioned, that Texas was one of our
17 largest programs, and certainly there was a -- a --
18 a great desire to make sure we could continue those
19 services, not only for refugees, but also on the --
20 for within the UR -- also services within the URM
21 Program.

22 Texas, because it was such a large
23 geographic region, but also because it was one of
24 our largest State programs, had discussions about
25 trying to divide it up into kind of regions so that

1 we could make it a little more manageable and also
2 have more players kind of come in -- come -- come in
3 and be part of the administration.

4 So there was kind of a -- you know, sort
5 of an internal decision to kind of divide it up into
6 four regions for actual refugee resettlement
7 processes and then have a separate designee for the
8 two URM Programs that were in the State of Texas,
9 and then also have one that would manage the medical
10 services overall so that it wouldn't be kind of
11 divided up and administered separately among all of
12 those regions. So discussions to kind of figure out
13 how we would move forward structurally, and that was
14 kind of part of that discussion.

15 We then basically reached out to
16 basically the players. So the agencies working
17 within the State of Texas, the nationals and the
18 locals, to see kind of what interest there would be.
19 And then coming forward, of course, they had some
20 anticipation this was going to happen. I think
21 speculation that the governor would withdraw had
22 been ongoing for quite some time.

23 We had a lot of discussions with the
24 State. We really wanted to make sure it was a
25 smooth transition. The State staff were very

1 amenable to kind of working through that transition
2 and making sure that -- that it was smooth and that
3 refugees had continued services, and there was no
4 gap in services. That was a real concern.

5 We put out the letter of intent. We got
6 a number of applications, been buried by kind of the
7 region that we had been broken up in -- by. And
8 then we kind of began our -- well, then we -- based
9 on the letter of intent, we had decided that the
10 entities should submit applications based on that.
11 And then based on those, we had kind of a review
12 process to determine who we would actually
13 designate.

14 USCCB was kind of the primary in putting
15 forward their letter of intent, because they had
16 two -- two providers within the state, both Catholic
17 Charities Houston and Catholic Charities Dallas/Fort
18 Worth. They were, you know, the logical choice
19 given they're service providers within the state.

20 Q So backing up to sort of the beginning, I
21 guess.

22 A Sure.

23 Q What was your reaction to Texas'
24 announcement?

25 A It was a -- at the time, there was a lot

1 of governor concern because of the Paris attacks and
2 on terrorist-related concerns.

3 Thinking back, I believe, Kansas was our
4 first to withdraw, and then we also had New Jersey.
5 And then Texas, I think, followed that. I'm trying
6 to remember the exact order.

7 But certainly, Texas -- Texas was a
8 concern that, I think, because of its size, and we
9 knew it would require a bit of a different model in
10 kind of dividing up some of the service components.
11 And it was our first state that had a URM Program.
12 So we had to really figure out how that piece would
13 play into it as well.

14 So it -- it was -- we knew it was going
15 to be -- my thought was this is going to be a big
16 undertaking, and we had a very short time frame and
17 really had to pull a lot of pieces together to carry
18 that out to make sure there were no gaps.

19 Q So was Texas a large provider of URM
20 services?

21 A The URM Program is not -- not one of our
22 largest, but the resettlement side is. They were --
23 I think, at that time they were probably one of the
24 largest refugee states, and they were receiving
25 almost equal numbers of Cuban and Haitian entrants.

1 So it was -- was one of our largest programs.

2 Q And had a state ever withdrawn before?

3 A So over the years, there have been states
4 who had withdrawn for administrative reasons, and
5 those states were operated under what we call the
6 Wilson-Fish program.

7 And they -- that was a discretionary
8 grant that was issued to states that -- to
9 programs -- to entities -- no -- to State localities
10 that had withdrawn, and so that they were
11 administered for a local provider to ensure the
12 service components would continue.

13 When -- in 2016, when we all -- all of a
14 sudden had five states withdraw, we decided to
15 basically move into more of what we called the
16 replacement designee mode. So we designated all of
17 those entities as replacements in the states that
18 withdrew.

19 And we have since transitioned what were
20 the Wilson-Fish Program entities for states that had
21 previously withdraw, and those entities were kind of
22 the program, they're all now replacement designees.

23 And so that -- that list I provided --
24 that partial list I provided earlier are those
25 entities that are -- all now are replacement

1 designees.

2 Q But just so I'm clear: That Texas was
3 the first URM Program --

4 A Yes.

5 Q -- to withdraw?

6 A Yes. It was the first State with a URM
7 Program to withdraw, yes.

8 Q And relative to URM Programs in other
9 states, was Texas one of the larger ones or the
10 largest?

11 A In terms of URM Program?

12 Q Yes.

13 A No. It's -- I would say it's a
14 medium-sized program.

15 Q What's the largest URM Program?

16 A It's in -- it's Michigan. Michigan has
17 the largest program.

18 Q And does that program operate -- sorry.
19 I didn't mean to cut you off.

20 A Sorry.

21 Michigan, and then California,
22 Washington, those are probably our largest.

23 Q And are those run by the State or by
24 replacement designees?

25 A They are all State.

1 Q Okay. Could you turn to tab eight?

2 A Yes.

3 MR. QUINN: I'm going to enter this
4 into the record as Exhibit 8.

5 (Whereupon, Plaintiff's Exhibit No.
6 8, Document to Robert Carey and Ken
7 Tota from Carl Rubenstein dated
8 October 14, 2016, was marked for
9 identification.)

10 BY MR. QUINN:

11 Q Have you seen this document before?

12 A I have.

13 Q Did you review it to prepare for today's
14 deposition?

15 A No.

16 Q Why are you smiling?

17 A I haven't seen it in a while, but -- but
18 now it's all kind of coming back, yes.

19 Q So what is this document?

20 A It was a -- it -- kind of an outline of
21 our plan and how we would proceed. And it was to
22 the director of ORR at the time, kind of proposing
23 how this -- how the -- how the program -- how we
24 would go about the process for selecting a -- a
25 replacement designees in the state.

1 Q So could you turn to page two?

2 A Yes.

3 Q It says, "The Tiger Team proposes
4 designating six replacement designees in Texas."

5 What's the Tiger Team?

6 A So when we moved forward with -- excuse
7 me.

8 When we moved forward with kind of a -- a
9 model or a plan to move this forward, we realized it
10 was a -- a large undertaking, and it involved a lot
11 of different sectors. So it involved those working
12 in our direct Refugee Cash Assistance Program, those
13 in our medical program, on the screening program,
14 and the URM Program, and also had budgetary impact
15 and policy impacts.

16 So it was kind of an interdivisional team
17 within ORR that basically met regularly to kind of
18 move -- move this process forward. And we called
19 them the Tiger Team, because they were kind of an --
20 and on-the-spot advanced team to get this job done.
21 So --

22 Q So under where it says, "The Tiger Team,"
23 there are three bullet points. The second one says,
24 "One national resettlement agency will act as a
25 fiduciary agent and oversee the Unaccompanied

1 certainly on the religious rights, certainly around
2 right to life, and so that clause was certainly
3 flagged there, certainly their -- their religious
4 conscious -- conscious clause rights and was
5 interpreted certainly specific to right-to-life
6 issues.

7 BY MR. QUINN:

8 Q So are you -- aside from this specific
9 instance of the URM Program in Texas in 2017, are
10 you aware of other grants from ORR where this or
11 similar language was included?

12 MR. LYNCH: Object to scope.

13 MR. CELLIER: Object to scope.

14 THE WITNESS:

15 A I'm sorry. I didn't hear the comments.

16 The objection -- was there an objection
17 or --

18 BY MR. QUINN:

19 Q It was just an objection to scope.

20 A Oh, okay. Okay.

21 Q Please answer my question.

22 A There -- in some of my work prior to --
23 more specific work on the refugee program, on the
24 Unaccompanied Alien Children's Program, USCCB often
25 included this language in their cooperative

1 agreements with -- with ORR.

2 Q So for how long had you been accustomed
3 to seeing similar language?

4 MR. LYNCH: Object to form. Object
5 to scope.

6 MR. CELLIER: Object to form and
7 scope.

8 A I can't say specifically. I -- I can't
9 say specifically, but I would say probably as far
10 back as 2008. It would really depend on some of the
11 grant cycles.

12 BY MR. QUINN:

13 Q Why would you say 2008 specifically?

14 A I remember some interaction with the
15 acting director at the time who is -- who was the
16 acting director during that time, yeah.

17 Q What was the nature of the interaction?

18 MR. LYNCH: Object to scope.

19 And I'm going to instruct the
20 witness not to answer to the extent that
21 that involves agency deliberations.

22 MR. CELLIER: Object to scope.

23 A It was -- it was related to the topic of
24 right to life.

25

1 BY MR. QUINN:

2 Q So you were used to seeing this or
3 similar language in various grant agreements with
4 USCCB for, roughly, a decade prior to this Texas
5 situation?

6 A Yes.

7 MR. LYNCH: Object to form. Object
8 to scope.

9 MR. CELLIER: Object to form and
10 scope.

11 BY MR. QUINN:

12 Q What religious beliefs did you understand
13 this language encompassed?

14 A Right-to-life issues. Specific to
15 right-to-life issues.

16 Q Any other religious beliefs?

17 A No.

18 Q Were you aware of any other religious
19 beliefs that may have been encompassed by virtue of
20 your work at USCCB?

21 MR. CELLIER: Object to scope.

22 MR. LYNCH: Object to scope.

23 A Issues that would have come up in the
24 context of my work, no.

25

1 BY MR. QUINN:

2 Q So your knowledge of their belief
3 concerning same-sex marriage hasn't changed since
4 you worked at USCCB?

5 A I don't --

6 MR. LYNCH: Object to form.

7 A I don't believe so, no.

8 MR. CELLIER: Object to form.

9 BY MR. QUINN:

10 Q You don't believe so or do you know so?

11 MR. LYNCH: Object to form.

12 A I'm sorry?

13 BY MR. QUINN:

14 Q You said, "Believe." Do you know whether
15 or not, to your knowledge, it's changed?

16 MR. LYNCH: Object to form.

17 MR. CELLIER: Object to form.

18 A I don't -- I don't follow it exactly, but
19 I don't believe that they've changed.

20 BY MR. QUINN:

21 Q Did you know that USCCB's religious
22 beliefs regarding same-sex marriage would prevent
23 USCCB from processing a same-sex couple's foster
24 parent application?

25 A No.

1 MR. LYNCH: Object to form.

2 MR. CELLIER: Object to form.

3 BY MR. QUINN:

4 Q But you just said that you knew USCCB's
5 religious beliefs concerning same-sex marriage?

6 MR. LYNCH: Object to form.

7 MR. CELLIER: Object to form.

8 A I did not -- I did not realize it would
9 impact their decision on acceptable foster care
10 parents.

11 BY MR. QUINN:

12 Q Why didn't you realize that?

13 MR. CELLIER: Object to form.

14 MR. LYNCH: Object to form.

15 A Because we have no role in the processing
16 of foster parents or the selection of foster care
17 parents. It never came up as a consideration.

18 BY MR. QUINN:

19 Q But ORR is reimbursing USCCB to engage in
20 those activities?

21 A Correct.

22 MR. LYNCH: Object to form.

23 A They're carried out at the local level
24 and in -- in -- in coordination with State
25 licensing. It's -- it's never -- it's never -- it

1 MR. CELLIER: Object to form.

2 A Prior -- how do I answer this?

3 USCCB coming forward as a replacement
4 designee presented, I -- I would say, a different
5 and new set of circumstances we had not actually
6 dealt with before because they were a direct
7 recipient of ORR funds to carry out the URM Program.
8 And all other programs they were administered
9 through -- through the State and through State
10 licensing and child -- child welfare. So a lot of
11 the recruitment would happen within the State
12 programs.

13 This was -- this was a unique situation
14 and -- where as a direct recipient -- USCCB was a
15 direct recipient, and there just hadn't been an
16 association that some of their same-sex beliefs or
17 restrictions would have an impact on the selection
18 of foster care parents.

19 It was not in the realm of consideration
20 when the selection was made 'cause it had never
21 occurred before.

22 BY MR. QUINN:

23 Q When ORR was considering USCCB's
24 application to be the replacement designee in Texas,
25 can you tell me about any conversations you had

1 concerning USCCB's religious affiliation?

2 A That -- so if the designation were to
3 proceed, we -- we knew, certainly in regard to
4 right-to-life issues and certainly as indicated, and
5 the clause indicated, that if there were a minor
6 that had been identified for a foster care client
7 for placement and she was requesting an abortion, we
8 knew we had alternative options. It was always to
9 flag that there was a case where they had a -- a
10 religious objection and that we would have other
11 options, and we'd come up with alternative options
12 to provide an alternative resolution.

13 And so the discussions that were had were
14 in regard to that specific example because that's
15 what we had dealt with previously to them.

16 Q Were right-to-life and abortion issues?

17 A Correct.

18 MR. LYNCH: Object to scope.

19 MR. CELLIER: Object to scope.

20 BY MR. QUINN:

21 Q But the language in these -- in this
22 letter, at least, before we move on to the
23 application, it was broader than just right-to-life
24 issues?

25 MR. CELLIER: Object to form.

1 MR. LYNCH: Object to form.

2 A But -- but our context was always -- what
3 had preceded it was -- which was right --
4 right-to-life issues.

5 BY MR. QUINN:

6 Q So if the context was always
7 right-to-life issues, why was this language used in
8 a more broad sense?

9 MR. LYNCH: Object to form.

10 MR. CELLIER: Object to form and
11 scope.

12 A I -- I can't say.

13 BY MR. QUINN:

14 Q It says Catholic teachings. It's
15 authentic teachings of the Catholic church, its
16 moral convictions and religious beliefs; correct?

17 A Correct.

18 Q Did ORR conduct any investigation to
19 determine what USCCB's religious beliefs included?

20 MR. LYNCH: Object to scope.

21 MR. CELLIER: Object to scope.

22 A No.

23 BY MR. QUINN:

24 Q Why not?

25 A It -- we would -- we would look to

1 really -- really where there were intersections
2 probably with clients we serve, and if there were --
3 if those instances had arisen, then we would look
4 for solutions to address them.

5 MR. QUINN: I think we're good to
6 take a break here.

7 MR. LYNCH: Okay.

8 THE VIDEOGRAPHER: Okay. Going off
9 the record. The time is 2:16 p.m. New
10 York time.

11 (Whereupon, there was a recess taken
12 from 2:16 p.m. to 2:32 p.m.)

13 THE VIDEOGRAPHER: The time is
14 2:32 p.m. New York time. We're back on
15 the record.

16 BY MR. QUINN:

17 Q So I want to take some time now and talk
18 about this case and our clients.

19 When did you first learn about our
20 clients?

21 A February, March time frame, 2017.

22 Q What was your understanding of their
23 outreach?

24 A They had called the Catholic -- Catholic
25 Charities Fort Worth office expressing their desire

1 to be foster care parents for this -- for the
2 Unaccompanied Refugee Minor Program. And I -- I
3 believe that one of the staff or the directors
4 indicated that the -- same-sex couples could not be
5 foster care parents.

6 And -- and -- yeah, that's, I guess, the
7 beginning of it, yeah.

8 Q Why couldn't they be foster care parents?

9 A Because it was a same-sex couple.

10 Q And CCFW had a problem with that?

11 A That would be --

12 MR. LYNCH: Object to form.

13 A -- against their -- yeah, against their
14 Catholic teachings.

15 BY MR. QUINN:

16 Q Did you discuss this outreach with anyone
17 else within ORR?

18 MR. LYNCH: And I'm going to just
19 instruct the witness not to reveal any
20 attorney-client privileged communications
21 or any internal agency deliberations on
22 the subject.

23 THE WITNESS: Okay.

24 A The -- the information was -- the --
25 the -- the occurrence was provided to our URM

1 supervisor, and then the URM supervisor, Anne
2 Mullooly, informed me and our -- I believe our
3 policy unit of the occurrence, yeah.

4 That was the first time we've heard of
5 someone in the community, yeah, being -- being
6 denied the -- being denied that ability to become
7 foster parents.

8 BY MR. QUINN:

9 Q Did you discuss this case or our client's
10 outreach with USCCB?

11 A I did not.

12 MR. LYNCH: Same instructions to the
13 witness.

14 BY MR. QUINN:

15 Q Did you discuss our client's outreach
16 with Catholic Charities of Fort Worth?

17 A I -- I did not.

18 Q Sitting here today, is it your
19 understanding that Fatma and Bryn are a legally
20 married same-sex couple?

21 MR. LYNCH: Object to form.

22 MR. CELLIER: Object to form.

23 A Yes.

24 BY MR. QUINN:

25 Q When did you learn that?

1 A Brendan, I just want to clarify the
2 question. Do you mean as it was reported or do you
3 mean sort of more officially?

4 Q Just when you -- when you first
5 understood that our clients were a same-sex married
6 couple.

7 A When the -- when the incident was first
8 reported to me, that was my understanding.

9 Q And when was the incident first reported
10 to you?

11 A It was February, March 2017. I am not
12 sure of the exact date.

13 Q Was our client's outreach unprecedented?

14 MR. LYNCH: Object to form.

15 MR. CELLIER: Object to form.

16 MR. LYNCH: Object to scope.

17 MR. CELLIER: Object to scope.

18 A To my knowledge, yes.

19 BY MR. QUINN:

20 Q What did you think of their outreach?

21 MR. LYNCH: Object to form.

22 A Since -- since we had never had a --
23 really a direct relationship in regard to any foster
24 care parents or selection, this was the first kind
25 of instance that it occurred under what was a very

1 newly awarded replacement designee grantee.

2 So it was kind of a new instance that --
3 and I was surprised -- part surprised when I heard
4 of the occurrence.

5 BY MR. QUINN:

6 Q Why were you surprised?

7 A Surprised in the context of -- that
8 foster -- that it was specific to this program and
9 if -- and that we had never had an instance or
10 similar occurrence happen before that.

11 Q Was our client's outreach dealt solely
12 within the URM Program or was the UAC Program also
13 involved?

14 A Since Catholic Charities Fort Worth works
15 within both programs, I -- I believe it also
16 involved the UAC Program as well.

17 Q Can you turn to tab 32?

18 A Yes.

19 MR. QUINN: I'd like to enter this
20 into the record as Exhibit 32.

21 (Whereupon, Plaintiff's Exhibit No.
22 32, E-mail Chain, was marked for
23 identification.)

24 BY MR. QUINN:

25 Q Have you seen this document before?

1 foster families?

2 A There -- it could be, but we've -- I've
3 never had an indication that we did not have enough
4 foster care families available.

5 Q But it could just as equally also be the
6 case where you would not have enough foster families
7 available; correct?

8 MR. LYNCH: Object to form.

9 MR. CELLIER: Object to form as
10 well.

11 A It's possible.

12 BY MR. QUINN:

13 Q So hadn't CCF been -- CCFW been a URM
14 provider prior to 2017 as well?

15 A They were in direct --

16 MR. LYNCH: Object to form.

17 THE WITNESS: I'm sorry.

18 A -- in direct contact with the State.

19 BY MR. QUINN:

20 Q Okay.

21 And then this continuity of services was
22 one of the reasons ORR picked USCCB as the
23 replacement designee for Texas?

24 A Yes.

25 Q But ORR did not know, before receiving

1 our client's outreach, that this was CCFW's policy?

2 A Yes.

3 Q And then in this e-mail in the
4 second-to-last question, it says, "This has -- "This
5 has been Catholic Charities of Fort Worth's practice
6 for as long as it has been in existence."

7 Is that accurate?

8 MR. LYNCH: I'm sorry. Are you
9 asking if it's accurate that the e-mail
10 says that or if it's the fact --

11 MR. QUINN: I'm asking if it's
12 accurate the e-mail says that?

13 MR. LYNCH: Okay.

14 A That -- yes, the e-mail does say that.

15 BY MR. QUINN:

16 Q Wouldn't ORR have wanted to know that
17 this was their practice for the whole time that
18 they've been operating the URM Program?

19 MR. CELLIER: Object to form.

20 MR. LYNCH: Object to form.

21 A But if -- if the main primary contractor
22 was the State, the State would manage the foster
23 care recruitment and placement within the context of
24 the overall State foster care program.

25 So they may have been able to meet

1 USCCB and the two providers in Texas.

2 It's still a relatively new program, and
3 obviously the litigation surfaced very soon after
4 that. So we're letting the process play out.

5 BY MR. QUINN:

6 Q Could you repeat the end of your
7 statement?

8 A So we're -- we're letting the process
9 play out.

10 Q So ORR has been on notice of USCCB's and
11 CCFW's religious beliefs concerning parenting by
12 same-sex couples since March 2nd, 2017, and ORR has
13 not done anything to date in response?

14 MR. LYNCH: Object to form.

15 MR. CELLIER: Object to form.

16 A Not specific to -- yes, I would say
17 that's yes. Yes.

18 BY MR. QUINN:

19 Q Should ORR do anything in response?

20 MR. LYNCH: Object to form.

21 MR. CELLIER: Object to form.

22 A In these types of issues that have
23 surfaced in the past, we've always looked to kind of
24 alternative options. And so that would be something
25 that certainly could be looked at.

1 BY MR. QUINN:

2 Q So you say "these types of issues."

3 Have --

4 A The --

5 Q -- potential foster parents been rejected
6 on the basis of their same-sex marriage or sexual
7 orientation?

8 A No. Just -- just specifically on their
9 right-to-life issues.

10 Q And what alternative options could there
11 be in this situation?

12 A Certainly within -- in the context of
13 the -- the State programs within the overall foster
14 care provision within the state, there could be
15 options for same-sex couples within certainly that
16 service capacity. There could be other options also
17 in other locations.

18 Q What about in the context of programs
19 where there is no state to turn to?

20 A It's a -- well, I mean, it's a -- it's
21 very small program.

22 So we certainly don't have capacity in
23 every state. So it would, you know, really depend
24 on where there is capacity and where it's
25 practicable to operationalize the -- those kind of

1 ORR make it to the HHS secretary?

2 A That -- that's -- that's probably rare,
3 yeah.

4 Q Rare?

5 A Yes.

6 Q But ORR otherwise generally has regular
7 contact with the HHS secretary's office?

8 A That's correct.

9 MR. LYNCH: Object to form.

10 BY MR. QUINN:

11 Q And were you involved in the drafting of
12 this memo?

13 MR. LYNCH: I'm going to instruct
14 the witness not to answer to the extent
15 that that calls for agency deliberations.

16 A Yeah. And -- and I -- I don't remember
17 the actual pieces that went into the drafting.

18 BY MR. QUINN:

19 Q So could you look under "Issue" on the
20 first page where it says, "The Deputy Director of
21 ORR typically approves responses to non-routine
22 inquiries on refugee matters. However, this inquiry
23 involves the Administration of Children and
24 Families' policy on great" -- "grants to Faith-Based
25 Organizations and the HHS" -- "HHS-wide grants" --

1 "grant regulations prohibiting discrimination
2 against same-sex couples."

3 This reference to the "Deputy Director of
4 ORR" is you; correct?

5 A Yes.

6 Q So did you anticipate that there was a
7 conflict between the ACF policy on grants to
8 faith-based organizations and HHS's grants
9 regulations prohibiting discrimination to same-sex
10 couples?

11 MR. LYNCH: Object to form.

12 A Did I. Sorry. Did I -- can you rephrase
13 that or --

14 BY MR. QUINN:

15 Q Sure.

16 Did you anticipate it?

17 A Based on that occurrence, yes.

18 Q And so did you elevate this?

19 A Yes.

20 Q It was your choice to elevate it further?

21 A Yes.

22 Q Why was the ACF policy on grants to
23 faith-based organizations not an option here?

24 Well, let me rephrase that, actually.

25 Why was an accommodation under the ACF

1 policy on grants to faith-based organizations not an
2 option here?

3 A Our service provision is always sort of
4 focused on making sure that there's no
5 discrimination based on -- for the clients. There's
6 actually a role in the program, and this was the
7 first time that it was expanded beyond that to
8 possibly be a community member.

9 And we had not had a -- to my knowledge,
10 an occurrence that would have possibly discriminated
11 against someone at that level. So it was really to
12 look at how that would be handled.

13 Q So you -- you said, "Clients," and you
14 said -- you meant it to mean, like, the minors in
15 the program?

16 A Right.

17 Q But I remember earlier today you said
18 that ORR provides funding to replacement designees
19 who then -- or reimburses replacement designees, who
20 reimburse sub-replacement designees, and then those
21 sub-replacement designees pay stipends or something
22 to foster families?

23 A Yes.

24 Q So then isn't a foster family or a
25 potential foster parent a client or encompassed by

1 the -- by these provisions?

2 MR. LYNCH: Object to form.

3 MR. CELLIER: Object to form.

4 A The approach has always been based on the
5 client or the minor referred into the program. So
6 the broader context had not been considered.

7 BY MR. QUINN:

8 Q But that doesn't really answer my
9 question of whether or not the family -- the
10 potential foster family or the foster families in
11 the program are clients of the URM Program.

12 MR. LYNCH: Object to form.

13 MR. CELLIER: Object to form.

14 Object to form.

15 A The focus of the program is it -- of --
16 is the minor itself. I --

17 BY MR. QUINN:

18 Q Isn't placement with a foster family,
19 where appropriate, also an aspect of the URM
20 Program?

21 MR. CELLIER: Object to form.

22 A I would see them as staff to support the
23 minor in that program.

24 BY MR. QUINN:

25 Q Why didn't ORR take responsibility for

1 processing our client's foster parent application
2 upon notice that USCCB and CCFW would not serve our
3 clients?

4 A I'm -- can you repeat that again? Sorry.

5 Q Sure.

6 So why didn't -- my understanding under
7 the ACF policy is that USCCB and/or its
8 sub-replacement designees would notify ORR if there
9 were -- were an objection.

10 Is that accurate?

11 MR. LYNCH: Object to form.

12 MR. CELLIER: Form.

13 A That -- that the agencies would notify
14 us.

15 BY MR. QUINN:

16 Q USCCB would notify ORR?

17 A Yes.

18 Q And so after now, as of March 2nd, 2017,
19 ORR knew that USCCB and CCFW would not serve our
20 client.

21 So my question is: Why didn't ORR take
22 responsibility for serving our client by
23 processing -- by accepting their foster parent
24 application?

25 MR. LYNCH: Object to form.

1 possibly FY21.

2 Q Okay.

3 A Twenty-one or twenty-two.

4 Q Can you go back to Exhibit 1 --

5 A Yes.

6 Q -- which is the interrogatory responses?

7 Do you have it open?

8 A I do.

9 Q Can you turn to page 29?

10 A Yes.

11 Q So there's a heading that says "Pending
12 Grant." And the section describes how Lutheran
13 Immigration and Refugee Services, known as LIRS, has
14 submitted an application and been approved to serve
15 as a replacement designee in the URM Program in
16 Texas.

17 So to what extent has LIRS replaced USCCB
18 or is going to replace USCCB in Texas?

19 A LIRS will be an additional replacement
20 designee in Texas to give us expanded capacity.

21 Q Okay. So just so I'm clear on the -- on
22 what's going on: Right now it's USCCB and Catholic
23 Charities of Galveston/Houston and Catholic
24 Charities of Dallas, which replaced Catholic
25 Charities of Fort Worth?

1 A Correct.

2 Q And USCCB Catholic Charities of
3 Galveston/Houston and Catholic Charities Dallas will
4 remain in the URM Program, but now the LIRS and
5 their sub-entity, Upbring, will also be in Texas?

6 A That's correct.

7 Q Okay.

8 A To -- and this follows on your -- kind of
9 as a -- your previous question before the break, you
10 know, there -- there were no policy changes that had
11 occurred because this case moved quickly to
12 litigation, but we have been looking for other
13 placement options in the State of Texas, and LIRS
14 coming as an MRD -- or URD will help -- help --
15 provides different placement options.

16 Q Does LIRS object to processing foster
17 parent applications from gay or lesbian individuals?

18 A They do not.

19 Q Do they object to processing foster
20 parent applications from same-sex married couples?

21 A No.

22 Q When will LIRS be up and running in
23 Texas?

24 A So they have received their initial
25 award. I believe we're hoping to make some

1 A As indicated in the USCCB's bates [sic]
2 -- State plan, they would notify us of those
3 objections, and we would work them to find -- work
4 with them to find alternative options, which could
5 include alternative options in the State of Texas,
6 like another replacement designee as LIRS.

7 BY MR. QUINN:

8 Q So I actually had a question about that.

9 With LIRS, they're -- they won't be
10 taking responsibilities or taking on
11 responsibilities in the Dallas/Fort Worth area?

12 A The new program is in Dallas, I think,
13 yeah.

14 Q Okay. And is that program for the URM
15 Program, or the UAC Program, or both, or neither?

16 A I think as it moved forward, it was the
17 URM Program.

18 Q So LIRS will be operating a URM Program
19 on the ground in the Dallas/Fort Worth region?

20 A Correct.

21 Q So under the current grant given to USCCB
22 for the URM Program in Texas, is USCCB required to
23 ensure that placement with approved foster parts is
24 one of the potential ways to provide care to the URM
25 that it is responsible for?

1 intends to conduct an examination, I
2 think I'll yield to him first, and then
3 maybe that will make things more
4 efficient overall. So I'll yield to him
5 subject to our doing a redirect, if
6 necessary.

7

8 CROSS-EXAMINATION

9

10 BY MR. CELLIER:

11 Q Mr. Tota, my name is Jason Cellier. I
12 represent USCCB in the litigation.

13 We sent you a -- another binder, a
14 smaller binder with some exhibits over the weekend,
15 and if you wouldn't mind pulling that out.

16 A Sure. Trying to find you, Jason.

17 Here you are. Okay. Yes.

18 Okay.

19 Q All right. So, Mr. Tota, are you
20 familiar with the criteria ORR used to select the
21 URD in Texas following the State of the Texas'
22 decision to withdraw from the refugee program?

23 A Yes.

24 Q And could you describe those criteria?

25 A It was a -- a number of factors:

1 Connections to the community, history with service
2 provision and experience with service provision,
3 background, kind of fiduciary accountability to
4 carry out the -- the function, capacity certainly
5 within the locations that we were considering, kind
6 of general ability to provide oversight 'cause they
7 would have oversight over sub-grantee programs.

8 So there were a kind of host of
9 considerations that we look at when they were making
10 those -- those -- those designations.

11 Q All right. Can you take a look at
12 Exhibit 1 in the binder?

13 A Sure.

14 MR. CELLIER: And I'm going to mark
15 this as USCCB Exhibit 1.

16 (Whereupon, USCCB Exhibit No. 1,
17 E-mail Exchange, was marked for
18 identification.)

19 A Okay.

20 BY MR. CELLIER:

21 Q Do you know what this e-mail is?

22 A It's a -- it's a notification to Kara
23 Crawford, who was kind of the person that the -- who
24 worked within the governor's office, who was kind of
25 designated as our point of contact for the

1 transition from the State to the replacement
2 designees.

3 Q And you drafted this e-mail --
4 correct? -- on November 14, 2016?

5 A Yes.

6 Q About halfway down the page, it states
7 that, "ORR considered the following criteria in
8 identifying agencies to invite to apply as RDs."

9 Could you read the criteria that are
10 below there that are listed?

11 A Sure. "Interest" --

12 MR. QUINN: Standing objection on
13 the grounds that this is outside the
14 scope of rebuttal.

15 BY MR. CELLIER:

16 Q You can go ahead and answer.

17 A I'm sorry?

18 Q Oh, you can answer -- or you can please
19 read the -- read the bullets.

20 A Read the bullets?

21 "Interest in serving as the RD.

22 "Capacity to serve as the RD.

23 "Input from the state of Texas.

24 "Expertise in administering and
25 implementing ORR programs.

1 "Expertise in applicable subject areas.

2 "Case" -- "Caseload of ORR-eligible
3 populations served in FY16 and projections for 17.

4 "Participation in the Department of
5 Homeland Security Cuban-Haitian Entrant Program.

6 "Ensuring that a variety of national
7 resettlement agencies are represented.

8 "And number of sites in the region."

9 Q And were there any other criteria
10 utilized to identify potential candidates for the
11 URD in Texas?

12 A I mean, it's not specifically stated
13 here, but expertise in administering OR -- ORR and
14 implementing projects. So probably some past
15 practice in our experience possible with the -- with
16 some of the grantees in the past.

17 Q And USCCB was identified using these
18 criteria?

19 A Yes.

20 Q Okay. And once USCCB was identified as a
21 candidate and invited to provide a proposal, were
22 there any other criteria utilized in reviewing the
23 proposal from USCCB?

24 A I remember -- I would say those are the
25 main ones.

1 Q Okay. Are any of the criteria that are
2 listed in the e-mail or additional ones that you've
3 stated religious in nature?

4 MR. QUINN: Object to form.

5 A No.

6 BY MR. CELLIER:

7 Q Did ORR inquire into the religious
8 beliefs of USCCB during the Texas URD selection
9 process?

10 A It was -- it was -- it was noted in -- in
11 their application.

12 Q Did ORR select USCCB as the URD in Texas
13 with the goal of -- of advancing any religious
14 beliefs?

15 A No.

16 Q Did ORR select USCCB as the URD in Texas
17 for the purpose of discriminating against
18 prospective foster parents who are in a same-sex
19 relationship?

20 A No.

21 Q Did ORR select USCCB as the URD in Texas
22 to discriminate against prospective foster parents
23 who are in same-sex relationships?

24 A No.

25 Q Did ORR encourage USCCB in its role as

1 URD in Texas to discriminate against prospective
2 foster parents who are in same-sex relationships?

3 A No.

4 Q Did ORR select USCCB as the URD in Texas
5 to discriminate on the basis of religion?

6 A No.

7 Q Did ORR encourage USCCB in its role as
8 URD in Texas to discriminate on the basis of
9 religion?

10 A No.

11 Q You discussed earlier a little bit of the
12 process of identifying and selecting USCCB as the
13 URD.

14 Do you have -- can you explain a little
15 bit more into why USCCB was selected?

16 A USCCB has -- has a longstanding
17 relationship with the URM Program, I think really
18 since its inception, and is really kind of one of
19 the premier providers.

20 Over the years, there had been other
21 resettlement agencies that had actually
22 participated, I believe, in the URM Program, but
23 over the years, the -- the two primary that remained
24 were Lutheran Immigration Refugee Services, LIRS,
25 and -- and USCCB.

1 ORR has had a longstanding and -- and
2 very good working relationship with USCCB. We have
3 a host of programs that are administered through
4 USCCB, our match grant program, our community
5 programs, certainly on the refugee side, a long
6 history also providing long-term foster care on the
7 UAC side and doing home assessments as well.

8 And just a very -- a very integral part,
9 I would say, certainly of ORR's service provision
10 and -- and ability to carry out those services given
11 their extensive network, and I think that's always
12 been certainly one of USCCB's strengths.

13 In this particular instance in Texas,
14 they had two ongoing URM programs. We -- when the
15 State backed out, we wanted to ensure oversight
16 certainly of -- of those programs now that the state
17 was backing out, and since there were multiple
18 programs there, felt that USCCB was best equipped to
19 kind of provide that oversight in a direct
20 relationship with ORR.

21 Q How urgent was the need to replace the
22 State of Texas at the time they decided to withdraw?

23 A It was -- it was quite urgent. I think
24 the governor notified us in September, with the
25 withdrawal at the end of January. So we basically

1 had, I think, less than four months to kind of put
2 together a plan and how we would move forward and
3 receive applications and then actually designate
4 within that period of time.

5 Q And it was determined that USCCB could be
6 entrusted with coming up with a -- the ability to
7 take over for the State of Texas in that short a
8 time?

9 MR. QUINN: Object to form.

10 A Correct. That they would take over sort
11 of that oversight -- oversight role and have the
12 direct relationship with the sub-grantees.

13 BY MR. CELLIER:

14 Q Over the course of your time at ORR, have
15 you had the opportunity to monitor USCCB's
16 performance as the URD in Texas?

17 A I had not directly, but our -- our URM
18 staff had monitored one of the programs.

19 Q If you don't mind going to Exhibit 4 in
20 the documents that you were provided.

21 MR. CELLIER: And I'm going to
22 designate this as Exhibit 2, though,
23 USCCB Exhibit 2.

24

25

1 well. And I know there was a transition from Fort
2 Worth to Dallas, but I think administratively those
3 have moved forward.

4 I did have the opportunity to visit --
5 visit the program. And so it was great to see that
6 up and running and operational. So I think that's
7 the -- it's a well-performing program.

8 Q Would you say USCCB's performance has met
9 ORR's expectations?

10 A Yes.

11 Q Has it exceeded those expectations?

12 A Well, huh. The fact that the initial
13 transition moved forward smoothly, I would say
14 exceeded expectations, yeah. It was a very short
15 time frame. I think we were all worried about the
16 transition. So happy to see that move forward,
17 yeah.

18 Q Has USCCB had a positive impact on the
19 UM -- URM Program as the URD in Texas?

20 MR. QUINN: Object to form.

21 A It's a different -- I would say it's a
22 different relationship. I would say it would have
23 been true to the State in the context of the overall
24 refugee program, but, you know, working directly
25 with USCCB probably maybe provides a more -- more

1 direct relationship rather than working with the
2 full State bureaucracy.

3 BY MR. CELLIER:

4 Q Has USCCB helped improve the lives of
5 vulnerable children through its role as URD in
6 Texas?

7 MR. QUINN: Object to form.

8 A Yes. The -- the services really help
9 advance certainly URM participated and hopefully
10 succeed.

11 BY MR. CELLIER:

12 Q Is it fair to say that USCCB and its
13 sub-grantees have had a favorable impact on the
14 communities that they serve?

15 MR. QUINN: Object to form.

16 A The -- the -- the programs have very
17 close relate -- working relationships within the
18 communities, especially with State licensing. So we
19 would expect there to be very positive working
20 relationships. So to my knowledge, they are.

21 BY MR. CELLIER:

22 Q Setting aside the incident that's subject
23 of this litigation again, has there been anything
24 about USCCB's performance that would cause you to
25 question its fitness to serve as the URD in Texas?

1 A Other than this specific occurrence,
2 none -- none that I can think of.

3 Q Other than this incident, do you recall
4 any instances of complaints regarding how USCCB
5 administered the URM Program?

6 A No.

7 Q Do you recall any allegations of
8 discrimination by USCCB against children in the URM
9 Program?

10 A I think -- can you repeat that again,
11 Jason?

12 Q Yeah.
13 Do you recall any allegations of
14 discrimination by USCCB against children in the URM
15 Program?

16 A No, not to my knowledge.

17 Q Was USCCB selected as the URD in Texas
18 because its religious beliefs include a religious
19 belief that children should not be placed with
20 foster parents who are same-sex couples?

21 A Can you repeat that again? Sorry.

22 Q No problem.
23 Was USCCB selected as the URD in Texas
24 because its religious beliefs include a religious
25 belief that children should not be placed with

1 Yes.

2 Q No problem.

3 Was USCCB responsive to those questions?

4 A Yes, I believe they were.

5 Q Did USCCB ever give you reason to doubt
6 that any of its religious beliefs were sincerely
7 held?

8 A No.

9 Q Do you have any reason to believe that
10 USCCB's religious beliefs regarding the placement of
11 children with same-sex foster parents are not
12 sincerely held?

13 A No, I have no reason to believe it.

14 Q And you're not aware of anything that
15 USCCB did to hide its religious -- or religious
16 beliefs from ORR; correct?

17 A I'm not aware of that, no.

18 Q At the time that the State of Texas
19 withdrew from the refugee programs, were there any
20 other agencies considered to be the Texas URD?

21 A The -- it was -- it was primarily USCCB
22 because of their existing programs there. The other
23 provider that possibly could have been considered
24 was LIRS, but they didn't have any programs there at
25 the time.

1 A No. I -- I don't believe there would be,
2 as long as they meet the other State licensing
3 standards.

4 BY MR. CELLIER:

5 Q Mr. Tota, what do you believe to be the
6 purpose of the URM Program?

7 A To provide some level of permanency and
8 basic care to children who are unaccompanied and
9 have lost their parents and family, to provide that
10 stability, but then also provide them resources and
11 skills and education to -- to succeed.

12 Q And what group of people is the URM
13 Program geared toward assisting?

14 A I'm sorry. I missed the last part of
15 that, Jason.

16 Q What type of -- what group of people is
17 the URM Program geared towards assisting?

18 MR. QUINN: Object to form.

19 A Definitely minors who have been a -- who
20 are determined unaccompanied and certainly meet that
21 definition or fall into any of the eligible
22 categories, either as a refugee coming from overseas
23 or certainly identified as asylee, could be a victim
24 of trafficking or those who will get special
25 juvenile status.

1 BY MR. CELLIER:

2 Q In your experience with the URM Program,
3 has the main focus ever been on the prospective
4 foster parents participating in the program?

5 MR. QUINN: Object to form.

6 A No. It's always been a specific minor
7 client centered program.

8 BY MR. CELLIER:

9 Q Okay. If USCCB stopped participating in
10 the UR -- URM Program, what would be the negative
11 consequences in terms of the resources available to
12 the program?

13 MR. QUINN: Object to form.

14 A Could -- could you repeat that again,
15 Jason? Sorry.

16 BY MR. CELLIER:

17 Q If USCCB stopped participating in the URM
18 Program, what would be the negative consequences in
19 terms of resources to the program?

20 MR. QUINN: Object to form.

21 A It's -- USCCB in the -- is -- and through
22 its network certainly of providers is a -- an
23 instrumental provider within that program since
24 there are only two, USCCB and LIRS, that would have
25 a substantial impact on -- on our ability to carry

1 out -- carry out the program, certainly impacting
2 capacity really across -- across the -- across the
3 network.

4 BY MR. CELLIER:

5 Q And what consequences would it have in
6 terms of foster family recruitment if UR -- if USCCB
7 was to leave the URM Program?

8 MR. QUINN: Object to form.

9 A I can't speak to that, because it's
10 mainly always done at -- through the State -- at the
11 State level.

12 BY MR. CELLIER:

13 Q Is USCCB's role or contribution to the
14 URM Program different from that of other providers?

15 MR. QUINN: Object to form.

16 A I -- I missed the first part of that.
17 I'm sorry.

18 BY MR. CELLIER:

19 Q Does USCCB --

20 A I think I'm getting a little tired. I'm
21 sorry.

22 Q Not a problem. You've been -- you've
23 been on the clock for a good amount of time. So
24 by -- by any means, you know, if you have any -- if
25 you need some more clarification, please just let me

1 know.

2 A Thank you.

3 Q Does USCCB's role in or contribution to
4 the URM Program differ from that of other providers?

5 MR. QUINN: Object to form again.

6 A It -- it differs from our other provider,
7 who primarily would be the LIRS network, which
8 doesn't have some of the religious objections.

9 BY MR. CELLIER:

10 Q Is it fair to say that USCCB brings
11 unique qualities or experiences to the URM Program?

12 A Yes.

13 Q And would you say that USCCB's
14 participation as a provider is easily replicated?

15 MR. QUINN: Object to form.

16 A I would say no. It's a longstanding
17 program. The USCCB has a longstanding history.

18 And the other resettlement agencies have
19 never come forward to actually participate in that
20 space. So it's quite limited to the -- the two main
21 resettlement agencies.

22 BY MR. CELLIER:

23 Q You said that USCCB brings -- you agree
24 that USCCB brings unique qualities and experiences.

25 Can you describe what those qualities and

1 experiences are?

2 A Good -- I would say good working
3 relationships with ORR, always very responsive to
4 request, submits well-developed proposals or State
5 plan requests, has pretty sophisticated systems to
6 collect data and -- and reporting. So those kind of
7 things.

8 Q Is it fair to say that if USCCB were
9 excluded as a provider in the URM Program, there
10 would be a substantial loss in experience for the
11 program?

12 MR. QUINN: Object to form.

13 A Yes, given their longstanding history
14 with the program.

15 BY MR. CELLIER:

16 Q Would there be a substantial loss in
17 terms of resources?

18 A Yeah, our -- yes, our capacity would be
19 probably cut in half.

20 Q If USCCB were excluded from the URM
21 Program, would the program be able to operate in the
22 same manner it does with USCCB's participation?

23 MR. QUINN: Object to form.

24 A We would -- we would need to look at
25 alternative models to basically replace that

1 capacity.

2 BY MR. CELLIER:

3 Q Is it fair to say that if USCCB were
4 excluded, there would be a substantial loss in
5 family placement options by eliminating USCCB's
6 foster family pool?

7 MR. QUINN: Object to form.

8 A I would say that's fair to say.

9 BY MR. CELLIER:

10 Q Are you aware of what percent of
11 foster -- foster parent applications in the URM
12 Program are from same-sex couples?

13 A No.

14 Q Other than the incident that is the
15 subject of this litigation, are you aware of any
16 other case in which willing same-sex foster parents
17 were excluded from being foster parents through the
18 URM Program basis on the basis of a grantee or a
19 sub-grantee's religious beliefs?

20 A This was the first case that was brought
21 to our attention.

22 Q Are you aware of any case in the URM
23 Program where opposite-sex foster parents have
24 failed to provide an adequate home for an LGBTQ
25 child?

Exhibit 5

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF COLUMBIA

-----X

FATMA MAROUF, et al.,

Case No.

Plaintiffs, 1:18-CV-378(APM)

- v. -

5 ALEX AZAR, in his official capacity as Secretary
6 of the UNITED STATES DEPARTMENT OF HEALTH AND
7 HUMAN SERVICES, et al.,

Defendants.

-----X

10 DEPOSITION VIA ZOOM VIDEOCONFERENCING

11 OF

12 KRYSTIN PECK

13 Friday, October 2, 2020

23 Reported By:

24 LINDA J. GREENSTEIN

25 JOB NO. 319575

1 KRYSTIN PECK

2 reunification, and that was in the Children's
3 Services unit within Migration Refugee Services.

4 Q. Okay. And when approximately was
5 this?

6 A. I think it was August of 2011.

7 Q. And so that was -- you were working
8 on the UAC program at USCCB when you came over,
9 you said?

10 A. That's correct.

11 Q. Was the USCCB involved in the URM
12 program at that time?

13 A. Yes.

14 Q. How so?

15 A. USCCB has been involved in the URM
16 program since its inception, so at that time, as
17 it had for years, it received a contract from ORR
18 to oversee placement of youth into that program.

19 Q. USCCB was a grantee under the UAC
20 program when you rejoined USCCB; correct?

21 A. Correct.

22 Q. Was it also a grantee under the URM
23 program?

24 A. Correct.

25 Q. And how long did you stay at USCCB

1 KRYSTIN PECK

2 monitoring visit, that there are no surprises.

3 We provide corrective actions on
4 areas where there are areas of noncompliance and
5 then recommendations where there's areas for
6 improvement and facilitate best practice sharing
7 when we identify best practices that our partners
8 would benefit from.

9 Q. And did you do similar work when you
10 were at USCCB?

11 A. Yes.

12 Q. Any differences from the description
13 you just provided while you were at USCCB?

14 A. The -- the population was different.
15 We had a lot more subcontractors at USCCB. It was
16 a national rather than a local program. It was a
17 government program -- sorry -- federal program
18 rather than a state-run program.

19 The -- the context, I guess, of the
20 experiences of the youth we're serving is
21 different. So the structure of what we're doing
22 is certainly similar. The population and the
23 needs are different and the scope, the size of the
24 program is different.

25 Q. But in both cases, you were

1 KRYSTIN PECK

2 overseeing the recruitment efforts of the
3 subcontracts with regard to recruiting foster
4 families?

5 MR. GOETZ: Object to the form of the
6 question.

7 BY MR. GENDALL:

8 Q. You could answer.

9 A. We at -- sorry -- USCCB, we were not
10 responsible for recruitment or retention outcomes.
11 We were not held accountable to that by ORR, and
12 so that's not something that we -- that's not a
13 performance metric that we had for our partner
14 agencies.

15 Each of -- the way the URM program
16 works is that it's relying on the state-run foster
17 care systems, and so the recruitment and licensing
18 rules and criteria and licenses themselves are
19 held between the local agencies and their
20 respective state.

21 And so it's the local state's
22 division of child welfare licensing that actually
23 would have been responsible for oversight of
24 recruitment retention for foster parents.

25 That's actually the same where we are

1 KRYSTIN PECK

2 now at -- in my current role at WMPC, where each
3 agency we work with has a license with the
4 Michigan Division of Child Welfare Licensing,
5 which sets the rules and parameters around
6 recruitment and licensing of foster parents.

7 Q. What did you mean when you said at
8 USCCB you were not responsible for recruitment or
9 retention outcomes?

10 MR. GOETZ: Object to the form of
11 that question.

12 THE WITNESS: Sorry, I couldn't hear
13 you, John.

14 MR. GOETZ: I just made an objection
15 to the form of the question.

16 You can answer it.

17 THE WITNESS: Okay.

18 A. Can you ask the question one more
19 time?

20 Q. What did you mean when you said at
21 USCCB you were not responsible for recruitment or
22 retention outcomes?

23 A. The ORR in our contract did not hold
24 us accountable for, you know, certain measures
25 around recruitment and licensing. That wasn't

1 KRYSTIN PECK

2 something that was our role because that's
3 something that happened at a state level.

4 Our responsibility was around
5 placement of children into our national network,
6 technical assistance and training with our partner
7 agencies, and ensuring compliance of the contract.

8 The actual licensing and recruitment
9 of homes is something that would have happened at
10 a state level, and it -- that's not -- the federal
11 government was accessing state-run programs for
12 placement of this particular population, but was
13 not overtaking the state's responsibility in
14 running those programs.

15 Q. Did USCCB only provide oversight over
16 things that ORR held it accountable for?

17 MR. GOETZ: Object to the form of the
18 question.

19 A. Can you ask that again?

20 Q. Did USCCB only provide oversight over
21 things that ORR held it accountable for?

22 MR. GOETZ: Same objection.

23 A. So we would -- you know, our role as
24 a contractor of ORR was to ensure that we were in
25 compliance with the provisions outlined in the

1 KRYSTIN PECK

2 the unique needs of the populations of kids that
3 we would be referring.

4 Q. Okay. I think my question was a
5 little different.

6 Did ORR have any requirements
7 relating to recruiting foster parents?

8 A. It's a really broad question. Can
9 you be more specific?

10 Q. Did ORR have any expectations
11 regarding how USCCB, through its subgrantees,
12 would go about recruiting foster parents?

13 MR. GOETZ: Object to the form of the
14 question.

15 A. So not having been there for three
16 and-a-half years, I don't remember the details.

17 I don't. I recall that -- that the
18 recruitment of foster parents was something that
19 certainly happened at a local level. That was not
20 something that we -- we were not expertise in what
21 each state's foster parent recruitment and
22 licensing rules and regulations were and we
23 weren't expected to be by ORR.

24 ORR expected that we could rely on
25 the state-run child welfare systems and their

1 KRYSTIN PECK

2 governance of what recruitment and licensing in
3 child placing looked like.

4 And then what was -- and then our
5 role was really around what is different about the
6 populations of kids that we're referring that
7 might not be captured in the state licensing rules
8 and guidelines.

9 And so that's where -- our expertise
10 was more around the intersection of the migration
11 or refugee experience, and that's -- that was our
12 role in educating and training and technical
13 assistance of our partner agencies.

14 Q. Through its subgrantees, recruiting
15 foster parents was a service that USCCB be
16 provided to ORR; correct?

17 A. USCCB -- we did no recruitment of
18 foster parents. That wasn't our role.

19 Q. I understand that.

20 But USCCB subgrantees did; correct?

21 A. We relied on the -- the existing
22 child welfare structures in each state, which
23 require, you know, the state-run child welfare
24 system, which recruits and licenses foster
25 parents, and we would rely on those programs for

1 KRYSTIN PECK

2 MR. GENDALL: Either one, it's the
3 same document. Whichever you prefer.

4 THE WITNESS: And this is Tab 8?

5 MR. GENDALL: Correct.

6 THE WITNESS: I have it.

7 BY MR. GENDALL:

8 Q. Do you see in the lower right-hand
9 corner of page 1, Bates number HHS17241?

10 A. I do.

11 Q. Do you recognize this document?

12 A. Yes, I do.

13 Q. What is it?

14 A. This was USCCB's proposal to ORR to
15 serve as the replacement designee for the URM
16 program and the Refugee School Impact Program in
17 Texas.

18 Q. Could you tell me a little bit
19 approximately about the context for this. What
20 does it mean to be a replacement designee?

21 A. Sure. So the State of Texas, the
22 governor pulled out of the national refugee
23 resettlement program in 2016, and an order -- that
24 left ORR in -- in kind of a crisis and a bind
25 because they needed an entity to be able to

1 KRYSTIN PECK

2 oversee the -- the placement and care of refugees
3 and refugee children in the State of Texas.

4 And so they developed this structure
5 of having a replacement designee to facilitate
6 those services in the State of Texas.

7 And they reached out to us -- reached
8 out to USCCB, to let us know that this was a --
9 this would be an opportunity and asked if we would
10 be interested in applying, due to our expertise in
11 unaccompanied children for the -- this particular
12 part of the placement designee, which would be the
13 URM and refugee school impact grant.

14 Q. So USCCB was already a grantee under
15 the URM program at this time; right?

16 A. That's correct.

17 Q. And here they were applying to also
18 be the replacement designee for the State of
19 Texas?

20 A. That's accurate.

21 Q. And did that complicate its status as
22 a grantee in any way?

23 MR. GOETZ: Object to the form of the
24 question.

25 A. Sorry, did it complicate it? Is that

1 KRYSTIN PECK

2 what your question was?

3 Q. Yes.

4 A. Not -- not that I know of.

5 I just felt like something -- I don't
6 know if this is answering your question, but this
7 was certainly in our wheelhouse. We had expertise
8 on unaccompanied refugee children in administering
9 these programs, so it seemed to be like a natural
10 fit for us and within the organization's vision
11 and mission.

12 Q. So on the cover page of this
13 document, do you see your name there, under the
14 contacts list?

15 A. Yes.

16 Q. And your e-mail address is there as
17 well.

18 A. Correct.

19 Q. Was that your direct line, that phone
20 number there?

21 A. Yes, that was my direct line at
22 USCCB.

23 Q. Okay. So you're familiar with this
24 document, you said.

25 Did you prepare this document?

1 KRYSTIN PECK

2 Q. Other than the incident involving
3 Fatma and Bryn, did you ever discuss applications
4 from prospective foster parents with ORR?

5 A. No. As I mentioned, because foster
6 parent recruitment and licensure happens at a
7 state level, we just -- that wasn't something that
8 came to our attention often.

9 Q. Other than the incident involving
10 Fatma and Bryn, did you ever discuss USCCB's
11 religious beliefs regarding marriage with ORR?

12 A. I don't believe I did. I don't
13 remember doing so.

14 Q. Did anyone else at USCCB?

15 A. I wouldn't know.

16 Q. Other than the incident involving
17 Fatma and Bryn, did you ever discuss USCCB's
18 religious beliefs with ORR?

19 MR. GOETZ: Objection.

20 Asked and answered.

21 A. So ORR was very clear that USCCB was
22 a Catholic organization. We made our -- USCCB
23 made its adherence to its Catholic beliefs known
24 in its grant proposals, as we've discussed.

25 Q. Did you personally have any

1 KRYSTIN PECK

2 I had a lot of friends who were also
3 colleagues and -- I left on really good terms. It
4 was hard to leave, but I was excited about this
5 new leadership opportunity and -- but I did leave
6 a lot behind.

7 Q. When you were at USCCB, did you
8 believe that USCCB brought any unique attributes
9 to the URM program?

10 A. Yes. I was -- one of the things that
11 attracted me to USCCB was their longevity of work
12 on behalf of refugees and migrants and
13 particularly their specialty and expertise with
14 migrating children.

15 USCCB actually helps develop the URM
16 program, alongside the federal government and had
17 a lot of -- did a lot of work to shape the program
18 in a way that was -- served the best interest of
19 children first over their migration status.

20 And I -- I was very inspired by the
21 work that they did on behalf of refugees and
22 migrants.

23 Q. Do you believe that USCCB brought any
24 unique attributes to the UAC program, as opposed
25 to URM?

1 KRYSTIN PECK

2 A. Yes. Similarly, USCCB was a part of
3 developing a lot of the UAC program in
4 collaboration with the federal government.

5 USCCB would be consulted frequently
6 by ORR on areas of policy development because
7 USCCB was recognized for its expertise on
8 migrating children.

9 And so I think that USCCB's
10 long-standing history working on refugee and
11 migration issues and their unique specialty with
12 children, in particular, was -- is really unique
13 and is -- certainly USCCB is known nationally, and
14 also I would say internationally, as being experts
15 on migrating children and really setting a high
16 bar for quality of services.

17 Q. If the USCCB stopped participating in
18 the URM or UAC programs, would there, in your
19 view, be any negative consequences for those
20 programs?

21 MR. GENDALL: Object to the form.

22 THE WITNESS: I'm sorry?

23 MR. GENDALL: Object to the form.

24 BY MR. GOETZ:

25 Q. You can answer.

1 KRYSTIN PECK

2 A. Yes. So I'll start with URM and then
3 I'll talk about the UAC program.

4 You know, at the time at least that I
5 left USCCB, USCCB was one of two national programs
6 that provided URM services.

7 And so, you know, half of the
8 government's national capacity to serve URMs would
9 be cut, that capacity would shrink immediately.

10 And then the expertise and the
11 historical knowledge of how the program was
12 developed, the changes throughout the years to
13 approve it and why those changes were implemented,
14 the best practices, all of that, expertise would
15 be lost.

16 I think in terms of the UAC program,
17 one of the things that's unique about the UAC
18 program is that it can be hard to plan for.

19 So in Child Welfare, the best
20 practice is always -- the underlying principle is
21 that children belong with families whenever safe
22 and possible.

23 And so the ORR and USCCB tried to do
24 what they can to place children with their
25 families or persons closest to them, whether it's

1 KRYSTIN PECK

2 a relative -- a direct biological parent or
3 relative or a kinship family.

4 And because USCCB has the largest
5 national network, it's able to serve children all
6 over, and that's why the network I previously
7 referenced, of over 225 partners, is so large.

8 And that's how USCCB was able to
9 respond to, you know, a request from ORR. This
10 child says that they have a family member in this
11 remote area, in, you know, whatever particular
12 state, we'll say Minnesota, and USCCB was uniquely
13 able to, as ORR's contractor contractors, to be
14 able to step up and provide that service wherever
15 those children were being reunified.

16 Q. Would you agree with the proposition
17 that if USCCB was excluded from the URM or UAC
18 programs, there would be a substantial loss in
19 family placement options for children?

20 MR. GENDALL: Object to the form.

21 A. I agree because USCCB has the largest
22 network, or at least at the time I was there had
23 the largest network of placement options for
24 unaccompanied children, that that would be a large
25 loss for ORR if they were unable to utilize that

1 KRYSTIN PECK

2 network.

3 Q. When you were with USCCB, did USCCB's
4 role in these programs differ from that of other
5 providers that the government may have contracted
6 with?

7 A. No.

8 Q. Okay.

9 A. USCCB provided this -- the -- USCCB
10 responded to the same contracts or RFPs that other
11 providers responded to.

12 Q. Do you know whether the applications
13 from same-sex couples represented a small
14 percentage of the overall foster parent
15 applications for the URM program?

16 A. I don't know. What I will say is the
17 two incidents we've spoken about in this
18 deposition are the only two I know about.

19 Q. How many children do you estimate
20 USCCB assisted while you were at the agency?
21 Would it be thousands --

22 A. Thousands -- I don't -- yeah,
23 thousands.

24 Q. Thousands of children on your watch,
25 if you will, and you're only aware of two cases

1 KRYSTIN PECK

2 that we talked about today involving same-sex
3 couples; is that correct?

4 A. Those are the only cases that I'm
5 aware of.

6 Q. If USCCB and subgrantees were
7 excluded from either program, URM or UAC, is it
8 fair to say that the resulting loss in available
9 family placement options would not be offset by
10 any increase in licensed same-sex foster parents?

11 MR. GENDALL: Object to the form.

12 A. USCCB, as I referenced, has more than
13 225 subcontractors providing services to children
14 all over the United States. And so I think that
15 the capacity that would be lost if USCCB were no
16 longer to receive contracts for these programs
17 would be very significant. And I don't think it
18 could be outpaced by recruiting -- just by solely
19 recruiting same-sex couples, if that's the
20 question.

21 Q. Thank you.

22 Are you aware of any case while you
23 were with USCCB where USCCB declined to serve any
24 child on the basis of their sexual orientation or
25 gender identity?

1 KRYSTIN PECK

2 A. No.

3 Q. Are you aware of any cases where the
4 USCCB discriminated against any child on the basis
5 of their sexual orientation or gender identity?

6 A. I am not.

7 Q. And who were the clients of the URM
8 and UAC programs?

9 MR. GENDALL: Object to the form.

10 A. USCCB's URM and UAC programs were
11 designed to provide services to children who
12 entered the U.S. either as refugees, through the
13 URM program, or who arrived without legal status
14 as to the UAC program, or perhaps youth who
15 arrived without legal status but became eligible
16 for the same benefits as a refugee through
17 immigration proceedings, such as child victims of
18 human trafficking, for example, or children who
19 had special juvenile status.

20 So the programming that USCCB
21 provided through the UAC and URM programs were
22 tailored and designed for those categories of
23 youth, of children.

24 Q. But the children were clients of
25 USCCB; is that correct?

1 KRYSTIN PECK

2 The URM and UAC programs had more
3 capacity for placement with foster parents than
4 they did children?

5 A. Yes, I believe that to be true.

6 Q. During your time at USCCB, do you
7 recall any complaints from the federal government
8 concerning USCCB's administration of the URM
9 program?

10 A. Not that I recall, no.

11 Q. How about the UAC program?

12 A. Again, not that I recall. I think we
13 were often consulted by the Office of Refugee
14 Resettlement for our expertise. You know, our
15 relationship with the Office of Refugee
16 Resettlement was collaborative and we were -- we
17 were considered as experts in this work.

18 Q. Are you aware of any cases while you
19 were at USCCB where children were treated
20 differently because of their gender identity or
21 status?

22 A. No.

23 Q. You were asked a little bit this
24 morning about USCCB's religious beliefs, and my
25 follow-up question is this, Ms. Peck:

Exhibit 6

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF COLUMBIA

3 Case No. 1:18-cv-378 (APM)

4 FATMA MAROUF, et al.,)
5 Plaintiffs)
6 VS)
7 ALEX AZAR, in his)
8 official capacity as)
9 Secretary of the UNITED)
10 STATES DEPARTMENT OF)
11 HEALTH AND HUMAN)
12 SERVICES, et al.,)
13 Defendants)

14 *****

15 ORAL AND VIDEOTAPED DEPOSITION OF

16 FATMA E. MAROUF

17 APPEARING REMOTELY

18 NOVEMBER 6, 2020

19 *****

20 ORAL AND VIDEOTAPED DEPOSITION OF FATMA E. MAROUF,
21 produced as a witness at the instance of the DEFENDANT,
22 U.S. CATHOLIC CONFERENCE OF BISHOPS, and duly sworn, was
23 taken in the above-styled and numbered cause on NOVEMBER
24 6, 2020, from 8:07 a.m. to 10:34 a.m., before Donna L.
25 Garza, CSR, in and for the State of Texas, reported by
machine shorthand and appearing remotely from Polk
County, Texas, pursuant to the Federal Rules of Civil
Procedure and the provisions stated on the record or
attached hereto; that the deposition shall be read and
signed before any notary public.

1 Q. Okay. And where -- where was that license or
2 certificate issued?

3 A. Washington County, Utah.

4 Q. Okay. And how long have you and your wife
5 lived in the Fort Worth area?

6 A. We moved here in August 2016.

7 Q. And would that have been from Utah to Fort
8 Worth?

9 A. No. We never lived in Utah. We just got
10 married there because my wife's family is there. We
11 moved -- I moved here from Las Vegas and my wife moved
12 here from Cleveland.

13 Q. I see. So you've been living in the Fort
14 Worth area since August of 2016; is that correct?

15 A. Correct.

16 Q. Do you and your wife currently have any
17 children in your care?

18 A. Yes.

19 Q. Could you tell me how many children and what
20 their ages are?

21 A. We have a ten-month-old daughter.

22 Q. Any other children?

23 A. No.

24 Q. And when did you take custody over your
25 ten-month-old child?

1 backpack, a dresser, a bed; that we would have to have
2 certain safety things in the house, like a fire
3 extinguisher.

4 I remember those kind of things. Right.
5 And then I asked some questions about the children, what
6 countries they are coming from, their ages. And she
7 told me some information about children coming from the
8 Middle East, from other countries, sort of the age
9 ranges they tend to have.

10 And then at some point -- well, at some
11 point into the conversation, she said we also require
12 our foster parents to mirror the Holy Family. And I was
13 somewhat stunned. And I -- I assumed that to mean that
14 it -- we couldn't be a same-sex couple, but I wanted to
15 make sure.

16 So I clarified that. I said is -- I said
17 so Bryn and I are -- are both, you know, women. Is that
18 an issue? And she said yes. Then you wouldn't qualify
19 to apply.

20 Q. Did she make any other statements other than
21 what you just relayed?

22 A. I think I was sort of, again, sort of somewhat
23 stunned into silence after that because I was shocked
24 that in a government program that would be the case.
25 And I -- I think I asked her some follow-up -- or I made

1 A. Not that I recall. We have the email, like I
2 said. The reason I asked for the name is because HHS
3 had asked me for the name. So I was passing that
4 information along.

5 Q. And after CCFW provide you with Ms. Springer's
6 name, you then provided it to the government; is that
7 right?

8 A. Yes.

9 Q. And who -- who did you send it to at the
10 government?

11 A. I don't even know if it -- I think it was an
12 ORR email. I'm not even sure there was a -- a name
13 attached to the email. But it was somebody at ORR who
14 was communicating with me.

15 Q. Do you remember the name of the person at ORR?

16 A. No. Like I said, I don't even know if -- if
17 there was a name attached or not. There was an ORR
18 general email address that I had been contacting. And I
19 don't remember if the person who wrote back actually
20 provided their name. But we have those emails as well.

21 Q. And were you the person that forwarded the
22 name that CCFW gave to you to the ORR?

23 A. Yes.

24 Q. Did Ms. Esplin have any further communications
25 with CCFW?

1 A. No, not that I'm aware of.

2 Q. How about with ORR?

3 A. No.

4 Q. Did you do anything further with the name that
5 CCFW provided to you other than send it to ORR?

6 A. No. I mean, I gave it to my counsel as well.
7 That's it.

8 Q. Since receiving the name from CCFW, have you
9 had any additional contact with CCFW regarding the
10 issues in this case?

11 A. Not regarding the issues in this case. No.

12 Q. Okay. No communications, written or oral --

13 A. No.

14 Q. -- is that correct?

15 A. Correct.

16 Q. Do you know if Ms. Esplin had any
17 communications with CCFW about the issues in this case?

18 A. Not to my knowledge. No.

19 Q. And you referenced communications on -- on
20 another topics other than this case. Could you describe
21 them, generally, for me?

22 A. Yes. I mean, I've collaborated with CCFW and
23 CC -- Catholic Charities of Dallas on other immigration
24 matters. I work with their lawyers on other cases
25 together. And we've done trainings, like the Know Your

1 Rights workshop together.

2 Q. And all those communications occurred after
3 your interaction in February of 2017; is that right?

4 A. Yeah. I mean -- as I said, there may have
5 been some initial communications with -- with
6 immigration provider at CCFW before; but most of that
7 happened after.

8 This incident happened pretty soon after
9 we moved to Texas. So there wasn't a whole lot of time
10 before this incident. But there've been many more
11 interactions just around immigration issues afterwards.

12 Q. Okay. Have you had any interactions with my
13 client, USCCB, regarding the issues in this case?

14 A. No.

15 Q. Have you had any communications, written or
16 oral, with USCCB regarding this case?

17 A. No.

18 Q. Are you aware whether Ms. Esplin had any
19 communications with USCCB about this case?

20 A. No, she has not.

21 Q. Okay. Well, thank you. Why don't we take a
22 ten minute break.

23 A. Okay.

24 Q. And then we'll come back on the record. And I
25 appreciate your courtesy in working through the

1 attention halfway down the page to the paragraph under
2 subsection B. And I'm going to -- I'm going to read
3 it -- read it in the record to make sure that you and I
4 are both on the same page.

5 First, in response to ORR's questions,
6 BCFS Health and Human Services and Lutheran Immigration
7 and Refugee Services have stated to ORR that they have
8 no objection of placing children with same-sex foster
9 parents. These inquiries were made by ORR staff in 2018
10 and 2019 during their efforts to establish an
11 alternative foster care provider in the Dallas-Fort
12 Worth area of Texas with which plaintiffs may work.

13 Do you see my reference?

14 A. I do.

15 Q. Do you have any information relating to those
16 two statements?

17 A. No, I don't.

18 Q. Do you have any reason to disagree with what
19 has been written here and what I read to you in the
20 record?

21 A. I just don't know if they're correct or not.

22 Q. All right. You never asked BCFS whether they
23 have no objection to placing children with same-sex
24 foster parents; is that correct?

25 A. Correct. I've never contacted BCFS.

1 Q. How about Lutheran Immigration and Refugee
2 Services? Did you ever --

3 A. I never --

4 Q. -- contact them either?

5 A. No, I did not.

6 Q. Okay. So you don't know whether they, in
7 fact, have no objection in placing children with
8 same-sex foster parents; is that correct?

9 A. Yeah. I don't know if they do or not.

10 Q. Do you have any plans to apply to BCFS for the
11 UAC program?

12 A. I don't know. I would have to learn more
13 about it. I don't have any -- any information about it
14 before right now.

15 Q. Okay. Do you know whether Ms. Esplin has ever
16 raised an interest in applying to be a foster parent for
17 the UAC program through BCFS?

18 A. I don't know.

19 Q. So let me now turn your attention to Tab 13 in
20 the binder, which we'll mark as Deposition Exhibit 13.

21 (Marked Marouf Exhibit No. 13.)

22 Q. (BY MR. GOETZ) This is a -- a two-page
23 document, the first page labeled Exhibit C and the
24 second page is a letter dated May 29th, 2020. Do you
25 see these two pages?

1 Q. Are you still interested today, Ms. Marouf, in
2 becoming a foster parent for a refugee child?

3 A. Absolutely.

4 Q. And why -- why do you say that?

5 A. For the same reasons that we've always been
6 interested, which is this is a population we care a lot
7 about. And we want to be able to help give a home to a
8 child in need and especially a refugee or unaccompanied
9 minor child.

10 Q. And if your options were available in
11 Dallas-Fort Worth to explore that interest, you would be
12 interested in following up and learning more; is that
13 correct?

14 A. Yes. We would want to learn more about
15 alternative programs.

16 Q. Both through UAC and URM; is that correct?

17 A. Correct.

18 Q. Okay.

19 MR. GOETZ: So let's -- let's take
20 another ten-minute break, if we could. It's 11:00
21 o'clock. Let's plan to come back at 11:10, if that's
22 okay.

23 THE WITNESS: Okay.

24 THE VIDEOGRAPHER: Okay. We're now off
25 the record at 10:00 o'clock.

1 CCFW, if I could. You testified this morning that a
2 representative from CCFW informed you that they would
3 not approve any foster parent applications for foster
4 parents who do not mirror the Holy Family. Do you
5 remember that testimony?

6 A. Correct. Correct.

7 Q. Was your understanding from that comment that
8 CCFW would not approve foster applications for same-sex
9 couples?

10 A. Yes.

11 Q. Are you aware of any same-sex couples who were
12 accepted as foster parents by CCFW?

13 A. I am not aware of any.

14 Q. Either before or after February 2017; is that
15 correct?

16 A. Correct.

17 Q. Do you have any reason to believe that CCFW's
18 policy, as you've testified to about same-sex foster
19 parents, was not based on its sincerely-held religious
20 beliefs?

21 A. Can you repeat the question?

22 Q. Sure. When -- let me ask it a different way.
23 Hopefully a better way.

24 When CCFW relayed that they would not
25 approve foster applications for same-sex couples because

Exhibit 7

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF COLUMBIA

3 Case No. 1:18-cv-378 (APM)

4 FATMA MAROUF, et al.,)
5 Plaintiffs)
6 VS)
7 ALEX AZAR, in his)
8 official capacity as)
9 Secretary of the UNITED)
10 STATES DEPARTMENT OF)
11 HEALTH AND HUMAN)
12 SERVICES, et al.,)
13 Defendants)

14 *****

15 ORAL AND VIDEOTAPED DEPOSITION OF

16 BRYN S. ESPLIN

17 APPEARING REMOTELY

18 NOVEMBER 6, 2020

19 *****

20 ORAL AND VIDEOTAPED DEPOSITION OF BRYN S. ESPLIN,
21 produced as a witness at the instance of the DEFENDANT,
22 U.S. CATHOLIC CONFERENCE OF BISHOPS, and duly sworn, was
23 taken in the above-styled and numbered cause on NOVEMBER
24 6, 2020, from 12:29 p.m. to 3:03 p.m., before Donna L.
25 Garza, CSR, in and for the State of Texas, reported by
machine shorthand and appearing remotely from Polk
County, Texas, pursuant to the Federal Rules of Civil
Procedure and the provisions stated on the record or
attached hereto; that the deposition shall be read and
signed before any notary public.

1 September 2017?

2 A. Fatma and I wanted to explore other foster
3 possibilities -- foster-to-adopt possibilities after
4 being rejected from the CCFW program. And so that was
5 the purpose.

6 Q. What -- what kind of foster care opportunities
7 were you interested in when you went to the orientation
8 at Jonathan Place?

9 A. Oh, we were really interested in fostering a
10 refugee child, unaccompanied minor child. But we've
11 always had a desire to foster children. And so when we
12 were rejected, it was to learn more about other
13 opportunities.

14 Q. You say learn more about other opportunities
15 would have been both refugee children and other children
16 as well?

17 A. To the best of my knowledge, we didn't know
18 that there were any other organizations with refugee
19 children. And so Jonathan's Place, we just wanted to
20 learn more about.

21 Q. And what type of foster care opportunities did
22 Jonathan Place tell you about during the orientation?

23 A. To the best of my memory -- I think it was
24 2017 -- the way that they described their foster program
25 was more of a -- almost a -- not an emergent placement,

1 about some of the background of the foster children,
2 that some had come from South America; some would come
3 from Middle Eastern countries.

4 That they -- that their requirements for
5 being foster parents through that program that I was
6 taking notes about was in regards to specific amounts of
7 space, like a dresser drawer, like kind of living
8 arrangements, and then things like a fire extinguisher,
9 safety, a background check for us -- and enumerating
10 those factors.

11 And then Ms. Springer said another
12 requirement is that our foster parents mirror the Holy
13 Family. And at that point, I remember being stunned.
14 Fatma and I were both stunned and took a moment. And
15 Fatma clarified what she meant by mirroring the Holy
16 Family to ensure -- made it very clear that Fatma and I
17 are women and married and if that precluded us. And
18 Ms. Springer said yes, that we were not eligible because
19 we were a same-sex couple.

20 Q. And did you or Fatma ask why you were being
21 excluded? What was the basis for being excluded?

22 A. Yes. That basis -- we tried to clarify what
23 that basis was and understand and get clarity that that
24 basis was because we were a same-sex couple.

25 Q. And how long had the discussion preceded

1 Q. Do you know whether BCFS has any prohibition
2 on same-sex couples fostering a child through the UAC
3 program?

4 A. I do not. No.

5 Q. Did you ever explore that -- that issue with
6 BCFS in any way?

7 A. No.

8 Q. And I -- I take it you and Ms. Marouf never
9 applied to be a foster parent for the UAC program
10 through BCFS?

11 A. Correct.

12 Q. Either in Dallas-Fort Worth or any other
13 geographic area, correct?

14 A. Correct.

15 Q. If BCFS began operating a foster parent
16 program through the UAC program in the Dallas-Fort Worth
17 area, would you be interested in learning more about
18 that?

19 A. If they were to begin offering that service?

20 Q. Yes.

21 A. I would be interested in learning more about
22 their -- all of their particular program requirement.

23 Q. If the BCFS is, in fact, operating a UAC
24 program in the Dallas-Fort Worth area now, that would be
25 something that you would be interested in learning more

1 about; is that correct?

2 A. Yes. I'd learn more about it.

3 Q. Did the federal government ever indicate to
4 you or to Ms. Marouf that BCFS was, in fact, operating a
5 UAC program in the Dallas-Fort Worth area this year?

6 A. Not to my knowledge.

7 Q. Are -- are you and Ms. Marouf still interested
8 today in becoming foster parents of a refugee child?

9 A. Yes.

10 Q. Would you be still interested in exploring
11 options in the Dallas-Fort Worth area that may exist
12 today for you to become foster parents of a refugee
13 child?

14 A. We're still very much interested in fostering
15 and -- speaking for myself -- quite interested in
16 learning more about programs.

17 Q. That -- that may exist for fostering a refugee
18 child in the Dallas-Fort Worth area, correct?

19 A. Yes.

20 Q. All right. So my next question relates to
21 Lutheran Immigration Refugee Services or LIRS. Have --
22 have you ever interacted with LIRS, in any way, about
23 becoming a foster parent through any of their programs?

24 A. Not to my knowledge. And I see here, it says
25 Upbring. Is that different?

1 Q. Right. That's -- it's related organization.

2 Right.

3 A. Okay.

4 Q. Do you know -- okay. My -- my next question
5 will be did you know whether LIRS or Upbring has been
6 approved to be a replacement designee in the URM program
7 in the Dallas-Fort Worth area in 2020?

8 A. No. I did not know.

9 Q. Okay. Do you know whether Upbring through
10 LIRS is planning to operate a URM program in the
11 Dallas-Fort Worth area in the next few months?

12 A. I did not know.

13 Q. If that was true, would you be interested in
14 learning more about that program?

15 A. If that were true, I'd be interested in
16 learning more about all of it.

17 Q. Are you aware of any prohibitions that Upbring
18 or LIRS may have for same-sex couples to become foster
19 parents?

20 A. I'm unfamiliar with their policies or -- but,
21 no. I don't know.

22 Q. Okay. So let me direct your attention to --
23 if I can find it -- Tab 13 of your binder.

24 A. Okay.

25 Q. Tab 13, we'll mark as Deposition Exhibit 13.

Exhibit 8

1 Q. And are all those within Fort Worth?

2 A. No, they're not.

3 Q. Does CCFW currently provide foster care
4 services?

5 A. No, we do not.

6 Q. When did CCFW cease providing foster care
7 services?

8 A. I believe it was July of '18.

9 Q. And why did CCFW cease providing foster care
10 services?

11 A. It actually might have been '19. It was one of
12 the two, either '18 or '19. We stopped providing them
13 because as an agency our vision, like I said a few
14 minutes ago, is to end poverty.

15 And so our board of directors and our
16 senior leadership team made the decision to focus all of
17 our time, talent and resources into the programs that we
18 had internally that really focussed on irradiating
19 poverty.

20 And so, you know, we were one of those
21 organizations that did a million different things and so
22 we just reassessed like who else in the community is
23 doing some of the things that we're doing and/or could
24 solely focus on those things or give it a greater focus
25 and do just as good of a job so that we could focus more

1 MR. LANGE: Object to form.

2 A. I don't know.

3 Q. (BY MR. BURNS) Doesn't CCFW have records of
4 foster parents?

5 A. Absolutely.

6 Q. But you are not sure whether any of those
7 foster parents have been Muslim?

8 MR. CELLIER: Object to scope.

9 A. I just don't know off the top of my head.

10 Q. (BY MR. BURNS) Are there any lesbian, gay,
11 bisexual, transgender -- which going forward I'll just
12 refer to as LGBT -- children in the URM or UAC programs?

13 A. I don't know.

14 Q. Why don't you know?

15 A. Because we no longer operate those programs.

16 Q. When CCFW operated those -- administered those
17 programs, were there any LGBT children in the programs?

18 A. I still don't know.

19 MR. CELLIER: Object to scope.

20 A. We don't require children to disclose that.

21 Q. (BY MR. BURNS) You don't require children to
22 disclose it. Did you ask children?

23 A. I don't know. I didn't do intakes with
24 children.

25 Q. But you don't know whether it was the policy of

1 excerpt from a larger document and I just want to
2 request, will CCFW produce the entire document given
3 that Ms. Springer testified earlier that she wasn't sure
4 where this came from?

5 MR. LANGE: Yeah. Let me -- and let me see
6 what the rest of the document is and certainly if it's
7 relevant and within you-all's -- the scope of you-all's
8 request, we'll produce it.

9 MR. BURNS: Okay. And I would say, you
10 know, if you think that the entire document is not
11 relevant, at least having the title page, you know, just
12 some -- some context to identify what the document is.
13 We don't need the whole thing if --

14 MR. LANGE: Sure.

15 MR. BURNS: -- 90 percent of it isn't
16 relevant.

17 MR. LANGE: Right.

18 MR. BURNS: Thanks.

19 Q. (BY MR. BURNS) Okay. Moving forward, did
20 anyone at CCFW have direct conversations with personnel
21 at HHS or ORR in connection with the administration of
22 the URM or UAC programs?

23 A. I don't know.

24 Q. Were there any situations in which it would be
25 expected that CCFW would have direct communications with

1 HHS or ORR with respect to those programs?

2 A. I can't think of a time. I mean, not unless
3 USCCB instructed us to do so.

4 Q. So is it accurate to say that instructions
5 typically came from USCCB with respect to the URM and
6 UAC programs?

7 MR. CELLIER: Object to form.

8 A. That wasn't the only place we got
9 instruction -- (audio glitch).

10 Q. (BY MR. BURNS) I'm sorry. That cut out on my
11 end or your end.

12 A. Oh, I'm sorry.

13 Q. Can you repeat that?

14 A. Yes. I was just saying that wasn't the only
15 place or only entity that we got instruction from.

16 Q. What other entities would you have received
17 instruction from?

18 A. So we would have received -- could have
19 received potentially, you know, memorandum or policy
20 changes, or what have you, from ORR or potentially HHS
21 but I can't say that we did.

22 Q. Did anyone at CCFW have direct communications
23 with Ann Mululi (phonetic)? My apologies if I
24 mispronounced that name.

25 A. Yes.

1 A. Sure. So they reached out with interest via
2 email to Brenna, who you mentioned earlier, whose name
3 is on the bottom of that form. Expressed interest and
4 wanting to know more about the URM program.

5 And then once that came across, I'm sure a
6 few things happened in between but at some point, it
7 landed on my desk to call and connect with them.

8 And so set up that call, I called them and
9 had Todd Beard, who you also mentioned earlier, in the
10 room with me too, just to make sure that we had more
11 than one representative present. And I shared with them
12 that Todd was on the call as well.

13 And they just asked some questions about
14 the foster care program, that we were operating the URM
15 program, asked some details about the children, shared
16 that they were a same-sex couple and would they be able
17 to be licensed through us, to which my response was no,
18 they would not be able to.

19 You know, I can't remember every detail of
20 the conversation but, you know, I answered all of the
21 questions that they had.

22 I do recall that they had several and so we
23 just talked through those. I ended the call by sharing
24 with them some other foster care agencies within the
25 area that they could connect with that could potentially

1 be a better fit for them.

2 And I believe -- I believe I got like one
3 follow-up email from them but I can't recall exactly
4 what was in that email.

5 Q. Okay. So we are -- I'm going to break it down
6 piece by piece. And just to put you at ease, it's no
7 got-you here, I'm not trying to catch you. I will pull
8 out some documents just to try and refresh your memory.

9 A. Great.

10 Q. And just, you know, verify the records. But I
11 want to start with the referral. Do you remember the
12 agencies in the area? And I ask only because, and
13 please correct me if I'm wrong, my understanding is
14 URM -- CCFW was the only URM sub-grantee; is that
15 correct?

16 A. In our local area, yes.

17 Q. But there were other UAC agencies in -- well, I
18 don't -- you tell me. Were there other UAC agencies in
19 the geographic region?

20 A. I believe so but I'm not a hundred percent
21 sure.

22 Q. Could you name any of them?

23 A. No.

24 Q. Okay. Do you recall, just to back up, the
25 agencies that you did refer them to, do you remember

1 which ones those were?

2 A. I know I said Lutheran Social Services and, you
3 know, my typical is to give two to three so I can't
4 imagine why I didn't in this case but no, I don't recall
5 specifically the other two.

6 Q. And did Lutheran Social Services, did that
7 agency administer either the URM or the UAC program?

8 A. Not in our area.

9 Q. Did they administer in another area?

10 A. I believe so.

11 Q. Do you know where?

12 A. I don't.

13 Q. And you said -- I think you said you typically
14 gave two or three options for referrals. So had it
15 happened before where you would give referrals to other
16 agencies if CCFW determined that the individual or the
17 couple could not be licensed through -- as a foster
18 parent through CCFW?

19 MR. CELLIER: Object to scope.

20 A. For that reason and also if the individuals
21 inquiring learned more about the program and they -- it
22 wasn't a population they were interested in or they
23 wanted domestic foster care.

24 Q. (BY MR. BURNS) Sure. Focusing on the -- on
25 the former, where CCFW determines that the individual or

1 individuals do not qualify under CCFW's requirements to
2 be a foster parent, were there instances where that
3 failure to qualify was based on CCFW's religious
4 beliefs, as here?

5 MR. CELLIER: Object to scope.

6 MR. LYNCH: Object to scope.

7 A. Yes.

8 Q. (BY MR. BURNS) Yes? Do you recall any of
9 those situations, any of those incidents?

10 MR. CELLIER: Object to scope.

11 A. Yes.

12 Q. (BY MR. BURNS) What were some of the
13 underlying issues that caused those individuals to not
14 qualify to be foster parents?

15 MR. CELLIER: Object to scope.

16 Q. (BY MR. BURNS) Were there same-sex couples or
17 were there other religious beliefs issues?

18 A. Same sex or unmarried.

19 Q. And for the same-sex couples were there -- was
20 there more than one?

21 A. I can only recall one other.

22 Q. Is this in addition to the one we discussed
23 earlier that was in 2017 as well or is this the
24 same individual?

25 A. It's the same.

1 Q. Okay. And you referred that individual to
2 another agency or agencies?

3 A. I believe so. It was very quick communication
4 via email but I believe so.

5 Q. Okay. With respect to the individuals that
6 were unmarried, I assume this was during the time period
7 after CCFW had implemented the requirement that foster
8 parents be married?

9 A. That's correct.

10 MR. CELLIER: Object to scope.

11 Q. (BY MR. BURNS) Bear with me one moment.

12 A. Sure.

13 Q. I want to go back to -- this is Exhibit 2 we
14 discussed earlier. This, you will recall, is the
15 agreement between CCFW and USCCB with respect to the UAC
16 program. Do you recall discussing this document
17 earlier?

18 A. I do.

19 Q. Flipping to the fifth page in the middle of the
20 page, there's the paragraph H titled Catholic Identity.
21 Do you remember this paragraph?

22 A. I do.

23 Q. I'll -- I want to read the second sentence in
24 the paragraph. "Accordingly, USCCB/MRS expects the
25 sub-recipient will provide services under this agreement

1 (Exhibit No. 17 was marked.)

2 MR. BURNS: Adding tab 17 to the chat and
3 marking it Exhibit 17.

4 Q. (BY MR. BURNS) Do you recognize this document,
5 Ms. Springer?

6 A. I recognize it as an email between USCCB and
7 us, CCFW.

8 Q. Have you seen this email before?

9 A. I have not.

10 Q. Who is Kathryn Kuennon?

11 A. She works for USCCB.

12 Q. Did you have any interaction with her while you
13 were director of child welfare?

14 A. I did.

15 Q. And I'll proffer this document was produced by
16 HSS in this case. Turning to the third page at the
17 bottom, there's an email from Kathryn Kuennon to Mimi,
18 dated February 5th, 2019 at 4:50 p.m. Do you see that?

19 A. I do.

20 Q. In the sub sentence of that email, second
21 sentence, as I shared on the call, USCCB was recently
22 informed that Catholic Charities of Fort Worth has made
23 the decision to transition out of its children's
24 services programming. This will include the UC shelter
25 program, transitional foster care, long-term foster care

1 and the URM program. Did I read that correctly?

2 A. You did.

3 Q. Does this document reflect the rough period of
4 time when CCFW made the decision to cease providing
5 child foster services?

6 A. It does.

7 Q. Can you remind me, I know you testified about
8 it earlier but why did CCFW make that decision?

9 A. So that we could direct all of our resources
10 towards our vision of ending poverty.

11 Q. Did CCFW have any role in who would replace it
12 as the sub-grantee to the USCCB?

13 A. Absolutely.

14 Q. What was that role?

15 A. We actually facilitated, you know, not
16 facilitated but reached out to CC Dallas as -- to see if
17 it would be something they would be interested in. They
18 very much were.

19 And then we went to the USCCB and shared
20 that -- what our plan was and that we had CC Dallas that
21 was interested.

22 Q. Where is CC Dallas located?

23 A. In Dallas, Texas.

24 Q. Just checking. Does it operate -- does it --
25 does CCD administer the UAC and URM programs in Fort

1 Q. Following the call, did CCFW receive any
2 follow-up from plaintiffs concerning the child placement
3 alternatives that you suggested?

4 A. I don't recall.

5 Q. Do you know whether plaintiffs reached out to
6 any of these agencies?

7 A. I don't know.

8 Q. Did plaintiffs ever request CCFW's assistance
9 with getting in contact with any of these agencies?

10 A. Not that I recall.

11 Q. Had they done so, would you have assisted?

12 A. Yes.

13 Q. Earlier I believe we discussed that CCFW is no
14 longer involved in the URM or UAC programs, correct?

15 A. That's correct.

16 Q. And we discussed that the reason for them
17 leaving was the emphasis on poverty and ending poverty?

18 A. That's correct.

19 Q. And now both programs are currently being run
20 at CC Dallas, correct?

21 A. Yes, sir.

22 Q. Approximately, how many children did CCFW place
23 with foster parents through the URM program during your
24 time at CCFW?

25 A. So during my time in child welfare?

Exhibit 9

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF COLUMBIA

3 -----X
4 FATMA MAROUF and BRYN ESPLIN,
5 a Married Couple,

6 PLAINTIFFS,

7 -against-

8 Case No.:
9 1:18-cv-378
10 (APM)

11 ALEX AZAR, in his official capacity
12 as Secretary of the UNITED STATES
13 DEPARTMENT OF HEALTH AND HUMAN
14 SERVICES,

15 DEFENDANT.
16 -----X

17 DATE: December 3, 2020

18 TIME: 9:02 A.M

19 REMOTE VIDEOTAPED DEPOSITION of

20 SARAH VIOLA, taken by the Plaintiffs,
21 pursuant to a notice and to the Federal
22 Rules of Civil Procedure, held remotely via
23 Zoom Videoconference, before Suzanne
24 Pastor, a Notary Public of the State of New
25 York.

1 A. So not just in Texas. The UAC
2 program is across the country and there's
3 about 120 of them with different levels of
4 care for the children. It ranges from
5 shelter in a transitional foster care
6 model, which we consider our least
7 restrictive. And it moves up the spectrum
8 from staff secure to secure to
9 therapeutic -- sorry, therapeutic group
10 homes and residential treatment centers,
11 and then long-term foster care.

12 And depending on the level of
13 the needs of the children, they will be
14 placed in the appropriate care. Throughout
15 the country, there's more now, there's
16 about 120 programs that can provide this
17 care.

18 Q. And just so I understand, is
19 USCCB one of those 120?

20 A. So USCCB, yes, is one of the
21 grantees. And then within the USCCB grant,
22 they have multiple locations. And it's --
23 yes.

24 Q. You testified earlier the UAC
25 program is across the country and there's

1 A. Mm-hmm.

2 Q. If there's a same sex married
3 couple that checks all the boxes, good
4 background check, good home study, will
5 USCCB license them as prospective foster
6 parents?

7 MR. POWERS: Objection; calls
8 for speculation.

9 A. I don't know if it's all. This
10 is never -- for the UAC side, it's never
11 been brought to my attention that USCCB or
12 any of our religious entities have not
13 licensed somebody.

14 Q. So the government does not know
15 whether same sex married couples can be
16 licensed by USCCB.

17 MR. POWERS: Object to form.

18 MR. SALLMEN: Object to form.

19 A. I would think for USCCB, if
20 there is -- because there is part of their
21 funding announcements when you apply to
22 become a grantee, there are sections in
23 there that speak to faith-based
24 organizations, and if there's any concerns
25 or issues that they feel that they can't do

1 as they read through the application
2 process, they are to place that into their
3 application.

4 In the applications I've seen
5 for USCCB, this interest of same sex couple
6 has never been in their application. So if
7 there's concerns of something it's come to
8 light in the last couple of years, but I
9 have not heard prior to that of any
10 concerns of people trying to become UAC
11 foster parents and they haven't been able
12 to do it.

13 MR. POWERS: Mike, do you think
14 we can take a break?

15 MR. GENDALL: Yes, that's fine.
16 We can go off the record.

17 THE VIDEOGRAPHER: The time is
18 10:03 a.m. and we're going off the
19 record.

20 (Whereupon, a short recess was
21 taken.)

22 THE VIDEOGRAPHER: The time is
23 10:16 a.m. and we're back on the
24 record.

25 BY MR. GENDALL:

1 Q. Okay, so how many long-term
2 foster care providers were present in the
3 Dallas/Ft. Worth area in 2017?

4 A. That I'd have to go
5 double-check, but definitely at least USCCB
6 Dallas/Ft. Worth, and I'd have to see to
7 verify if LSS may have been there. But I'd
8 have to check. The rest would be across
9 the State of Texas.

10 Q. And you did not check the
11 answer to that in preparation for this
12 deposition?

13 A. No.

14 MR. POWERS: Objection. I'm
15 just going to note that it's beyond
16 the scope of the 30(b)(6)
17 designation.

18 Q. Is the BCFS long-term foster
19 care program now fully set up in the
20 Dallas/Ft. Worth area?

21 A. Yes. They are open. I would
22 need to check to see their funded capacity.
23 Like I said, we're in the midst of changing
24 to a new grant cycle. So I would need to
25 go look at the details of each of their

1 grants.

2 Q. They're currently recruiting
3 foster parents?

4 A. I believe -- again, I need to
5 check because I don't know off the top of
6 my head their funded capacity to see, for
7 example, let's say a program says they're
8 gonna serve 25 children, do they have
9 enough foster parents recruited for 25
10 kids. That's what I'd have to look for.

11 Q. And then going back to that
12 document, Exhibit 3, tab 36, the very top
13 e-mail from Jonathan Hayes to Jallyn
14 Sualog, it says, "JH, you've been briefed
15 on this. This is the Marouf case." Did I
16 read that correctly?

17 A. Yes, you did.

18 Q. What does that mean?

19 MR. POWERS: Objection. The
20 question calls for information
21 covered by the deliberative process
22 and attorney-client privileges. I
23 instruct the witness not to answer.

24 Q. The government's testimony is
25 that BCFS made the unilateral decision to

1 we were in Texas.

2 I do know at least off the top
3 of my head in that time period, the
4 Dallas/Ft. Worth for USCCB was there, and
5 we had foster care programs in San Antonio.
6 The other cities I would have to go back
7 and see capacity-wise for long-term foster
8 care where we were.

9 Q. BCFS will license applications
10 from same sex foster parents, right?

11 A. I believe so. I've not been
12 told they don't.

13 Q. Right. The government does not
14 know one way or the other?

15 MR. POWERS: Object to form.

16 A. Correct.

17 Q. When did the government first
18 award a grant to USCCB?

19 A. They also were here when the
20 program transferred from INS. And they
21 were here, like I said, when I began
22 working in ORR in 2008. So they've been
23 here at least 12 years. It's probably
24 longer than that.

25 Q. And the government's been aware

1 in the application, if it is a faith-based
2 organization, they usually -- they will
3 write out whatever their faith is. And if
4 there's a service they believe they cannot
5 provide to a child, then they need to
6 explain what that might be and how they
7 would go about, if they need to use an
8 outside entity or something to provide the
9 services to the child, so.

10 The various different policies
11 and procedures we have, previous lawsuits
12 that have governed how the UAC program has
13 been established for care of children, then
14 that's what we're looking for when we read
15 the funding announcements. That's what
16 those independent panels are looking at
17 when they score them, the project officers
18 and the grant specialists look at when
19 they're making funding determinations.

20 Q. So if there's something that a
21 grantee is not willing to do because of its
22 religious beliefs, the government relies on
23 the grantee disclosing that in its funding
24 announcement?

25 MR. POWERS: Object to form.

1 MR. SALLMEN: Object to form.

2 A. Yes. The application should
3 state anything. When you read the
4 application, it talks about education
5 services, counseling, medical services,
6 schooling, all of that. And the applicant
7 has to respond to all those things and tell
8 the government how they're going to provide
9 those services. So if they can't or
10 whatever, they have to disclose it.

11 Q. And the government relies on
12 the applicant to self-disclose that.

13 MR. POWERS: Object to form.

14 MR. SALLMEN: Object to form.

15 A. Yes, the applicant has to
16 self-disclose because when the application
17 comes in to be reviewed for scoring and
18 panelling, it's done by an outside neutral
19 party. So all they can see is that
20 application. What's written is what's
21 going to be scored on.

22 Q. So if the applicant doesn't say
23 in its application that it can't do
24 something because of its religious beliefs,
25 the government assumes the applicant will

1 A. Mm-hmm.

2 Q. And I asked you before, did
3 USCCB in that application inform the
4 government that there were certain aspects
5 of the UAC program that it could not
6 administer? Do you remember that question?

7 A. Yes, I do remember that
8 question.

9 Q. Your answer was "I'd have to go
10 back just to refresh my memory, but I
11 believe so."

12 A. Yes.

13 Q. Now that you've looked at it,
14 does it refresh your memory?

15 A. Yes. I just need to look at
16 the sections under program design and
17 service provision to see if they speak to
18 anything.

19 (The witness reviews the
20 document.)

21 I don't see any concerns within
22 their application. The only mention I see
23 is on -- when you look at the subrecipient
24 agreements, there's a part F regarding
25 Catholic identity. But it's speaking more

1 specifically to family planning. I don't
2 see any direct reference to same sex
3 couples.

4 Q. What page are you looking at?

5 A. I am looking at page 108 of
6 119. At the very top. And it may have
7 been --

8 Q. Right, so that agreement starts
9 on page 105, right? And that looks like
10 it's --

11 A. This would be the -- yes, it
12 starts on 105.

13 Q. And it's a blank template,
14 subrecipient agreement.

15 A. Mm-hmm.

16 Q. And so does that mean this was
17 the agreement that USCCB is telling the
18 government it will use with its
19 sub-recipients?

20 A. Yes.

21 Q. And as you noted, on page 108
22 there's section F, Catholic identity. And
23 your testimony is that that relates to the
24 facilitation of contraceptives or abortion
25 services?

1 A. Yes. That's what it states in
2 the document.

3 Q. I'm going to read it into the
4 record and let me know if I read it
5 correctly, okay? You'll follow along with
6 me.

7 A. Yes.

8 Q. "USCCB/MRS must ensure that
9 services provided to those served under
10 this agreement are not contrary to the
11 authentic teachings of the Catholic Church,
12 its moral convictions and religious
13 believes. Accordingly, USCCB/MRS expects
14 that the subrecipient will provide services
15 under this agreement within certain
16 parameters, including, among other things,
17 that the subrecipient will not provide,
18 refer, encourage or in any way facilitate
19 access to contraceptives or abortion
20 services."

21 Did I read that correctly?

22 A. Yes, you did.

23 Q. So it's not -- contraceptives
24 or abortion services are an example. This
25 is not limited to contraceptives or

1 abortion services, right?

2 A. Yes. You could infer that from
3 where states "among other things."

4 Q. Right. What the clause says is
5 that USCCB needs to ensure that services
6 provided are not contrary to the authentic
7 teaching of the Catholic Church, its moral
8 convictions and religious beliefs, right?

9 A. Correct.

10 Q. So what -- does the government
11 have an understanding as to what services,
12 if any, other than contraceptives or
13 abortion services USCCB is referring to
14 here?

15 A. No, I don't know if it's ever
16 been asked of them what other things would
17 fall into this category. Again, this is
18 discussing services to children, and at
19 various parts of the year the family
20 planning policy is shifted a bit. But
21 family planning is a service that needs to
22 be provided to the UAC child. So this is
23 discussing services to the children.

24 Q. Well, it doesn't say "services
25 to children," does it?

1 A. Yeah -- well, sorry, it says
2 "USCCB must ensure that services provided
3 to those served under this agreement are
4 not contrary." So my interpretation of
5 that sentence would be the services being
6 provided to those served would be the UAC
7 child.

8 Q. You testified just a few
9 seconds ago, "I don't know if it's ever
10 been asked of them what other things would
11 fall into this category." Did you do
12 anything to ascertain whether anything was
13 asked of USCCB in preparation for today's
14 deposition?

15 A. No, I did not. That's what I
16 meant by that statement. I don't know if
17 that happened.

18 Q. Who would know the answer to
19 that?

20 A. For this specific announcement
21 and application, it would have been the
22 assigned project officer at the time, which
23 I'd have to go to see but it would have
24 probably been Sathya Acevedo who was the PO
25 at the time.

1 Sathya tell you about any other
2 communications that she had with USCCB?

3 A. No. Just what we discussed.

4 Q. Did USCCB identify any other
5 issues other than abortion and
6 contraceptive services that it could not
7 provide under the UAC program?

8 A. No.

9 Q. Just to clean that up, USCCB
10 did not identify any other services other
11 than the provision of abortion and
12 contraceptives that it could not provide
13 under the UAC program?

14 A. Correct. For the children,
15 that's correct.

16 Q. You said "for the children."
17 Are there other services that USCCB
18 identified that it could not provide under
19 the UAC program?

20 A. No. The application is geared
21 towards the services to the children.

22 Q. So the government's
23 understanding was that other than the
24 provision of abortion and contraceptive
25 services, USCCB was prepared to administer

1 all of its responsibilities under the UAC
2 program.

3 A. Correct.

4 MR. SALLMEN: Object to form.

5 A. The application and further
6 conversations regarding the application,
7 with the exception of these topics, the
8 USCCB programs were able to care for a
9 child who met the criteria, for example in
10 this case, long-term foster care. If we
11 had a child eligible for long-term foster
12 care, they would be able to take care of
13 that child.

14 Q. Well, the UAC program requires
15 grantees to perform other tasks incidental
16 to caring for children, right?

17 MR. POWERS: Object to form.

18 MR. SALLMEN: Object to form.

19 A. Would you clarify what you mean
20 by "other services."

21 Q. Yes, like licensing foster
22 parents, for example.

23 A. Yes. The foster parents need
24 to be state licensed. Mm-hmm.

25 Q. And that's something that USCCB

1 record.

2 BY MR. GENDALL:

3 Q. Ms. Viola, do you understand
4 you're still under oath?

5 A. Yes, I do.

6 Q. I understand from your counsel
7 you have a clarification you'd like to
8 make.

9 A. Yes, I do.

10 In regards to your previous
11 questions regarding BCFS and our
12 discussions with them about moving their
13 programs, there was conversations
14 internally within the UAC program of
15 identifying programs that could provide
16 long-term foster care in the
17 Dallas/Ft. Worth area. And we inquired
18 into both BCFS and LSS Upbring asking them
19 two questions: one, are you able to do
20 long-term foster care in that area, and 2,
21 do you have any objections of licensing
22 eligible foster parents who are also same
23 sex marriages. And neither one of those
24 programs and grantees objected or had
25 issues with either one of those. And then

1 therefore we proceeded with BCFS.

2 It was also kind of two-part
3 for them; it was they were able to do this
4 and California wasn't working. So the
5 decision was to move forward and do a
6 change of scope based on their needs and
7 the ability to move to Dallas.

8 Q. So the government reached out
9 to BCFS and asked them if they would be
10 willing to relocate to the Dallas area?

11 A. To both BCFS and LSS Upbring.
12 It was two programs that were -- that had
13 that level of care currently at that time.
14 So we asked both.

15 Q. And BCFS agreed to relocate to
16 Dallas, correct?

17 A. Correct. Along with -- yes,
18 with -- our question along with their
19 having difficulties in California. It just
20 worked together.

21 Q. LSS Upbring did not relocate?

22 A. Well, not yet. Not currently.
23 They're in west Texas. I think El Paso,
24 that area of Texas right now.

25 Q. Did they agree to relocate as

1 well?

2 A. They offered but the ability to
3 do it wasn't -- it wasn't going to be able
4 to be worked within their current funding
5 level. So they were encouraged just to
6 maintain what they were doing.

7 We did identify from at least
8 those programs, I can let you know both
9 programs don't have any objections to
10 working with same sex couples.

11 Q. Why did the government reach
12 out to those two organizations?

13 A. Because --

14 MR. POWERS: Objection. Excuse
15 me, objection. That information
16 calls for -- that question calls for
17 information subject to the
18 deliberative process and
19 attorney-client privilege, so I
20 direct the witness not to answer.

21 Q. BCFS moved to the Dallas area
22 on behalf of the UAC program, right?

23 MR. POWERS: Objection to form.

24 A. Can you clarify what you mean
25 by "on behalf"?

1 Q. Yes. This was something that
2 the government asked BCFS to do in its
3 administration of the UAC program.

4 A. It was part of it. It was
5 part our request if they could do it and
6 part of them looking at their program in
7 California. So I would say it was not a
8 hundred percent because of the request. It
9 was multiple factors.

10 Q. So I understood there are
11 multiple factors that caused BCFS to agree
12 to make the move. But the federal
13 government in its capacity as administrator
14 of the UAC program did request BCFS to
15 relocate to the Dallas area?

16 A. We requested them to
17 investigate if they were able to do it,
18 yes.

19 Q. And as part of that request,
20 you asked whether they would license same
21 sex foster parents?

22 A. Correct. That was asked to LSS
23 Upbring and BCFS.

24 Q. I think you told me that the
25 federal government has no understanding one

1 way or the other whether USCCB licenses
2 same sex foster parents, correct?

3 MR. POWERS: Objection to form.

4 A. Would you just -- if -- in
5 terms of did we ever ask them or in their
6 applications?

7 Q. I'm asking what the federal
8 government's understanding is today about
9 whether USCCB licenses same sex foster
10 parents. I believe you told me that you
11 have no understanding one way or the other.

12 MR. POWERS: Objection to form.

13 A. The understanding I have is
14 from the documents you shared that stated
15 their Catholic -- do I have it still up
16 here? Their stance about a man and woman's
17 marriage. And then the previous comment
18 about the same sex couple. That's the
19 amount of information I have for the UAC
20 program.

21 Q. Right, so until I showed you
22 those documents today, the government in
23 its administration of the UAC program did
24 not know one way or the other whether USCCB
25 licenses same sex foster parents.

1 A. Correct. There was no
2 document, written documentation that they
3 were not going to do that.

4 Q. And just to make sure I'm
5 understanding this, the federal government
6 asked BCFS if it would license same sex
7 foster parents, correct?

8 A. Correct. Along with LSS.

9 Q. And it asked LSS the same
10 thing?

11 A. Correct.

12 Q. Has the federal government ever
13 asked USCCB that question?

14 MR. POWERS: Objection to form.

15 A. Not to my --

16 Q. Not to your knowledge you said?

17 A. Correct.

18 Q. Did you do anything to
19 ascertain the answer to that question in
20 preparation for today's deposition?

21 A. No. Could I -- wait, before I
22 clarify, when you asked if any knowledge,
23 are you speaking outside the documents you
24 shared today?

25 Q. No, my question is did the

1 A. If anybody else knew it would
2 be -- I'm not sure how they would know
3 unless they reached out to the next level
4 of, like, chain of command and next
5 supervisor or something. The project
6 officer works with them on almost a daily
7 basis, so.

8 Q. In any event, no one in the
9 government did know whether USCCB's
10 religious beliefs affected its recruiting
11 of prospective foster parents, right?

12 A. Not that I'm aware. It wasn't
13 disclosed to me when I was prepping for
14 this if that was an issue.

15 Q. Did the government ever inquire
16 whether USCCB's religious beliefs affected
17 its recruiting of prospective foster
18 parents?

19 A. Not that I'm aware of. It
20 wasn't -- that wasn't explained to me
21 either from Sathya during this period of
22 time.

23 Q. Did USCCB ever disclose to the
24 government how its religious beliefs would
25 affect the licensing of prospective foster

1 parents?

2 A. Outside of not, no, because it
3 wasn't listed, like I said, in their
4 application for services for the kids. So
5 unless it was put someplace else, there
6 wasn't any notification.

7 Q. Did USCCB ever disclose to the
8 government how its religious beliefs would
9 affect the training of prospective foster
10 parents?

11 A. Again, no, because it would
12 have been in that application that we
13 looked at earlier if there was any
14 concerns.

15 Q. Did USCCB ever disclose to the
16 federal government how its religious
17 beliefs would affect the screening of
18 prospective foster parents?

19 A. No. Again, if there was any
20 objections of recruitment for parents and
21 services, it would have been listed there.

22 Q. And in all those cases the
23 government never inquired as to US -- as to
24 whether USCCB's religious beliefs would
25 affect its licensing, training or screening

1 of foster parents?

2 A. Not that I'm aware of. The
3 conversations we had focused on the child
4 services and providing services to the UAC.

5 Q. Just to make sure we have a
6 clean record, has USCCB ever shared with
7 the government that its religious beliefs
8 affect its ability to work with same sex
9 foster parents?

10 A. Affects its ability to work
11 with same sex parents. In terms of
12 recruiting?

13 Q. In terms of recruiting,
14 licensing, training, screening.

15 A. Not that I'm aware of. Like I
16 said, they provide -- they give us -- they
17 gave us the capacity to be able to work
18 with the children, and then their foster
19 parent recruitment follows onto USCCB as
20 their subcontractors.

21 Q. So the answer is no, right?
22 USCCB never shared with the government that
23 its religious beliefs would affect its
24 ability to recruit, license, train or
25 screen foster parents.

1 A. Correct. No.

2 Q. And certainly USCCB never
3 disclosed that to the government in its
4 grant application.

5 A. When I reviewed the application
6 you shared with me, it's not in there. I
7 don't know in previous years if they did,
8 but in the one that we just discussed,
9 there's no objections except for that
10 clause we reviewed.

11 Q. And that's that broad clause
12 about the teaching of the Catholic Church
13 and moral convictions and all that --

14 A. Correct.

15 Q. And --

16 MR. SALLMEN: Objection to
17 form.

18 Q. And the government never asked
19 USCCB what other than the provision of
20 abortion or contraceptive services would be
21 covered by that clause?

22 A. Correct. I haven't seen any
23 other documentation from my preparation
24 that discloses that.

25 Q. And regardless of the

1 if you define that as "accommodation."

2 Q. Religious organizations can
3 serve as grantees for the UAC program,
4 right?

5 A. Correct.

6 Q. And the government works with
7 the religious organizations to find a way
8 that the grantee could administer the
9 government program without infringing on
10 its religious beliefs, right?

11 A. Yes. From the information I've
12 read regarding this, there had been -- we
13 work with the program to see what can be
14 done, yes.

15 Q. Let's take a look at the
16 Cooperative Agreement for 2017 to 2020. I
17 just dropped tab 8 into that chat box. And
18 we'll produce that as Exhibit 5, please.

19 (Whereupon, HHS 115 through 146
20 was marked as Viola Exhibit 5 for
21 identification as of this date by the
22 Reporter.)

23 Q. Just go ahead and download
24 that, Ms. Viola, and it should be a 32-page
25 PDF. And take a moment to familiarize

1 accommodate USCCB's unwillingness to
2 license same sex foster parents under the
3 UAC program?

4 MR. POWERS: Object to form.

5 MR. SALLMEN: Objection, calls
6 for a legal conclusion.

7 MR. POWERS: And I said
8 objection to form. You can go ahead.

9 A. So USCCB has never -- when they
10 received this Cooperative Agreement, never
11 brought this topic to the project officer
12 to discuss this.

13 Q. So the answer is no?

14 A. No.

15 Q. And I asked about ACF, but same
16 answer for ORR?

17 MR. SALLMEN: Same objection.

18 A. I can -- sorry.

19 MR. SALLMEN: Same objection.

20 A. I can speak for UAC. I don't
21 know if the other part for URM side, if
22 that was discussed, I don't know.

23 Q. That's fair. For the UAC
24 program, same answer for ORR?

25 A. Sure -- is ORR considered UAC?

1 A. No, I did not.

2 Q. If prospective parents were
3 turned away because of USCCB's religious
4 beliefs, would that show up in the
5 performance report?

6 A. I would have to go back and
7 review it to see. I don't know without
8 looking at it to see if that would be
9 something that would have to be reported.

10 Q. Has that ever been reported in
11 a performance report?

12 A. I haven't looked at them in a
13 few years, so I don't want to speculate on
14 it, if it's been there or not.

15 Q. But to the best of your
16 knowledge, as the government's designee
17 today, you have no knowledge of that ever
18 being reported in the performance report?

19 A. Correct, yes.

20 Q. If prospective parents were
21 turned away because of USCCB's religious
22 beliefs, is there any other way other than
23 the performance report that the government
24 would come to know about it?

25 A. If there had been -- if any

1 individual had a concern about a program,
2 as you showed those e-mails, there's those
3 generic URM, we have a similar e-mail
4 address, they probably could e-mail that
5 and say -- to alert us as well. But
6 there's all sorts of mechanisms within the
7 federal government for people to call in.
8 OIG has a hotline number. So the general
9 public has many ways to raise their
10 concerns if they need to.

11 Q. So you would rely on the
12 prospective foster parents who are turned
13 away to bring that to the government's
14 attention?

15 MR. POWERS: Objection; form.

16 MR. SALLMEN: Objection to
17 form.

18 A. That would probably be part of
19 it. Speaking for the UAC side, this issue
20 has never been brought to the UAC's side
21 that there's been an organization that
22 declined to work with somebody.

23 Q. You said there was an e-mail
24 address that people could contact if they
25 were turned away.

1 It's never focused on the foster parent.

2 We're just looking at what the kids need.

3 Q. I don't think that's responsive
4 to the question I asked. Let me just ask
5 it again.

6 Should same sex married couples
7 be permitted to serve as foster parents for
8 unaccompanied alien children in the UAC
9 program?

10 MR. POWERS: Objection to form.

11 MR. SALLMEN: Objection to the
12 extent it calls for a legal
13 conclusion.

14 A. Well, I mean, I don't -- the
15 government doesn't preclude same sex
16 marriage parents to apply to be a foster
17 parent. Whether or not we have children
18 that want to be or need that type of parent
19 or it meets the child's needs is the most
20 important part.

21 So the background of the parent
22 does play a part, but it's coming from the
23 child needs. If that makes sense.

24 Q. Sure, I understand the
25 placement decision ultimately turns on the

1 best interest of the child, correct?

2 A. Mm-hmm. Correct.

3 Q. Does the government have any
4 objection to same sex married couples being
5 licensed as foster parents in the UAC
6 program?

7 A. I don't believe so because we
8 have organizations and people that are
9 foster parents that are same sex and other
10 various sexual orientations.

11 Q. Right, from the government's
12 perspective, that's not disqualifying.

13 A. No.

14 Q. Is it the government's position
15 that same sex couples should be
16 categorically excluded?

17 MR. SALLMEN: Same objection.

18 A. Sorry, just repeat it again for
19 me, please.

20 Q. Sure. Is it the government's
21 position that same sex married couples
22 should be categorically excluded from
23 consideration as foster parents in the UAC
24 program?

25 A. No. I think it's similar to

1 provision of contraceptives and abortion
2 services, right?

3 A. Yes.

4 MR. SALLMEN: Object to scope.

5 Q. We don't need to get into what
6 that plan was. But USCCB and the
7 government did not work out a plan for
8 dealing with discrimination on the basis of
9 sexual orientation, right?

10 MR. POWERS: Objection to form.

11 MR. SALLMEN: Objection to
12 form.

13 A. I have not seen any
14 documentation whether it has. Like I said,
15 for the UAC, this concern has not been
16 brought up for the long-term foster care
17 program within the UAC group.

18 Q. But sitting here today, you
19 know that USCCB will not license a same sex
20 married couple to be foster parents, right?

21 MR. POWERS: Objection to form.

22 Objection; argumentative.

23 MR. SALLMEN: Same objections.

24 A. That I don't know if every
25 single USCCB program doesn't license. I

1 Q. If USCCB's subgrantee wanted to
2 discriminate on the basis of sexual
3 orientation, they would need to find some
4 work-around under the ACF policy, correct?

5 MR. POWERS: Objection to form.

6 MR. SALLMEN: Objection to
7 form. And objection to the extent it
8 calls for a legal conclusion.

9 A. We would go back to look at
10 those three subbullets that we reviewed
11 earlier along with the Cooperative
12 Agreement and other tools to figure out
13 what we needed to do next and working on
14 some type of plan to make sure everything
15 aligns with the ACF and HHS policies.

16 Q. And the government has never
17 worked with USCCB to come up with such a
18 plan under the UAC program for the purpose
19 of --

20 A. Not to my knowledge. I haven't
21 seen any paperwork for it to be done. But
22 there also hasn't been anything besides
23 this with URM that has brought it to the
24 attention that they are discriminating.

25 Q. What steps did the UAC program

1 take after being put on notice that Fatma
2 and Bryn were turned away from becoming
3 foster parents under the URM program to
4 ensure that that did not happen in the UAC
5 program?

6 MR. POWERS: Objection to form.

7 MR. SALLMEN: Objection to
8 form.

9 A. So we looked at what other for
10 the UAC programs, as we discussed right
11 after lunch, to see whether providers could
12 be there that did not -- said that they had
13 no discrimination, they will work with any
14 person looking to become a foster parent if
15 they meet the qualification.

16 We have not been told -- the
17 UAC program has not been told that they
18 have approached any of our UAC programs to
19 become foster parents. No one has
20 specifically spoken about them reaching out
21 to apply. So I don't know the status of
22 what they're wanting to do if they still
23 want to be foster parents for this
24 population or not.

25 Q. Did the UAC program take any

1 orientation?

2 A. No. Not outside this case.

3 Q. Is the government aware of any
4 instances in which a subgrantee of USCCB
5 refused to process the foster parent
6 application of a gay or lesbian individual
7 because of the applicants' sexual
8 orientation?

9 MR. SALLMEN: Objection to
10 scope.

11 A. Again, no, not outside the
12 case -- this current case.

13 Q. Is the government aware of any
14 instances in which a subgrantee of USCCB
15 refused to approve the foster parent
16 application of a gay or lesbian because of
17 the applicants' sexual orientation?

18 MR. SALLMEN: Objection to
19 scope.

20 A. Again, no, not outside the
21 case.

22 Q. So I want to go back to
23 something I asked you a few minutes ago.
24 Do you recall I asked you what steps the
25 government has taken to ensure that same

1 sex couples are not turned away from the
2 UAC program?

3 A. Yes.

4 Q. And I think you testified that
5 the government looked for other providers,
6 is that right?

7 A. Yes.

8 Q. What steps in particular did
9 the government take in looking for other
10 providers?

11 A. So we asked the providers were
12 there any objections to be able to work
13 with same sex couples, to license them as
14 foster parents. When we were looking at
15 this, we were looking at the network of
16 where we would need more foster parents.

17 So the second question after
18 that was if we're going to need more homes
19 in the Dallas/Ft. Worth area, would your
20 agency organization have the ability to
21 establish an agency there.

22 Like I said, we're in the
23 ending of this current funding cycle and
24 we're re-awarding for January 1st. And we
25 have -- we are looking at the long-term

1 foster care network for funding now. And
2 those things, just capacity and what we
3 need are shifting into the next cycle.

4 Q. Did the government take any
5 other steps to ensure this did not
6 happen -- strike that. Did the government
7 take any step -- any other steps to ensure
8 that same sex couples were not turned away
9 as prospective foster applicants in the
10 Dallas/Ft. Worth area?

11 MR. POWERS: Objection to form.

12 MR. SALLMEN: Objection to
13 form.

14 A. Those were the two steps at
15 that point in time.

16 Q. Did the government take any
17 steps to ensure that same sex couples were
18 not turned away as prospective foster
19 applicants anywhere else in the country?

20 MR. POWERS: Objection to form.
21 Objection to scope.

22 MR. SALLMEN: Objection to form
23 and objection to scope.

24 A. So speaking of that current --
25 this FY '17 to '20 cycle, it would be

1 whether or not those conversations happened
2 with the project officers. I do know
3 during the time frame I was the supervisor
4 over the PO team as well as then moving up
5 in the last year or two years, these were
6 not concerns that were being raised through
7 this grant cycle for the UAC program.

8 For the next cycle I would have
9 to defer back to colleagues to see if they
10 were looking at that as they were approving
11 funding. So that would be something that
12 would have to be answered at another time.

13 Q. So your testimony, I just want
14 to make sure I understand it, the
15 government took two steps to ensure that
16 same sex couples were not turned away as
17 prospective foster parents in the UAC
18 program in the Dallas/Ft. Worth area,
19 right?

20 A. That's correct. For the
21 previous grant cycle, yes.

22 Q. For the 2017-2020 grant cycle?

23 A. Correct.

24 Q. And real briefly, what were
25 those two steps?

1 A. The two steps, one, we asked
2 the two organizations were they -- within
3 the organization, are they able to license
4 same sex couples; sexual orientation was
5 not an issue in licensing the foster
6 parent.

7 Second, did they have the
8 capacity and ability to work their agency
9 and have a program in that area, were the
10 two questions.

11 Q. And those two organizations
12 were BCFS, and what was the other one?

13 A. LSS, Lutheran Social Services
14 of the South. And they just call
15 themselves Upbring. They have multiple.

16 Q. And for the 2017 to 2020 grant
17 cycle, the government took no other steps
18 to ensure that same sex foster parents were
19 not turned away under the UAC program?

20 MR. POWERS: Objection to form.

21 MR. SALLMEN: Objection to
22 form.

23 A. Because it wasn't -- it didn't
24 come up -- there was no concerns raised to
25 that issue.

1 see if it was incorporated or not. That's
2 what it would do.

3 Q. But it wouldn't refresh your
4 recollection as to what happened in those
5 negotiations other than what the final
6 outcome was, right?

7 MR. SALLMEN: Objection to
8 scope.

9 A. Correct. Because that
10 question -- that was not part of my
11 discussions with either Sathya or Toby.
12 And like I said, I wasn't in the office
13 during that time so I was not a part of
14 those discussions.

15 Q. Did the government attempt to
16 limit the scope of the religious
17 accommodation language to abortion and
18 contraceptive services?

19 MR. SALLMEN: Objection to
20 scope.

21 A. I think at that time that's
22 what the focus was on because that's what
23 the USCCB or Catholic Charities' concern
24 was. It wasn't about anything else.

25 Q. Yet the language Catholic

1 taken.)

2 THE VIDEOGRAPHER: The time is

3 4:16 and we're back on the record.

4 EXAMINATION

5 BY MR. SALLMEN:

6 Q. Okay, hello, Ms. Viola. My
7 name is Josh Sallmen, and I'm an attorney
8 for USCCB, United States Conference of
9 Catholic Bishops. Thanks very much for
10 your time and patience today. We
11 appreciate it.

12 I have a couple of questions
13 for you. For starters, in the government's
14 view, what is the purpose of the UAC
15 program?

16 A. The purpose of the UAC program
17 is to provide care and services to
18 unaccompanied alien children who are
19 apprehended by the Department of Homeland
20 Security and then referred as they are
21 following the three stipulations. One,
22 they're under the age of 18, they've
23 arrived without a parent or guardian and
24 they do not have legal status in the United
25 States. They're transferred to the ORR

1 network for care and placement until they
2 can be released to foster care.

3 Q. What group of people is the UAC
4 program geared towards assisting?

5 A. The type of children?

6 Q. What group generally.

7 A. Typically it's children 17 and
8 under, male and female, and the country of
9 origin is pretty much almost anywhere
10 outside of the United States. But the
11 majority of them are Central American,
12 Mexican children.

13 Q. So I'm correct in saying that
14 the children are the focus of the UAC
15 program?

16 A. Yes, they are. Care and
17 custody, best interests of the child.

18 Q. Great. Thank you. And is the
19 government aware of any case in the UAC
20 program where USCCB declined to serve or
21 otherwise discriminate against an LGBTQ
22 child on the basis of their sexual
23 orientation or gender identity?

24 A. Not for the children.

25 Q. That's all I have for you

1 A. Yes, I did.

2 Q. And what's his role at ORR?

3 A. Jim is the senior supervisor
4 for the federal field specialists. So he
5 oversees the team of the also known as FFSs
6 that focus on the care and discharge of the
7 children.

8 Q. Okay. Did you -- do you recall
9 discussing with Sathya, Shannon and Jim
10 whether any of them had ever discussed with
11 USCCB its views on same sex marriage?

12 A. I don't recall. I know the
13 focus was more on the family planning. But
14 there could have been a question, yes.

15 Q. Do you recall whether -- do you
16 recall discussing with those individuals
17 the meaning -- and this is during your
18 preparation for this deposition -- the
19 meaning of the kind of Catholic identity
20 provisions that you testified about that
21 are included in USCCB's applications for
22 funding?

23 A. Discussing the Catholic entity?
24 Yes, we discussed that.

25 Q. Do you recall whether they

1 believed that -- strike that. Do you
2 recall whether they have ever had any
3 discussions with USCCB that that provision
4 relates to same sex marriage?

5 A. My recollection, the
6 conversations were not about same sex
7 marriage or relationships.

8 Q. The conversations with USCCB
9 you mean?

10 A. Correct, yes. The
11 conversations with USCCB did not include
12 that.

13 Q. And let's see. Now, you've --
14 could you just walk through briefly again
15 your history at ORR, the kind of roles that
16 you've had at the agency since you became a
17 federal employee in 2010?

18 A. Sure. So starting in 2010 I
19 was hired as a project officer and oversaw
20 various grants. They also referred to
21 project officer as a program specialist.
22 So we were focused on the integrity of the
23 grant to ensure that they were upholding
24 all of the ACF, ORR, DUCO, DUCS, the
25 Division on Unaccompanied Children

Exhibit 10

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF COLUMBIA

3 -----X

4 FATMA MAROUF and BRYN ESPLIN,
5 a Married Couple,

6 PLAINTIFFS,

7 -against-

8 Case No.:
9 1:18-cv-378
10 (APM)

11 ALEX AZAR, in his official capacity
12 as Secretary of the UNITED STATES
13 DEPARTMENT OF HEALTH AND HUMAN
14 SERVICES,

15 DEFENDANT.

16 -----X

17 DATE: December 7, 2020

18 TIME: 9:05 A.M

19 REMOTE VIDEOTAPED DEPOSITION of

20 KATHRYN KUENNEN, taken by the Plaintiffs,

21 pursuant to a notice and to the Federal

22 Rules of Civil Procedure, held remotely via

23 Zoom Videoconference, before Suzanne

24 Pastor, a Notary Public of the State of New
25 York.

1 as well as the foster care placement for
2 unaccompanied children.

3 Q. And why does USCCB provide
4 those services?

5 A. The services are in line with
6 our mission to serve the most vulnerable,
7 which includes refugee minors and
8 unaccompanied children.

9 Q. What is the mission of CCFW?

10 A. I don't know off the top of my
11 head the mission of CCFW.

12 Q. Okay, have you worked with CCFW
13 yourself?

14 A. I have worked with them through
15 our programs as a subrecipient partner.

16 Q. What is the purpose of
17 partnering with CCFW for those programs?

18 A. CCFW is able to offer the
19 services that we were looking to provide
20 for unaccompanied children, and in this
21 case, foster care services for children.

22 Q. So what are the services that
23 CCFW provides as distinct from USCCB
24 itself?

25 A. CCFW provides the direct

1 A. None. No.

2 Q. When did USCCB first get
3 involved in facilitating foster parenting
4 under the UAC or URM program?

5 A. In approximately 2002 or 2003
6 when ORR took on the role of care and
7 custody, providing care and custody for
8 unaccompanied children.

9 Q. And that was for the UAC
10 program at that time, right?

11 A. Yes, that's correct.

12 Q. Okay --

13 A. Did you --

14 Q. Sorry, I think there might be a
15 slight delay, but that's okay, I didn't
16 have another question.

17 So USCCB later became involved
18 in the URM program, right?

19 A. So to clarify, USCCB was
20 involved actually in the URM program prior.
21 So we have been one of the two national
22 agencies partnering to provide URM program
23 services since the 1980s. The UAC program
24 came later in early 2000s.

25 Q. I see, got it, okay.

1 provide due to its religious convictions,
2 USCCB/MRS will notify HHS/ORR."

3 Can you just explain to me what
4 that notification process is?

5 A. The notification would be a
6 direct communication to our ORR project
7 officer to inform that a child or client
8 had requested a service that we could not
9 provide and we would immediately notify ORR
10 via that communication that -- of the
11 situation so that ORR could take action
12 from there if they choose to do so.

13 Q. What happens after USCCB sends
14 this notification?

15 A. USCCB takes -- I mean, we take
16 no further action. At that point we follow
17 the obligation to report and notify. And
18 that's what we do. And at that point any
19 further action is a decision of ORR.

20 Q. I see. The beginning of that
21 sentence says "in instances where a
22 client's needs or circumstances may require
23 services," who is the client in that
24 sentence?

25 A. The clients are the children

1 that we provide services for. They are the
2 direct beneficiaries of our program.

3 Q. So the notification that you
4 would send is tied specifically to the
5 needs or circumstances of a child and no
6 one else?

7 A. Yes, in that we -- the clients
8 of our services and programming are the
9 children that we care for. So in
10 developing this language here, that was our
11 understanding and interpretation, that the
12 "client" refers to the children receiving
13 the services.

14 Q. So to clarify that, USCCB did
15 not understand this provision to require it
16 to notify HHS or ORR if it had a religious
17 objection to an interaction with a
18 prospective foster parent applicant,
19 correct?

20 MR. GOETZ: Object to the form
21 of the question. Asked and answered.

22 MR. LYNCH: Same objection.

23 A. So the language was developed
24 primarily to address issues of client
25 request for services such as abortion and

1 contraception, which are not consistent
2 with our religious beliefs. And those were
3 the instances that really led to the
4 development of this language.

5 And so I think I'm answering
6 your question correctly in that the clients
7 refer to the children in care. That is our
8 interpretation and understanding of this
9 language. USCCB is certainly prepared to
10 revisit the scope of that definition and
11 comply with the notification requirements
12 as necessary to ORR.

13 Q. So at least in 2017 then,
14 setting aside revisiting this, I just want
15 to focus on 2017, at least in 2017 USCCB
16 did not understand this provision to mean
17 that USCCB should notify HHS or ORR if it
18 had a religious objection to working with a
19 prospective foster parent applicant.

20 MR. GOETZ: Object to the form
21 of the question. Asked and answered
22 three times.

23 MR. LYNCH: Same objection.

24 A. Correct.

25 Q. At the end of this paragraph

1 that we are working out any mutually
2 agreeable solution so that any aspect of
3 services for children is addressed. And so
4 this letter does here appear to be offering
5 that opportunity for further discussion on
6 these issues.

7 Q. Was there some specific
8 language in the cooperative agreements that
9 is referred to here?

10 A. I think -- I believe that there
11 is language on family planning services
12 referenced in the cooperative agreement.
13 I'd have to take another look, but that was
14 one area that potentially would have been
15 included here within the scope of our
16 Catholic teaching issues referenced in this
17 letter. And that would fall within the
18 scope of something that we would consider
19 to -- or that we would address within the
20 ACF policy on grants to faith-based
21 organizations. It's something that we
22 would consider in that.

23 Q. Is it your understanding that
24 the Catholic teaching issues of concern
25 here relate in any way to USCCB's religious

1 beliefs about same sex marriage?

2 A. No. Again, this issue has
3 never come up before. So in signing our
4 cooperative agreements, in developing our
5 applications, that was not something that
6 was within the scope of I think how I
7 defined and how we defined it at the time,
8 the language and the terminology, in terms
9 of what it included. Again, we have more
10 situations of children requesting access to
11 abortion services or contraception
12 services. And so that had been -- really
13 the family planning pieces had really been
14 I think the issues more so of concern that
15 would have framed our questions and our
16 request for more follow-up conversation.

17 Q. So the language in the grant
18 application that talks about USCCB's
19 provision of services and that they won't
20 provide services that are contrary to
21 authentic Catholic teaching, am I
22 understanding correctly that the reason for
23 that language being inserted was primarily
24 because of religious beliefs about family
25 planning services?

1 A. That's correct, that's the
2 rationale behind why the language was
3 inserted. Absolutely.

4 Q. Okay, but the language itself
5 just mentions religious beliefs generally,
6 right?

7 A. Right. Right, and so this was
8 the thinking in developing the language.
9 And as I mentioned, really related to the
10 fact that these were the issues that had
11 arisen in the past with this program. And
12 so that was why the language was created.

13 And as I mentioned earlier,
14 this being the first time really that an
15 issue relating to the same sex marriage
16 issue comes up in the context of this
17 program, USCCB is willing to consider
18 expanding our own definition and the scope
19 of what that encompasses. But to your
20 question, that is not the thinking when we
21 initially developed the language -- or
22 created the language to include in our
23 application. As again, it's very child
24 focused. So when we use the term and when
25 I use the term "client" I'm referring -- as

1 a social worker I'm referring to the direct
2 beneficiaries of the program. And so the
3 context for me is children that we're
4 serving.

5 Q. When you talk about revisiting
6 the language, what exactly do you mean
7 there?

8 A. I just mean that with regards
9 to any notification requirements to ORR.
10 So jumping back to that a little bit now,
11 but really just referring to the fact that
12 we could -- we are open to reconsidering
13 what the scope of this language means
14 beyond just the abortion and contraceptive
15 family planning issues I mentioned.

16 Q. Has USCCB contacted the federal
17 government about potentially revising the
18 language in that way?

19 A. No, not to my knowledge.

20 Q. I guess what are the -- why
21 would USCCB offer to revise the language in
22 that way?

23 A. Well, we certainly
24 understand -- again, the children are the
25 primary focus of this program, of our

1 of our operation and development of
2 comprehensive procedures around this
3 program at the time. And in comparison
4 with the UAC program for which we are very
5 familiar and have really decades of
6 experience with regards to the policies and
7 procedures on that side, this is something
8 where I think it was a newer program in
9 terms of our role, and so it would not have
10 been -- it was in development, and so we
11 were certainly working with ORR responding
12 to any recommendations certainly that ORR
13 would have with regard to the
14 administration of the program.

15 But it makes sense to me that
16 this language would not have been in there
17 at the time because we were developing our
18 subrecipients. And this was year 2, it
19 would have been year 2 of the program.

20 Q. Mimi references an interview in
21 that paragraph. Do you know what kind of
22 interview she's referring to?

23 A. "During an interview"? Let me
24 see, this is February of 2018. It either
25 would have -- maybe it would have been the

1 a child makes the initial disclosures
2 within a confidential counseling or therapy
3 session.

4 Again, this is hypothetical
5 because I'm not aware of any such cases.
6 But those disclosures could be made either
7 to a counselor in a confidential session or
8 to a program staff.

9 Q. Would CCFW -- let me rephrase
10 that. If the intake form either from
11 overseas or from within ORR for a
12 particular child indicated that that child
13 did identify as lesbian, gay or bisexual,
14 would a USCCB subrecipient not take on that
15 case?

16 MR. GOETZ: Objection;
17 hypothetical. Lacks foundation.

18 A. No, we would not object. We
19 would serve -- that would absolutely not be
20 a factor for us with regard to serving a
21 child. We will serve any child referred in
22 the need of placement in our program.

23 Q. I'm just trying to clarify. So
24 USCCB or its subrecipients would not reject
25 any kid that identifies as lesbian, gay or

1 bisexual, but to your knowledge, it just
2 hasn't happened before?

3 MR. GOETZ: Object to the form
4 of the question. Mischaracterizes
5 the witness' testimony.

6 A. Specific to our Texas programs,
7 which I'm referring to primarily here, it
8 has not happened before, to my knowledge.
9 However, we do serve children who do
10 identify as LGBTQ in other areas of the
11 country, other programs. We do not
12 discriminate against any child with regard
13 to the provision of our services or
14 placement in a foster home.

15 Q. But USCCB or its subrecipient
16 would not place one of those children in a
17 home that has same sex parents as the
18 foster parents, right?

19 MR. GOETZ: Object to the form
20 of the question. Lacks foundation.

21 A. Again, the services we provide
22 would be consistent with our religious
23 beliefs, and that include any of our
24 religious beliefs related to marriage. And
25 therefore, if we did not have the placement

1 numbers.

2 Q. What sort of steps does a
3 subrecipient take to recruit potential
4 foster parents?

5 A. Subrecipients will develop a
6 plan for recruitment. They will often do
7 outreach activities in non-health pandemic
8 times, they would be doing activities in
9 the community, reaching out to different
10 community organizations, different
11 religious institutions, including often
12 recruitments that take place with mosques
13 or temples or different churches, different
14 backgrounds. A lot of diverse experience.

15 It does depend on the community
16 in terms of what community partners the
17 agency -- the subrecipient may already
18 have. But there are engagement activities
19 that happen actually, events that occur
20 locally. Some subrecipients are more savvy
21 with social media and so on, and so maybe
22 can do some recruitment that way. But it
23 really depends on the specific agency and
24 the specific needs at that time in terms of
25 what strategy that they would take in

Exhibit 11

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF COLUMBIA

3 -----X
4 FATMA MAROUF and BRYN ESPLIN,
5 a Married Couple,

6 PLAINTIFFS,

7 -against-

8 Case No.:
9 1:18-cv-378
10 (APM)

11 ALEX AZAR, in his official capacity
12 as Secretary of the UNITED STATES
13 DEPARTMENT OF HEALTH AND HUMAN
14 SERVICES,

15 DEFENDANT.
16 -----X

17 DATE: December 8, 2020
18 TIME: 9:02 A.M

19 REMOTE VIDEOTAPED DEPOSITION of

20 ANNE MULLOOLY, taken by the Plaintiffs,
21 pursuant to a notice and to the Federal
22 Rules of Civil Procedure, held remotely via
23 Zoom Videoconference, before Suzanne
24 Pastor, a Notary Public of the State of New
25 York.

1 Q. And how long have each of those
2 programs --

3 A. Well, I should say three. We
4 just recently launched one through LIRS as
5 a second replacement designee. They don't
6 have any clients though.

7 Q. Just to clarify, you said LARS?

8 A. LIRS.

9 Q. Who is that?

10 A. Lutheran Immigration and
11 Refugee Service. They're another national
12 resettlement agency that works with the URM
13 network.

14 Q. So they currently administer a
15 URM program in Texas?

16 A. They are starting to. They
17 don't have any clients yet. They're in the
18 process of recruiting foster families and
19 hiring staff.

20 Q. And when you say "clients," to
21 whom are you referring?

22 A. URM youth.

23 Q. Youth. And who are the other
24 two URM program -- what would you say,
25 grantees or administrators in the State of

1 Texas?

2 MR. POWERS: Objection to form.

3 MR. SALLMEN: Objection.

4 A. So the URM programs in Texas,
5 there's two programs, one through Catholic
6 Charities Dallas, one through Catholic
7 Charities Houston. Both of them are
8 administered by USCCB as the replacement
9 designee.

10 The third program that is going
11 to be launching soon is going to be
12 administered by LIRS. And their
13 subrecipient will be Upbring in Dallas.

14 Q. And are each of those URM
15 programs limited in geographic scope within
16 the State of Texas?

17 A. They are. It's dependent on
18 where they can license foster parents.
19 Because so they're only able to serve
20 youths in certain counties, depending on
21 where they can license foster parents.

22 Q. With respect to the
23 Dallas/Ft. Worth area, which URM programs
24 operate in that area?

25 A. Catholic Charities Dallas, and

1 then soon we'll have Upbring.

2 Q. When USCCB became the
3 replacement designee for the State of
4 Texas, how many URM programs were operating
5 in the state?

6 A. Two.

7 Q. When did that happen?

8 A. The state indicated their
9 intention to withdraw from administering
10 the State refugee program in the fall of
11 2016. But USCCB was not designated to
12 become the replacement designee until
13 February 1st I believe of 2017.

14 Q. And what were the two URM
15 programs operating at that time?

16 A. Catholic Charities
17 Galveston/Houston and Catholic Charities
18 Ft. Worth.

19 Q. Is it accurate to say that the
20 only -- that only Catholic Charities
21 Ft. Worth served the geographic area of
22 Dallas/Ft. Worth?

23 A. I believe that is accurate.

24 Q. Prior to serving as the program
25 supervisor -- and it was program supervisor

1 A. Yes.

2 Q. And when did the government
3 become aware of USCCB's belief with respect
4 to marriage being between one man and one
5 woman?

6 MR. SALLMEN: Object to form.

7 A. I don't know. I think it --
8 USCCB had indicated to us when we were
9 inquiring about the situation that occurred
10 with the plaintiffs and Catholic Charities
11 Ft. Worth, they had confirmed that it was
12 USCCB's belief in accordance with Catholic
13 teaching that they believe marriage is
14 between a man and a woman. But I don't
15 know if the government knew that before
16 then.

17 Q. So you're not sure whether the
18 government knew before spring 2017 that
19 USCCB had a religious belief that marriage
20 was between one man and one woman?

21 A. I don't want to make
22 assumptions.

23 Q. And I'm not asking you to.
24 You're not sure about that, correct?

25 A. I'm not sure.

1 expenditure reporting.

2 Q. I understand. Is it detailed
3 enough to know whether URM program grantees
4 and/or subgrantees are spending money on
5 foster parent recruitment?

6 A. It does not break it -- broken
7 down by that.

8 Q. Does the government oversee or
9 monitor URM programs' foster parent
10 recruitment?

11 MR. SALLMEN: Object to form.

12 A. No, we don't have any
13 regulations or policy related to foster
14 family recruitment. So therefore we don't
15 monitor compliance. There's nothing to --
16 there's no policy guidance regarding foster
17 family recruitment.

18 Q. Foster family recruitment is
19 one of the services that URM program
20 grantees and subgrantees provide under the
21 URM program though, correct?

22 A. Yes.

23 Q. So foster parent recruitment
24 falls within the scope of the ACF general
25 terms and conditions, correct?

1 MR. POWERS: Object to form.

2 MR. SALLMEN: Object to form.

3 A. I don't -- I would disagree
4 with that.

5 Q. Why?

6 A. ORR does not have any
7 regulations or policy guidance regarding
8 foster family recruitment. We don't have
9 anything that tells the URM programs how
10 they're supposed to recruit, who they're
11 supposed to recruit, how they're supposed
12 to license. All that is done at the State
13 or local level. It's really guided by
14 State foster care licensing guidelines.

15 All we say is that you have to
16 provide placement for these children, out
17 of home placement, which would include
18 foster placement -- placement in foster
19 homes or group homes or other types of care
20 arrangements.

21 MR. BURNS: I think we're at a
22 good stopping point for a quick
23 break, so let's take ten minutes.

24 Actually, let's just say we'll come
25 back at 10 a.m. eastern. Let's go

1 off the record.

2 THE VIDEOGRAPHER: The time is
3 9:46 a.m. and we're going off the
4 record.

5 (Whereupon, a short recess was
6 taken.)

7 THE VIDEOGRAPHER: The time is
8 10:01 a.m. and we're back on the
9 record.

10 BY MR. BURNS:

11 Q. Ms. Mullooly, before we
12 broke -- took a break, you testified that
13 ORR does not have any regulations or policy
14 guidance regarding foster parent
15 recruitment in the URM program, is that
16 correct?

17 A. Correct.

18 Q. I just want to dive into that a
19 little more. So is it your testimony --
20 excuse me. Is it the government's position
21 that whether a URM program grantee or
22 grantees discriminates in any form against
23 potential foster parents, that it does not
24 violate any ORR regulations or policies?

25 MR. POWERS: Object to form.

1 MR. SALLMEN: Object --

2 A. That's correct. We have no
3 regulation or policy that relates to foster
4 family recruitment and licensing.

5 Q. So just to, again, dial in a
6 little further, so if a URM program grantee
7 or subgrantees discriminates potential
8 foster parents for the URM on the basis of
9 race, ORR has no issue with that?

10 MR. POWERS: Object to form.

11 MR. SALLMEN: Object to form.
12 Object to scope.

13 A. I wouldn't say we have no issue
14 with it. It's just something that we don't
15 monitor for in terms of compliance because
16 there's no regulation or policy about that.

17 Q. I'll restate the question and
18 clarify a little bit. So there is no
19 government regulation or policy prohibiting
20 a URM program grantee or subgrantees from
21 discriminating a potential foster parent on
22 the basis of race.

23 MR. POWERS: Object to form.

24 Beyond the scope of the 30(b)(6)
25 designation. You can answer.

1 the struggle --

2 A. 75.300. That's it.

3 Q. I just added a PDF titled tab
4 11 into the chat box. Please let me know
5 when you have it open, Ms. Mullooly.

6 A. It's open.

7 MR. BURNS: I'd like to mark
8 and introduce tab 11 as Exhibit 11.

9 (Whereupon, Electronic Code of
10 Federal Regulations was marked as
11 Mullooly Exhibit 11 for
12 identification as of this date by the
13 Reporter.)

14 Q. Is this the regulation you were
15 just referring to?

16 A. Yes.

17 Q. This is 45 CFR 75.300, correct?

18 A. Yes.

19 Q. And as you just testified, this
20 is an HHS regulation that applies to the
21 URM program, correct?

22 A. It's not specific to the URM
23 program. It applies to all HHS federal
24 awards under HHS.

25 Q. Understood, but therefore it

1 the plaintiffs, have alleged that they were
2 denied the opportunity to foster or become
3 foster parents in the URM program because
4 of their sexual orientation. And USCCB
5 confirmed that that is what happened.

6 Q. Does the government have any
7 reason to doubt the veracity of those
8 allegations by plaintiffs?

9 A. No.

10 Q. Is the government aware of any
11 other instances in which USCCB as the
12 replacement designee for the URM program in
13 the State of Texas failed to comply with
14 this regulation?

15 A. No.

16 MR. SALLMEN: Object to form.

17 Calls for a legal conclusion.

18 Q. Going back to your earlier
19 testimony about implementation or
20 administration at the State level of the
21 URM program, you testified that Texas is
22 the only State where a separate private
23 entity, non-government entity has replaced
24 a State actor for the URM program, correct?

25 A. Correct.

1 roughly?

2 A. Yes.

3 Q. Bear with me one moment.

4 I apologize. If you could turn
5 to page 4, it's the one Bates labeled HHS
6 19520, at the very top of that page do you
7 see the sentence that begins "in addition"?

8 A. Yes.

9 Q. I'll read it. "In addition,
10 USCCB/MRS must ensure that services
11 provided under this application are not
12 contrary to the authentic teaching of the
13 Catholic Church, its moral convictions or
14 religious beliefs." Did I read that
15 correctly?

16 A. Yes.

17 Q. What is the government's
18 understanding -- strike that. What was the
19 government's understanding of this sentence
20 when it received this application?

21 A. Based on our long history with
22 USCCB as a direct grantee of ORR for UAC
23 care, foster care, it was the government's
24 understanding that this related to services
25 to children such as abortion or

1 contraception, and that those were services
2 that USCCB would not be able to provide as
3 they are in violation of the Catholic
4 teaching.

5 Q. Were there any discussions
6 within the government about other religious
7 beliefs that could fall within the scope of
8 this sentence?

9 A. No.

10 Q. Did the government undertake
11 any inquiry into the scope of this sentence
12 and which religious beliefs of USCCB could
13 be implemented by it? Implicated by it,
14 excuse me.

15 A. No.

16 Q. I just dropped tab 29 into the
17 chat. If you could let me know when you
18 have that open.

19 A. Okay.

20 MR. BURNS: I'd like to mark
21 and introduce tab 29 as Exhibit 29.

22 (Whereupon, HHS 13186 through
23 13188 was marked as Mullooly Exhibit
24 29 for identification as of this date
25 by the Reporter.)

1 see that?

2 A. Yes.

3 Q. If you scroll up to page 2 of
4 the PDF, Bates label ending 87, in the
5 middle of the page Anna Marie Bena writes
6 on November 23, 2016, "Because we don't
7 have any specific in the URM context, I
8 believe we would follow the ACF-based
9 policy." Do you see that?

10 A. Yes.

11 Q. Are you familiar with that
12 policy?

13 A. Yes.

14 Q. What is it?

15 A. It is a policy that was
16 developed several years ago that basically
17 ACF indicated that they are committed to
18 working with faith-based organizations,
19 even those that may have some sort of
20 religious objection to providing services,
21 and that there were options for these
22 agencies to receive federal funds. They
23 outlined three options that indicated --
24 that would allow faith-based organizations
25 to continue to receive federal funding.

1 objection with respect to same sex
2 marriage, correct?

3 A. That's correct.

4 Q. Has USCCB notified the
5 government of its objection to processing
6 same sex couples for foster parents in the
7 URM program at any other time other than
8 with respect to the plaintiffs?

9 A. No, they have not.

10 MR. SALLMEN: Objection.

11 Q. Is the ACF faith-based policy
12 still in effect?

13 A. I do not believe so. I think
14 it was taken down from the website, from
15 the ACF website.

16 Q. And that means that it's no
17 longer in effect, not just that it's listed
18 on the website?

19 MR. SALLMEN: Object to form.

20 Calls for a legal conclusion.

21 A. I believe it's no longer in
22 effect.

23 Q. And when you say "I believe,"
24 the government --

25 A. The government, yes.

1 Charities Dallas would be willing to
2 license same sex couples and Upbring, which
3 is LIRS subrecipient, is in the process of
4 recruiting and licensing and training
5 foster parents in that area.

6 Q. Let's take those one at a time.

7 A. Sure.

8 Q. Does the government have any
9 reason to believe that USCCB's subgrantee
10 administering the URM program in
11 Dallas/Ft. Worth would permit a same sex
12 married couple to be foster parents in the
13 URM program?

14 MR. SALLMEN: Object to form.

15 A. They may. USCCB doesn't
16 license foster parents. The licensing of
17 foster parents is handled at the local
18 level. And the government is aware that
19 USCCB has affiliates, other Catholic
20 Charities agencies that operate URM
21 programs that license same sex couples.

22 Q. So the government has no
23 knowledge about whether Catholic Charities
24 Dallas would license a same sex couple?

25 A. We have no knowledge that they

1 would license, but we have no knowledge
2 that they would not license.

3 Q. Is the government aware that
4 Catholic Charities Dallas is affiliated
5 with the Catholic Church?

6 A. Yes.

7 Q. And the government is aware
8 that USCCB's religious belief regarding
9 same sex marriage derives from the
10 religious belief of the Catholic Church?

11 MR. POWERS: Object to form.

12 MR. SALLMEN: Object to form.

13 A. Yes.

14 Q. You also mentioned LIRS as a
15 potential avenue for a same sex couple in
16 Dallas/Ft. Worth to become foster parents
17 in the URM program right now, but you just
18 testified that LIRS is not fully functional
19 as a URM program right now, correct?

20 MR. POWERS: Objection.

21 Misstates prior testimony.

22 MR. SALLMEN: Same objection.

23 A. If a same sex couple expressed
24 interest in fostering a URM, they could go
25 through the process with LIRS right now.

1 It takes time to go through the licensing
2 process. It's not something that happens
3 overnight. So sometimes it takes months
4 for prospective foster families to become
5 fully licensed.

6 Q. But sitting here today --
7 sorry, go ahead.

8 A. No, go ahead.

9 Q. But sitting here today, you
10 can't say -- the government cannot say with
11 any certainty whether a couple that applies
12 to be foster parents in the URM program
13 with LIRS will be able to proceed in the
14 URM program because LIRS has no foster
15 children right now, correct? There's no
16 certainty.

17 MR. POWERS: Object to form.

18 MR. SALLMEN: Object to form.

19 A. There's no certainty. But
20 there's no expectation -- they already
21 received federal funding to start this
22 program. There's an expectation that once
23 they -- you can't accept a youth into the
24 program until you have a licensed foster
25 family. It's not the other way around. So

1 THE VIDEOGRAPHER: The time is
2 12:04 p.m. and we're going off the
3 record.

4 (Whereupon, a short recess was
5 taken.)

6 THE VIDEOGRAPHER: The time is
7 12:15 p.m. and we're back on the
8 record.

9 EXAMINATION

10 BY MR. SALLMEN:

11 Q. Hi, Ms. Mullooly. My name is
12 Josh Sallmen, and I represent USCCB in this
13 matter. Thank you for your time today.
14 Appreciate that. I just have a few
15 questions for you.

16 Did ORR select USCCB as the URD
17 in Texas with the goal of advancing any
18 religious beliefs?

19 A. No.

20 Q. Did ORR select USCCB as the URD
21 in Texas to discriminate against
22 prospective foster parents who are in same
23 sex relationships?

24 A. No.

25 Q. Did ORR select USCCB as the URD

1 in Texas to discriminate on the basis of
2 religion?

3 A. No.

4 Q. Was USCCB selected as the URD
5 in Texas because its religious beliefs
6 include a religious belief that children
7 should not be placed with foster parents
8 who are same sex couples?

9 A. No.

10 Q. Was USCCB selected as the URD
11 in Texas because it would select
12 subgrantees who would decline to place
13 children with foster parents who are same
14 sex couples?

15 A. No.

16 Q. Was USCCB selected as the URD
17 in Texas because it would provide services
18 under the grant in a manner consistent with
19 its religious beliefs?

20 A. No.

21 Q. Was USCCB -- I'm sorry, go
22 ahead.

23 A. Sorry. I just want to make
24 sure I understood that last question.

25 Q. Okay. I'll slightly rephrase.

Exhibit 12

Anne Mullooly

May 18, 2022

UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA

- - -

FATMA MAROUF and BRYN	:	CASE NO.
ESPLIN, a Married	:	1:18-cv-378
Couple,	:	(APM)
Plaintiffs,	:	
	:	
V.	:	
	:	
ALEX AZAR, in his	:	
official capacity as	:	
Secretary of the	:	
UNITED STATES	:	
DEPARTMENT OF HEALTH	:	
AND HUMAN SERVICES,	:	
Defendants.	:	

- - -

May 18, 2022

- - -

Videoconference deposition of ANNE
MULLOOLY, ORR/URM, (with all parties
participating remotely), commencing at 9:02
a.m. on the above date, before Teresa M.
Beaver, Professional Court Reporter and
Notary Public.

- - -

US LEGAL SUPPORT
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1 MULLOOLY

2 purpose of having that neutral third party?

3 A. To ensure that any and all
4 prospective foster parents, individuals,
5 couples would have an opportunity to work
6 with a URM provider to determine if they
7 could become licensed foster parents in the
8 URM program.

9 Q. I think you also mentioned when,
10 as part of the government's involvement, was
11 to clarify the program and certain criteria
12 from the organizations.

13 Can you describe what
14 clarifications ORR was looking for?

15 A. One example that I can give is
16 Catholic Charities of Dallas already has a
17 pool of licensed foster parents and so they
18 were asking questions, does Catholic
19 Charities Dallas need to re-refer those
20 people back to the USCRI for an initial
21 intake. We clarified no. They are already
22 licensed through Catholic Charities of
23 Dallas. There's no need to refer them to
24 USCRI for an intake. They've already gone
25 through the entire licensing process. That's

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2 Q. And USCCB serves URM program
3 children through it's subgrantees Catholic
4 Charities Dallas?

5 A. Correct. Catholic Charities.

6 Q. And for how long has USCCB
7 served the URM program children through the
8 subgrantee?

9 A. Since 2017.

10 Q. And as of today, approximately
11 how many URM program children are in the
12 custody of USCCB in the Dallas Fort Worth
13 area?

14 A. The children are not in the
15 custody of USCCB. They are in the custody of
16 Catholic Charities of Dallas and there's
17 about 50 kids in care right now in that
18 program.

19 Q. And LIRS is a grantee of the URM
20 program as well; right?

21 A. A grantee of ORR, yes.

22 Q. Yeah. And LIRS serves the URM
23 program children through its subgrantee
24 Upbring?

25 A. Yes.

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MULLOOLY

initiative. So they provide a lot of services and programs for ORR eligible populations.

Q. And then going on to the role of the grantees in the program and the changes, generally what changes were made to the URM program in connection with the consortium model?

A. So, the only changes were made in the Dallas-Fort Worth area and specifically, around foster parent intake.

So, Catholic Charities of Dallas and Upbring are still recruiting foster parents. They still are responsible for recruitment. But any sort of inquiry that comes in, they are required to refer those prospective foster parents now to USCRI for an initial intake. And then USCRI will make a determination which URM provider will -- where the prospective foster parents will be referred, to which URM provider.

There were no other changes made to the URM programs anywhere else in the country. This is very specific to Dallas

1 MULLOOLY

2 going to take on as well as their ORR one
3 budget estimate.

4 Q. So, you've generally described
5 the changes. I want to go through each
6 consortium member's role.

7 What is USCRI's role in the
8 consortium?

9 A. USCRI's role is to receive all
10 inquiries from prospective foster parents in
11 the Dallas-Fort Worth area who are interested
12 in fostering unaccompanied refugee minors.
13 They created inquiry form or intake form that
14 they direct prospective foster parents to.
15 And then based on intake and information
16 collected, USCRI makes a determination to
17 refer the interested individual or couple to
18 either Upbring or Catholic Charities of
19 Dallas.

20 Q. We'll go into the details of
21 those. But is USCRI responsible for
22 maintaining any communication or mechanism
23 for prospective foster parents?

24 A. Do you mean like advertising
25 that they are doing intakes? What do you

Anne Mullooly

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1 MULLOOLY

2 online intake form and then once they receive
3 a completed intake form, they would review it
4 and then make a determination to which URM
5 provider agency the interested parties should
6 be referred.

7 Q. And what are they -- what
8 information are they using to make that
9 determination, whether the prospective foster
10 parent should go to USCCB or LIRS?

11 A. I think they are using a variety
12 of information. I think they are looking at
13 demographic information, but also they are
14 looking at the initial referral source.

15 So, if Upbring actually
16 recruited this prospective foster parent or
17 there was some connection already to Upbring,
18 it's possible that that would be one factor
19 that they would, USCRI would take into
20 consideration to re-refer that couple or
21 individual back to Upbring since there's
22 already an existing connection.

23 Q. And is USCRI responsible for
24 maintaining the information it collects from
25 the intake process?

1 MULLOOLY

2 LIRS. What is LIRS's role? Is it the same
3 as USCCB?

4 A. I would say yes. It's about the
5 same as USCCB. In terms of the consortium?

6 Q. Yes.

7 A. Yes.

8 Q. Are there any differences in
9 responsibilities or duties or involvement? I
10 know you said that they drafted the charter.

11 A. Other than that, there's no
12 differences.

13 Q. Is it the government's
14 understanding that LIRS does not have a
15 religious objection to processing same sex
16 couples to serve as foster parents?

17 A. Yes, that is our understanding.

18 Q. What was the responsibility of
19 the government in the oversight or the
20 implementation of the consortium model?

21 A. We participated in the working
22 group meetings, providing guidance and
23 clarification.

24 We also wanted to make sure that
25 the, you know, procedures were clear and that

1 MULLOOLY

2 everyone had full understanding of how this
3 was going to work.

4 We also were providing -- I
5 don't want to say oversight, but making sure
6 that things were progressing in terms of the
7 development of the consortium. And again, we
8 were reviewing drafts of the key documents
9 and also reviewing budget estimates
10 associated with costs for this new process.

11 Q. And you said the government was
12 helping to push things along.

13 Was the government on a timeline
14 for standing up and implementing this model?

15 A. There was no timeline, per se.
16 We wanted the consortium to be implemented as
17 timely as possible.

18 Originally we had indicated we
19 wanted it launched by January. But due to
20 other events and circumstances unrelated to
21 this, it got delayed until March.

22 Q. And is the program fully stood
23 up and up and running as of today?

24 A. Yes, it is.

25 Q. I'm going to ask Russell to pull

1 MULLOOLY

2 to same sex marriage, their objection to
3 contraception and abortion, any sort of
4 family planning.

5 Q. What happens when an individual
6 organization declines to engage in conduct
7 that would violate its religious beliefs or
8 moral convictions?

9 A. Can you repeat the question
10 again?

11 Q. If, for example, a foster parent
12 came in to inquire to become a foster parent
13 and they were referred to USCCB but they were
14 a same sex couple and USCCB would decline to
15 process them, what happens when they decline
16 to process that prospective foster parent?

17 A. So, under the new consortium
18 model?

19 Q. Yes.

20 A. Or before the consortium model?

21 Q. Yes. This is the charter for
22 the consortium model, yes.

23 A. So, USCRI is conducting the
24 initial intake and collecting information on
25 household composition. I think if there was

1 MULLOOLY

2 any same sex couple, if that was made known
3 during the intake process, they would
4 probably would be referred to LIRS's URI
5 provider for Upbring for further vetting and
6 licensing.

7 Q. So, up front USCCB is
8 essentially declining to process the same sex
9 married couples on the grounds that it would
10 violate its religious beliefs or moral
11 convictions; right?

12 MR. LYNCH: Object to the form
13 of the question. You can go ahead,
14 Ms. Mullooly.

15 THE WITNESS: I don't know what
16 Catholic Charities of Dallas would do.

17 BY MS. CULORA:

18 Q. If they wouldn't process a same
19 sex married couple, they'd get referred to
20 LIRS or Upbring?

21 A. Correct. They would be referred
22 back to USCRI and then USCRI would probably
23 refer them to Upbring.

24 Q. You say probably. Is that what
25 you think might happen or is that a fact what

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2 would happen?

3 A. So, in the procedures, there is
4 a statement that all prospective foster
5 parents will be referred and have an
6 opportunity to meet with a URM provider
7 agency for further vetting and licensure. If
8 at any time the URM provider, whether it's
9 Catholic Charities Dallas or Upbring makes
10 the determination that they are not able to
11 continue working with that individual or
12 couple, that they would then refer back to
13 USCRI and then USCRI would then make a
14 determination to refer to the other URM
15 provider agency.

16 MS. CULORA: Russell, you can go
17 ahead and take the exhibit down. We've been
18 going for about an hour. Do you want to take
19 maybe a ten-minute break?

20 THE WITNESS: Sure. That's
21 fine.

22 MS. CULORA: Okay.

23 THE COURT REPORTER: Off the
24 record at 10:03.

25 - - -

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2 third party to receive referrals, inquiries,
3 from all prospective foster parents. And
4 based on the intake that is conducted, they
5 would make a determination to which URM
6 provider agency would work with that couple
7 or individual for -- to determine if they are
8 eligible for licensure.

9 So, the goal is to ensure that
10 all prospective foster parents in the
11 Dallas-Fort Worth area have an opportunity to
12 work with a URM provider to potentially
13 become a licensed foster parent in the URM
14 program.

15 BY MS. CULORA:

16 Q. As part of this model, is ORR
17 making accommodations for either USCCB or
18 LIRS's religious beliefs?

19 A. I would say that with this
20 model, we are ensuring that all prospective
21 foster parents in the Dallas-Fort Worth area
22 have an opportunity to be considered for
23 licensing -- to be considered for licensure
24 in the State of Texas.

25 Q. I understand. I don't think

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2 implemented -- I think you've already
3 testified that USCCB has in the past and in
4 this program, includes provision that it
5 won't do anything to go against it's
6 religious beliefs or moral convictions;
7 right?

8 MR. LYNCH: Right. To be clear,
9 asking about that clause in the charter, we
10 don't have an objection to.

11 Questions about purpose behind
12 or reasons for is where the objection gets
13 drawn. So, please go ahead.

14 BY MS. CULORA:

15 Q. Let's just move on to the foster
16 parent intake process. Let's start at the
17 beginning when someone applies to be a foster
18 parent in the URM program. What happens?

19 A. So, it depends on how they are
20 recruited or how they are made aware about
21 the program or how they are inquiring, but
22 essentially, regardless of where they are
23 learning about the program, who referred them
24 to be potential foster parents, everyone is
25 to be referred to USCRI to complete the

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2 initial intake.

3 After information is collected,
4 basic demographic information, household
5 member information, do they have any sort of
6 preferences, in terms of age or gender of
7 children, then that -- and then how they
8 heard about the URM program, kind of initial
9 referral source, then after USCRI reviews all
10 of that information, they would then make the
11 referral to either Upbring or Catholic
12 Charities of Dallas, who would then kind of
13 pick up and talk with the prospective foster
14 parents about the licensing process, all of
15 the training requirements, documentation
16 that's needed to move forward with becoming a
17 license foster parent in Texas.

18 Q. So, a prospective foster parent
19 makes an inquiry. Who can they contact
20 first? Is it the USCRI, USCCB or LIRS?

21 A. They can contact anyone. The
22 government sometimes gets inquiries from
23 people interested in fostering unaccompanied
24 refugee minors. So, regardless of who
25 receives the inquiry, the consortium decided

1 MULLOOLY

2 that all inquiries would be referred to USCRI

3 and then USCRI would instruct them to fill

4 out the intake form on when.

5 Q. And that process is different,

6 can be different for families that are

7 already licensed; right?

8 A. Families that are already

9 licensed wouldn't go through the intake

10 process. They are already licensed.

11 The whole idea of this intake

12 process is to gather information on people

13 who are interested in becoming licensed.

14 Q. What if a same sex couple,

15 married couple that was already licensed went

16 to CCD or USCCB, what would happen?

17 A. If they were licensed through a

18 different foster care agency in Texas?

19 Q. Sure.

20 A. Is that what your --

21 Q. Yes.

22 A. They are -- either CCD or

23 Upbring are supposed to refer that couple or

24 individual to USCRI. If they are not already

25 licensed through Catholic Charities of Dallas

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2 married same sex couple, USCRI would not
3 refer that couple to USCCB?

4 MR. RAIMER: Object to the form.
5 You can answer.

6 THE WITNESS: The government
7 does not know for certain what USCRI would
8 do.

9 BY MS. CULORA:

10 Q. What happens if USCRI cannot
11 discern from the intake form whether the
12 applicant is in a same sex marriage?

13 MR. LYNCH: Object to the form.
14 You can go ahead.

15 THE WITNESS: They are looking
16 at all of the information that is collected
17 in totality when making the determination.

18 So, I think that they would look
19 at everything that has been reported and then
20 make a termination, make a decision to refer
21 to either Upbring or US -- Catholic Charities
22 of Dallas.

23 BY MS. CULORA:

24 Q. So, beyond whether the applicant
25 is in a same sex marriage, what other factors

1 MULLOOLY

2 go into the determination of whether to refer
3 the PFP to USCCB or LIRS?

4 MR. RAIMER: Object to form.

5 MR. LYNCH: Same objection.

6 THE WITNESS: The referral
7 source. If Catholic Charities of Dallas
8 recruited a prospective foster family, and
9 then referred them to USCRI for initial
10 intake, that is one factor that would be
11 taken into consideration to refer that
12 individual or couple back to Catholic
13 Charities of Dallas, since there was already
14 an initial connection with a Catholic
15 Charities of Dallas.

16 BY MS. CULORA:

17 Q. So the initial referral source
18 is one of the many factors, right?

19 A. Yes.

20 Q. Does USCRI also take into
21 account the children available for placement
22 in each organization?

23 A. The organization doesn't have
24 children available. That's not how it works.
25 It's the children are only referred after

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2 There are minimum training
3 standards and minimum requirements that must
4 be met, but due to the, you know, the
5 populations that are entering the program and
6 their unique cultural needs and the traumatic
7 experiences that they've had, the providers
8 tend to provide additional training on top of
9 that cultural training, trauma informed care
10 and that's pretty typical for all URM
11 providers. And I would say that Catholic
12 Charities Dallas and Upbring are also doing
13 that.

14 Q. Do you know of any requirements
15 that LIRS has or Upbring has that CCD does
16 not?

17 A. I am not aware and the
18 government is not aware of any differences.

19 Q. What process is in place if the
20 USCRI refers the PFP to the USCCB, CCD and
21 USCCB CCD does not accept that referral?

22 A. So, there is in the procedures
23 that if the provider makes the determination
24 that they are not able to continue working
25 with the prospective foster parent or

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2 parents, that they need to refer them back to
3 USCRI.

4 Q. And what happens once they are
5 referred back to USCRI?

6 A. USCRI would make a referral to
7 the other URM provider agency. As long as
8 it's clear that the prospective foster
9 parents are still eligible to become
10 licensed.

11 If the prospective foster
12 parents were referred to Catholic Charities
13 of Dallas and there was a determination made
14 that they were actually ineligible to become
15 licensed foster parents, then it wouldn't
16 make sense to refer them back to USCRI to
17 then refer to Upbring if they are ineligible
18 to be licensed.

19 Q. But if they are eligible and
20 they are not accepted for another reason such
21 as their demographics, what happens?

22 A. They would be referred back to
23 USCRI and USCRI would refer them to the other
24 URM provider agency.

25 Q. So, it went from USCCB back to

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2 USCRI and then it would go to LIRS. Right?

3 That's the only other provider agency?

4 A. To their subgrantees providers,
5 yes.

6 Q. Is the government notified when
7 CCD or USCCB or even LIRS and Upbring decline
8 a referred applicant?

9 A. That has not happened so we have
10 not been informed. That's not something that
11 we ask them to report on in the monthly
12 report.

13 Although that could be included
14 in the future, I guess, if that happened.

15 Q. If it does happen, you're saying
16 it could be or it would be, would the
17 government be notified? Has that been
18 established?

19 A. We did not ask them to notify us
20 however, if the monthly reports that they are
21 filling out, it could be possibly marked on
22 there that it was referred to both the
23 Upbring and Catholic Charities Dallas.

24 I'm not sure if we would be able
25 to tell, but if there was some sort of

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2 I believe you testified that the consortium
3 seeks to ensure that all prospective foster
4 parents in the Dallas-Fort Worth area have
5 the opportunity to work with an URM provider.
6 Is that correct?

7 A. Correct.

8 Q. Okay. So, if a same sex couple
9 in the Dallas-Fort Worth area now sought to
10 foster a child through the consortium, would
11 the fact that they are in a same sex
12 relationship preclude them from being
13 referred to a URM provider?

14 A. No.

15 Q. As you sit here today, are you
16 aware of anything that precludes a couple in
17 a same sex relationship in the Dallas-Fort
18 Worth area from having their application to
19 serve as a foster parent processed by the
20 consortium?

21 A. No.

22 Q. So, if the plaintiffs in this
23 case now sought to foster a child through the
24 consortium, would the fact that they are in a
25 same sex relationship preclude them from

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2 doing so?

3 A. No.

4 Q. Have plaintiffs in this case
5 sought to foster a child through the
6 consortium?

7 A. The federal government is not
8 aware of that.

9 MR. RAIMER: Okay. Thanks.
10 That's all I have.

11 MS. CULORA: I just have two
12 questions on the budget.

13 - - -

14 EXAMINATION

15 - - -

16 BY MS. CULORA:

17 Q. Earlier you testified about the
18 budget estimates from LIRS and USCCB.

19 Do you recall that?

20 A. Can you repeat that? I didn't
21 quite hear the whole question.

22 Q. Earlier you testified about the
23 budgets from LIRS and USCCB. Do you recall?

24 A. Yes. When you asked me about it
25 or when Mr. Lynch just asked?

Exhibit 13



ADMINISTRATION FOR
CHILDREN & FAMILIES

Office of Refugee Resettlement | 330 C Street, S.W., Washington, DC 20201
www.acf.hhs.gov/programs/orr

William Canny
Executive Director
Migration and Refugee Services
United States Conference of Catholic Bishops
3211 Fourth Street NE
Washington, DC 20017

JAN 13 2017


Dear Mr. Canny:

Thank you for your application to be the Replacement Designee for the Unaccompanied Refugee Minors (URM) Program in Texas. Your application included a proposal for services, an ORR-1 Cash and Medical Assistance Program Estimate Form for fiscal year (FY) 2017, and an Annual Service Plan.

As you know, the regulations at 45 CFR 400.301 allow the Director of the Office of Refugee Resettlement (ORR) to authorize replacement designees (RDs) to administer the provision of assistance and services to refugees when a state withdraws from the refugee resettlement program. I am pleased to inform you that based on our review of your application the United States Conference of Catholic Bishops (USCCB) has been approved as the URM RD for Texas. USCCB will assume the role of URM RD for Texas on January 13, 2017, and begin operations for the URM Program on February 1, 2017.

Your FY 2017 proposal for services for the URM Program in Texas is in compliance with the ORR regulations at 45 CFR Part 400 and is therefore approved. Please note that your ORR-1 is an estimate of costs and adjustments may be necessary during the year.

Please direct any questions about this letter to Carl Rubenstein, Director of the Division of Refugee Assistance, at Carl.Rubenstein@acf.hhs.gov or (202) 205-5933.

Thank you for accepting the critical responsibility of administering child welfare benefits and services in Texas through the URM Program. I look forward to our partnership.

Sincerely,



Kenneth Tota
Deputy Director
Office of Refugee Resettlement

Exhibit 14

COOPERATIVE AGREEMENT

BETWEEN

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES,

ADMINISTRATION FOR CHILDREN AND FAMILIES (ACF),

OFFICE OF REFUGEE RESETTLEMENT (ORR)

DIVISION OF UNACCOMPANIED CHILDREN'S OPERATIONS (DUCO)

AND

UNITED STATES CONFERENCE OF CATHOLIC BISHOPS

SECTION I: Summary

The Director of the Office of Refugee Resettlement (ORR) of the Department of Health and Human Services (HHS) has responsibility for the care and placement of unaccompanied children (UC) in accordance with Section 462 of the Homeland Security Act of 2002 (HSA of 2002), 6 U.S.C. § 279. An unaccompanied child is defined under 6 U.S.C. § 279(g)(2) as a child who is: under 18 years old, who has no lawful immigration status in the United States, and 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.

Within ORR, the Division of Unaccompanied Children's Operations (DUCO) has delegated authority for the care and placement of UC.

The DUCO's primary objectives are to provide a safe, appropriate, and placement in the least restrictive environment for UC, taking into consideration the risk of harm to the UC or others, the community and the risk of flight, while in ORR custody until they are released to a sponsor, obtain immigration legal relief, age out, or are discharged to the Department of Homeland Security (DHS).

ORR provides residential care and services through contracts or through the competitive or non-competitive grant process to organizations incorporated under State law which have demonstrated child welfare, social service, or related experience and are appropriately licensed to provide care and related services to dependent children. Recipients of ORR funding, that provide residential services for UC, must comply with State residential care licensing requirements; the Flores Settlement Agreement, Case No. CV85-4544-RJK (C.D. Cal. 1996) (Flores settlement agreement); pertinent federal laws and regulations, and all ORR policies and procedures.

Pursuant to 6 U.S.C. §279 the Director of the ORR, hereinafter called the Director, approves awards for residential services to UC. In accordance with this award and pursuant to the aforementioned laws, **United States Conference of Catholic Bishops** has funding approved to provide residential services for UC, which meets the requirements in the previous paragraph.

Pursuant to the aforementioned laws, United States Conference of Catholic Bishops, hereinafter called United States Conference of Catholic Bishops has submitted an application and has been approved for funding to provide residential services for UC.

By signing this Cooperative Agreement, the Director agrees to make a grant award in accordance with approved annual continuation applications and quarterly reviews of program performance and financial reports for the project period of the grant. Under the terms of this agreement, United States Conference of Catholic Bishops will provide residential services for UC.

This Cooperative Agreement and the Terms and Conditions, listed in United States Conference of Catholic Bishops Notice of Award (NoA), establish the requirements and responsibilities for implementing United States Conference of Catholic Bishops residential services for UC.

Continued funding is contingent upon satisfactory performance, availability of funds, and determination that continuation is in the best interests of the Federal Government.

SECTION II: Purpose and Objective

The purpose of this agreement is to support the provision of residential services for UC according to the objectives and activities outlined in the application and consistent with State residential care licensing requirements.

In making decisions on placement and residential services provided to UC, the Director is governed by §462 of the HSA of 2002, 6 U.S.C. §279; § 235 of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA of 2008), 8 U.S.C. §1232, as amended¹; relevant portions of the Prison Rape Elimination Act of 2003 (PREA of 2003), 42 U.S.C. §15607, as amended²; and when it is not inconsistent with subsequent law, the Flores settlement agreement and the Perez-Olano Settlement Agreement, Case No. CV85-4544RJK (C. D. Cal. 1996) (Perez-Olano settlement agreement).

In December 2014, HHS released an Interim Final Rule (IFR) on standards to prevent, detect, and respond to sexual abuse and sexual harassment involving UC. The IFR sets forth standards to prevent, detect, and respond to sexual abuse and sexual harassment in ORR care provider facilities that house unaccompanied children (UCs) in accordance with section 1101(c) of the Violence Against Women Reauthorization Act of 2013, Pub. L. 113-4 (VAWA 2013). VAWA 2013 directed the Secretary of the Department of Health and Human Services (HHS) to adopt national standards for the detection, prevention, reduction, and punishment of rape and sexual assault in facilities that maintain custody of UCs. The standards apply to all ORR care provider facilities housing UCs except secure care provider facilities and individual foster care homes. The standards build upon and enhance existing State and local laws, regulations, and licensing standards.

¹ Section 235 of the TVPRA of 2008 was amended in part by section 1262 of the Violence Against Women Reauthorization Act of 2013.

² Section 8 of PREA of 2003, was amended in part by section 1101(c) of the Violence Against Women Reauthorization Act of 2013.

SECTION III: Authority

As provided by the terms of the Federal Grant and Cooperative Agreement Act of 1977 (FGCAA), 31 U.S.C. §6301, as amended, the grant awarded establishes a Cooperative Agreement between the Office of Refugee Resettlement (ORR) and GRANTEE NAME. Pursuant to the FGCAA, this cooperative agreement (hereinafter “agreement”) provides for substantial involvement and collaboration of ORR in activities related to cooperative agreements for residential services.

Furthermore, ORR is authorized to enter into this agreement under 6 U.S.C. §279 and 8 U.S.C. §1232(i) of the TVPRA of 2008.

SECTION IV: Description of Activities

A. Residential and Other Services

1. **United States Conference of Catholic Bishops** must provide residential shelter and services for UC in compliance with respective State residential care licensing requirements, the Flores settlement agreement, pertinent federal laws and regulations, and the ORR policies and procedures, unless otherwise expressly waived (in writing) by authorized ORR staff.
2. Under the terms of the Flores settlement agreement, care providers must provide the following services for each UC in their care:
 - Proper physical care and maintenance, including suitable living accommodations, food, appropriate clothing and personal grooming items.
 - Appropriate routine medical and dental care, family planning services, and emergency health care services, including a complete medical examination (including screenings for infectious disease) within 48 hours of admission, excluding weekends and holidays, unless the UC was recently examined at another ORR care provider facility; appropriate immunizations in accordance with recommendations of the U.S. Department of Health and Human Services / U.S. Public Health Service (PHS),

Centers for Disease Control and Prevention (CDC) Advisory Committee on Immunization Practices; administration of prescribed medication and special diets; appropriate mental health interventions when necessary.

- An individualized needs assessment, which includes the various initial intake forms, collection of essential data relating to the identification and history of the child and his or her family, identification of the UC's special needs including any specific problems which appear to require immediate intervention, an educational assessment and plan, an assessment of family relationships and interaction with adults, peers and authority figures; a statement of religious preference and practice; an assessment of the unaccompanied child's personal goals, strengths and weaknesses; identifying information regarding immediate family members, other relatives, godparents or friends who may be residing in the United States and may be able to assist in connecting the child with family members.
- Educational services appropriate to the unaccompanied child's level of development and communication skills in a structured classroom setting Monday through Friday, which concentrates primarily on the development of basic academic competencies and secondarily on English Language Training. The educational program must include instruction and educational and other reading materials in such languages as needed. Basic academic areas should include Science, Social Studies, Math, Reading, Writing and Physical Education. The program must provide unaccompanied children with appropriate reading materials in languages other than English and spoken by the UC in care for use during leisure time.
- Activities according to a recreation and leisure time plan that include daily outdoor activity, weather permitting, with at least one hour per day of large muscle activity and one hour per day of structured leisure time activities (that should not include time spent watching television). Activities should be increased to a total of three hours on days when school is not in session.
- At least one individual counseling session per week conducted by trained social work staff with the specific objective of reviewing the child's progress, establishing new

short term objectives, and addressing both the developmental and crisis-related needs of each child.

- Group counseling sessions at least twice a week.
- Acculturation and adaptation services which include information regarding the development of social and inter-personal skills which contribute to those abilities necessary to live independently and responsibly.
- A comprehensive orientation regarding program intent, services, rules (written and verbal), expectations and the availability of legal assistance.
- Whenever possible, access to religious services of the child's choice, and in an environment that ensures children feel free to ask for such access.
- Visitation and contact with family members (regardless of their immigration status), which is structured to encourage such visitation.
- A reasonable right to privacy, which includes (1) the right to wear his or her own clothes when available, (2) retain a private space in the residential facility, group or foster home for the storage of personal belongings, (3) talk privately on the phone and visit privately with guests, as permitted by ORR policy and applicable regulations, (4) receive and send uncensored mail unless there is a reasonable belief that the mail contains contraband.
- Services designed to identify relatives in the United States as well as in foreign countries and assistance in obtaining legal guardianship when necessary for the release of the unaccompanied child.
- Legal services information, including the availability of free legal assistance, the right to be represented by counsel at no expense to the government, the right to a removal hearing before an immigration judge, the right to apply for asylum or to request voluntary departure in lieu of deportation.

B. Organizational Capacity and Structure

1. **United States Conference of Catholic Bishops** must have the infrastructure and organizational capacity (governance structure, procedures, standards, and accountability controls) to meet all ORR program requirements and to properly manage all program resources (finances, personnel, physical plant structures, technology) and other provisions within the scope of this agreement.
2. Unless waived by ORR, **United States Conference of Catholic Bishops** should be accredited by a nationally recognized accreditation organization, at ORR's discretion.³
3. **United States Conference of Catholic Bishops** must have an effective program management structure that designates clear lines of authority and responsibility and promotes the effective use of organizational resources and positive outcomes, including the safe and timely release of unaccompanied children.
4. **United States Conference of Catholic Bishops** must have internal policies and procedures in place for monitoring and evaluating their program and conducting ongoing quality assurance activities to identify areas in need of improvement and/or modification.
5. **United States Conference of Catholic Bishops** must provide services in a culturally sensitive and knowledgeable manner. The majority of staff responsible for direct service delivery must be bilingual in English and Spanish. Staff who routinely work with unaccompanied children who speak other languages must be proficient in that language. Care providers must have access to interpreters for other languages that unaccompanied children in their care may speak.
6. **United States Conference of Catholic Bishops** must maintain internal policies and procedures in electronic and hard copy form and readily accessible for all care provider and ORR staff. Internal policies and procedures are subject to ORR approval and must

³ As applicable: The Council on Accreditation (COA), the Joint Commission (TJC), the Commission on Accreditation of Rehabilitation Facilities (CARF) or the American Correctional Association (ACA).

comply with all applicable federal law, regulations, and ORR's policies and procedures.

The care provider's internal policies and procedures must address the following:

- Provision of services that is specific to the type/level of care;
- State mandated placement criteria, including licensing-related restrictions;
- Population of children and youth served and facility capacity;
- Personnel policies and procedures⁴, including training requirements;
- Emergency and evacuation policies and procedures;
- Physical plant requirements and maintenance policies and procedures (inspections for safety and maintenance, review of heating and cooling systems, plumbing, etc.);
- Health policies and procedures for unaccompanied children;
- Procedures for meeting mandated reporting requirements (reporting suspected neglect, maltreatment and/or abuse and sexual abuse and/or sexual harassment);
- Zero tolerance policy for sexual abuse and harassment;
- Grievance policies and procedures for both unaccompanied children and staff;
- Financial management policies and procedures (including internal controls for errors, mismanagement or fraud and provisions for regular audits performed by an outside, independent auditor)⁵;
- Internal monitoring, evaluation, and continued quality assurance policies and procedures;

⁴ Including equal employment policies, prohibitions against nepotism and favoritism, policies on benefits, insurance protections, promotions and professional development, reporting requirements, sanctions and discipline of staff, working conditions, wage, time-off and lay off policies, activities and behaviors that require immediate suspension and possible termination.

⁵ All modifications to award budgets require prior approval from both the Administration for Children and Families Office of Grants Management (ACF/OGM) and an ORR PO.

- Relationships with key external stakeholders; and,
 - “Drug Free Workplace” policies.
7. **United States Conference of Catholic Bishops** must maintain or attempt to enter into memoranda of understanding (MOUs) or other agreements with local child advocacy centers, rape crisis centers, immigrant victim service providers, and/or other community service providers to provide services to victims of sexual abuse and sexual harassment that occurred at the care provider facility. If local service providers are not available, **United States Conference of Catholic Bishops** must maintain or attempt to enter into MOUs or other agreements with national service provider organizations. All agreements must have provisions that require the community or immigrant service provider to report any allegations of mistreatment or abuse to ORR. Care provider facilities must maintain copies of its agreements or documentation showing attempts to enter into such agreements and provide copies to ORR upon request.

C. Management of Personnel and Volunteers

- i. **United States Conference of Catholic Bishops** must develop, implement, and document a staffing plan based on the populations served, the scope and type of provided services, anticipated requirements, current and projected staff vacancies, and project budgets. The staffing plan must:
- a. Include staffing ratios in accordance with State licensing requirements, and as required by ORR’s policies and guidelines;
 - b. Include a UC to Case Manager ratio of 8:1, unless waived by ORR; and,
 - c. Include a UC to Clinician ratio of 12:1, unless waived by ORR.
2. **United States Conference of Catholic Bishops** must complete background investigations on all staff, contractors, and volunteers prior to hire to ensure the candidate is suitable for employment to work with minors in a residential setting. Background

checks must be completed in accordance with ORR's minimum standards and State licensing requirements. The results must be included in the employee's personnel file. If State licensing requirements do not require a national criminal history fingerprint check, **United States Conference of Catholic Bishops** must complete the check using a public or private vendor. If there is an additional cost associated with this fingerprint check, the cost may be included in **United States Conference of Catholic Bishops**'s budget plan.

3. Requirements for all hired staff. All staff must:
 - Be at least 21 years of age;
 - Exhibit integrity and good moral character to provide appropriate care to UC;
 - Possess the relevant experience and/or qualifications to work with UC and UC with special needs; and,
 - Be properly trained and licensed, as necessary.
4. **United States Conference of Catholic Bishops** may not hire, continue employment, or enlist the services of any contractor or volunteer who:
 - Has engaged in any form of child abuse or neglect, including domestic violence;
 - Has been convicted of engaging or attempting to engage in sexual abuse facilitated by force, overt or implied threats of force, coercion or if the victim did not consent or was unable to consent or refused; and/or,
 - Is undergoing civil or administrative adjudication or has been civilly or administratively adjudicated for engaging in an activity listed above.
5. **United States Conference of Catholic Bishops** must consider incidents of sexual harassment in determining whether to hire anyone or to enlist the services of any contractor or volunteer. **United States Conference of Catholic Bishops** must ask all applicants about previous misconduct in written applications or interviews for hiring. Applicants or employees must disclose any misconduct, whether the conduct occurs on or off duty. **United States Conference of Catholic Bishops** personnel policies and

procedures must provide that material omissions regarding such misconduct or providing materially false information will be grounds for termination.

6. **United States Conference of Catholic Bishops** must have job descriptions and selection criteria for all staff positions that state the qualifications, performance standards, and responsibilities for each position. (Each job description must include a section on Essential Functions as mandated by the Americans with Disabilities Act).
7. **United States Conference of Catholic Bishops** must obtain prior approval for the positions noted in the table below. The table also includes job descriptions and minimum qualifications for positions that require ORR approval as well as those that do not. Exceptions to the minimum qualifications require ORR's explicit written approval prior to hire and ORR may require supervision plans and additional training.

Positions Requiring ORR Prior Approval		
Position	Job Description	Minimum Qualifications
Program Director	Overall management of the programmatic, administrative, financial, and operational systems related to the provision of care and services; provision of regular and timely reports to ORR regarding operations, services, and finances; establishing a respectful and supportive workplace environment; elevating any issues or concerns to ORR.	Master's degree in social work or an equivalent degree in education, psychology, sociology, or other relevant behavioral science degree or bachelor's degree plus 5 years' experience in child welfare administration, child protective services; and, 2 years of experience in program management or as director of a licensed child care program. Possess the administrator's license for the care provider's facility.

Assistant Program Director	Serves as secondary liaison with ORR. The need for an Assistant Program Director will vary depending on the number of unaccompanied children served at a care provider facility.	Bachelor's degree in education, psychology, sociology or other relevant behavioral science plus 5 years of progressive employment experience with a social services or childcare agency or organization.
Clinician	Conducts mental health assessments; provides ongoing individual and group counseling services, screens for human trafficking concerns, and provides crisis intervention services.	Master's degree in social work with clinical experience in the program, or Master's degree in psychology, sociology, or other relevant behavioral science in which direct clinical experience is a program requirement, or a bachelor's degree plus 5 years clinical employment experience. Must be licensed or eligible for licensure.
Lead Clinician	Coordinating clinical services, training new clinicians, and supervising the clinical staff.	Master's degree in social work, 2 years of postgraduate direct service delivery experience or a Master's degree or Ph.D. in psychology, sociology, or other relevant behavioral science in which clinical experience is a program requirement, plus 2 years of postgraduate direct service delivery experience/or bachelor's degree plus 5 years clinical employment experience in the behavioral sciences. Must have supervisory experience and be licensed to provide clinical services in the State where the care provider is located.
Lead Case Manager	Responsible for coordinating case management and safe and timely release services, training new case managers, and supervising the work of other case manager.	Master's degree in the behavioral sciences, human services or social services fields or bachelor's degree and at least 3 years progressive employment experience that demonstrates supervisory and case management experience.

Prevention of Sexual Abuse (PSA) Compliance Manager	Oversees implementation and ongoing compliance with the Interim Final Rule on UC Sexual Abuse and Sexual Harassment standards at care provider facilities.	Bachelor's degree in behavioral sciences, human services, or social service fields and at least 1 year experience working with child welfare standards, best practices, and compliance issues.

Positions NOT Requiring ORR Prior Approval		
Position	Job Description	Minimum Qualifications
Case Manager ⁶	Assesses the needs of unaccompanied children in care, develops Individual Service Plans, screens for human trafficking concerns, facilitates the safe and timely release or discharge of children and youth, documents the provision of services in case files.	Bachelor's degree in the behavioral sciences, human services or social services fields. Child welfare and/or case management experience is strongly encouraged.
Medical Coordinator	Arrange or partners with other health professionals regarding health and safety standards for out-of-home child care, child care licensing requirements, disease reporting requirements for care providers, immunizations for children, injury prevention for children, medication management and knowledge of community health and mental health resources for children. If the size of the program does not justify hiring a full time Medical Coordinator, the responsibilities may be combined with another position.	High school diploma or equivalent degree and a minimum of 1 year employment experience in the child welfare field working with children and/or adolescents in a social service setting.

⁶ This position may require ORR approval if the Case Manager is conducting clinical assessments.

Teacher	Provides educational services and assessments, including curriculum building meeting Flores standards for education requirements.	Bachelor's degree; certification by the relevant governing authority, Teaching English as a Second Language/Teaching English to Speakers of Other Languages certification or other appropriate accrediting body and additional training to meet the special needs of unaccompanied children.
Trainer	Conduct trainings, select or develop training materials; maintain records on training program attendance, trainings offered, and evaluation measures. This position does not have to be full time and the responsibilities may be combined with another position.	Bachelor's degree.
Youth Care Worker	Provide direct supervision of children in care, and maintain line-of-sight at all times	High school diploma or equivalent degree and a minimum of 1 year employment experience in the child welfare field working with children and/or adolescents in a social service setting.

8. **United States Conference of Catholic Bishops** must maintain a personnel file for each employee, whether part-time or full-time, that documents the employee's credentials, competencies, and performance, and provide access to ORR upon request. The employee personnel file must be up-to-date and must include the criteria for the employee's selection, hiring, suspension, or termination.

a. Personnel files must include at the minimum:

- Resume;
- Job Description
- Employment application;
- Professional references;

- Educational records/diploma;
 - Professional licensure (if applicable);
 - Form I-9, Employment Eligibility Verification, and appropriate identification documentation;
 - Results of medical examination (as required by State licensing, including results of TB tests and immunization records);
 - Child Abuse Mandated Reporter agreement (signed);
 - Confidentiality policy acknowledgement;
 - Most recent performance review (signed);
 - Child abuse and neglect record check results (for all jurisdictions lived in for the past 5 years);
 - National FBI criminal background check and State repository check results (for all jurisdictions lived in for the past 5 years);
 - Driver's Record and Clearance (if transporting children and youth); and,
 - Record of completion of mandated trainings and required acknowledgements.
- b. **United States Conference of Catholic Bishops** must have policies and procedures for using and managing volunteers and interns (this includes those working in foster care),⁷ This includes:
- Establishing requirements for their selection;
 - Ensuring that each volunteer and intern complete pre-service and annual training, if applicable;

⁷ Family and friends of the foster family may interact with unaccompanied children as they would in a normal community setting without having to complete the volunteer requirements listed above.

- Using paid staff to supervise all volunteers and interns;
- Requiring authorization for any volunteers or interns to accompany unaccompanied children and care provider staff outside the facility for trips, medical appointments, or other visits;
- Requiring all volunteers and interns to complete a volunteer application, provide disclosures, and references; and,
- Conducting background checks on all volunteers and interns.

D. Code of Conduct and Conflict of Interest Requirements

1. Code of Conduct

- a. **United States Conference of Catholic Bishops** must create and implement a Code of Conduct that reflects the ethical standards of a reputable professional organization, such as the National Association of Social Workers, Child Welfare League of America, or the American Public Health Human Services Association. The Code of Conduct must specifically address the employee's obligations with respect to interactions and interventions with unaccompanied children, staff, and external stakeholders.
- b. **United States Conference of Catholic Bishops** must train all employees on the Code of Conduct and have a "whistleblower policy" that provides staff an opportunity to report suspicious unethical, inappropriate or illegal activities without negative consequence. **United States Conference of Catholic Bishops** must include proof in the employee's file that the employee has received training in the Code of Conduct. **United States Conference of Catholic Bishops** must have policies and procedures for the discipline or termination of personnel who violate the Code of Conduct.
- c. The Code of Conduct is required to indicate that staff must:

- Respect the boundaries inherent in the relationship between unaccompanied children and care provider staff both while in ORR care and after release (for example staff should not take an unaccompanied child to his or her home (with the exception of community-based foster care parents) or the home of the employee's personal acquaintances);
- Enforce zero tolerance and other policies to prevent, detect and respond to sexual abuse and harassment by not engaging in any kind of sexual activity or personal relationship with unaccompanied children, or former unaccompanied children; or parents, guardians, or sponsors of unaccompanied children;
- Not provide legal advice to UC;
- Only provide therapeutic counseling if properly licensed and authorized;
- Maintain professional standards and manner when dealing with children and youth, visitors or fellow employees by dressing appropriately and refraining from giving money or gifts, using inappropriate language, proselytizing religion or making unauthorized disclosures of confidential information, or campaigning on behalf of a political party, politician or interest group;
- Not discriminate against any person on the basis of race, color, religion, national origin, or sex; lesbian, gay, bisexual, transgender, questioning or intersex status; veteran status, age, or disability;
- Employ strength-based behavior management approaches and never hit, harass, humiliate or degrade an unaccompanied child or other staff member;
- Cooperate with official investigations (Child Protective Services, State licensing, etc.) as well as other legally sanctioned investigations, such as those conducted by law enforcement;
- Report any criminal or inappropriate conduct of other staff and never participate in the activities of a criminal gang; and,

- o Protect fellow care provider staff and unaccompanied children from retaliation if they disclose or threaten to disclose the existence of an illegal or unsafe practice.
- 2. **United States Conference of Catholic Bishops** staff are required to timely report to care provider management any misconduct (on or off duty). Failure to report misconduct or reporting false information will be grounds for termination.
 - a. Misconduct may include but is not limited to:
 - o Any criminal arrests and/or convictions;
 - o Any child abuse and/or neglect allegations, adjudications, or convictions (whether criminal, civil or administrative); and,
 - o Any engagement or attempt to engage in sexual activities facilitated by force, overt or implied threats of force or coercion; or if the victim did not consent or was unable to consent or refuse.
 - b. Timely reporting is defined as no later than 24 hours from when a subject has knowledge of an arrest, conviction, or allegation, or earlier if the subject has unsupervised access to unaccompanied children. Other unethical conduct may also be the basis for disciplinary action and/or termination. Program Directors or other care provider management officials must report any disciplinary action and/or termination of any employee to ORR.
- 3. **Conflict of Interest**
 - a. **United States Conference of Catholic Bishops** staff are prohibited from taking unfair advantage of any professional or personal relationship or from exploiting their position to further their personal, religious, political, financial, or business interests.
 - b. **United States Conference of Catholic Bishops** must establish and maintain a written Conflict of Interest policy applicable to all staff, board members, contractors,

sub-contractors, sub-grantees, volunteers, and other internal stakeholders. The policy must:

- Identify and define conduct that creates a conflict of interest or a potential conflict of interest;
- Prohibit employees from having any direct or indirect financial interests in the transactions of services of the program;
- Require staff to recuse themselves from the decision-making process if there is a conflict of interest or a potential conflict of interest;
- Require staff to disclose any conflicts of interest prior to their involvement in a decision related to or affected by the conflict; and,
- State that failure to disclose conflicts of interest or potential conflicts of interest may result in discipline or termination of employment.

E. Training

1. **United States Conference of Catholic Bishops** must ensure all prospective employees meet all required educational and professional experience qualification and demonstrate that ability to provide culturally competent services and all employees, contractors, and volunteers complete pre-service training prior to having direct contact with UC and complete the required annual training.
2. Newly hired employees must complete pre-service training prior to having direct contact with unaccompanied children. **United States Conference of Catholic Bishops** must provide pre-training on the following:
 - ORR's Standards to Prevent, Detect, and Respond to Sexual Abuse and Sexual Harassment involving Unaccompanied Children;
 - All State and local licensing requirements; and,

- State license required trainings (for example, CPR, first aid, mandatory reporting).
3. Staff who are required to have professional certifications must abide by continuing education requirements necessary to maintain licensure. In addition, all care provider staff must complete 40 hours of training annually of which 2 hours must involve training on the Flores settlement agreement, the HSA of 2002, the TVPRA of 2008, the Perez-Olano settlement agreement, and 10 hours on ORR policies and procedures. Foster care providers and foster families are subject to all ORR training and documentation requirements. In addition, the foster care providers must ensure that foster parents meet the competencies required at the time of licensing and focus the foster parent pre-service and ongoing training on developing these competencies.
4. **United States Conference of Catholic Bishops** must develop annual staff trainings based on the following areas⁸:
- State licensing requirements, laws, regulations, and policies relevant to the ORR UC Program;
 - ORR operational policies and relevant guidance⁹;
 - The Safe and Timely Release process;
 - Cultural competency, including awareness of and sensitivity to different cultural backgrounds;
 - Prohibition against providing legal advice or counsel;
 - Strength-based behavior management approaches, such as using conflict resolution, problem solving skills, using rewards and consequences and de-escalation techniques and helping children and youth learn accountability and self-control;
 - Prohibition against conflicts of interest;

⁸ Care providers have two years to complete. They are not required to cover all topic areas within the same year.

⁹ Care providers must have policies and procedures for the prompt dissemination, training, and implementation of new or updated ORR policies and procedures.

- Crisis/intervention procedures and techniques;
- Immigration and child welfare systems (local, national, international);
- Child development theory;
- Issues related to loss and family separation;
- Common health and mental health issues;
- First aid and cardiopulmonary resuscitation (CPR);
- Medication management;
- Infection control procedures and Occupational Safety and Health Administration (OSHA) or equivalent course that covers blood borne pathogens, airborne pathogens, and employee safety;
- Working with victims of human trafficking and other crimes;
- Mandatory child abuse and neglect reporting requirements: prevention, signs, and reporting;
- Professional boundaries;
- Emergency and disaster preparedness;
- Code of Conduct and Conflicts of Interest;
- Grievance policies and procedures; and,
- Incident reporting.

5. **United States Conference of Catholic Bishops** must provide training to all new contractors and volunteers, where the level and type of training provided is based on the services they provide and the level of contact they have with unaccompanied children. Contractors hired for a term that is expected to last one year or more must undergo the standard 40 hours of training required for all care provider employees. All contractors

and volunteers must undergo pre-service training prior to having direct contact with UC.

6. **United States Conference of Catholic Bishops** must document all trainings completed by staff and place a copy in the staff's personnel file, including:
 - The date, number of hours, and subject-matter of the employee's orientation training;
 - The date and number of hours of in-service training completed by the employee in each topic area listed above;
 - A confirmation that the employee understood each training that he/she completed; and,
 - The name of the individual and/or entity providing the training.

F. Grant Administration

1. **United States Conference of Catholic Bishops** must submit a detailed project plan of the approach, activities, staffing, and timelines which is approved by ORR and is in compliance with respective State residential care licensing requirements, the Flores settlement agreement, applicable federal laws and regulations, and the ORR policies and procedures. Any modifications must be discussed with the ORR Project Officer prior to implementation.
2. **United States Conference of Catholic Bishops** must submit a program budget for ORR and ACF's Office of Grants Management (OGM) approval that accurately reflects proposed activities as described in the project plan.
3. **United States Conference of Catholic Bishops** must notify the ORR Project Officer of any significant delays or issues regarding implementation of grant activities.
4. **United States Conference of Catholic Bishops** must regularly consult with the ORR Project Officer and other ORR staff while implementing grant activities during each

phase of the project. Consultation shall include, but is not limited to, participation in status meetings by telephone to review project implementation or as required by ORR.

5. **United States Conference of Catholic Bishops** must provide ORR with unrestricted access to clear, timely, and accurate information about all aspects of the program. This access includes, but is not limited to; activities, policies, and financial information; documentation on individual UC and provided services; and unrestricted physical access to **United States Conference of Catholic Bishops** 's premises, buildings, staff and UC in the programs physical custody; and any physical property on the premises, such as video monitoring equipment and footage.
6. **United States Conference of Catholic Bishops** must ensure that all Sub-Recipients comply with respective state residential care licensing requirements, the Flores settlement agreement, pertinent federal laws and regulations, and the ORR policies and procedures, unless otherwise expressly waived (in writing) by authorized ORR staff.
7. **United States Conference of Catholic Bishops** must submit the following documents to the ORR Project Officer:
 - a. All applicable State and local licensures, incorporations, and/or authorizations for **United States Conference of Catholic Bishops** and any Sub-Recipient at the beginning of each Federal fiscal year.
 - b. A description of responsibilities and activities of all organizations, individuals, or Sub- Recipients providing services to UC within 30 days of ORR's award date. All Sub- Recipients are subject to approval by the ORR Project Officer and must include the following considerations:
 - o Memoranda of Understanding (MOU) or similar instrument, with organizations or individuals selected for receipt of sub-awarded funds;

- A detailed description of the Sub-Recipients' activities, if not adequately described in the MOUs (or similar instrument) or project plan (may include a monitoring tool jointly developed by Project Officer and Grantee);
 - Complete budget for each Sub-Recipient;
 - Schedule for monitoring Sub-Awardees with respect to location, dates, and agenda will be reported in **United States Conference of Catholic Bishops** quarterly reports to ORR;
 - Reports following monitoring visits of sub-awardees and immediately notifies the ORR Project Officer of any serious concerns and will submit the final report within 30 days following the monitoring visit; and,
 - Prompt notification to ORR Project Officer of any changes regarding Sub-Recipient.
- c. Report of all State defined residential care placement restrictions to be submitted within 7 days of date of ORR award.
- d. Notify the ORR Project Officer immediately but no later than 24 hours after the care provider, service provider/contractor or Sub- Recipient receives a revocation or suspension of a license, incorporation or authorization to provide services.
- e. Notify the ORR Project Officer immediately but no later than 24 hours after the care provider, service provider/contractor or Sub-Recipient receives any citation from a State or local licensing agency or other accrediting agency and any citation for health, safety or environmental code violations.
- f. List of all State mandated staff trainings, including required timeline for completion dates within 30 days of date of ORR award.
- g. All materials (e.g., forms and other tools) used or created for residential services for UC. Materials are subject to approval by ORR Project Officer and must be submitted to the Project Officer 30 days prior to being implemented.

- h. Quarterly performance and financial reports are to be uploaded into GrantSolutions unless otherwise directed by OGM or ORR..

8. United States Conference of Catholic Bishops also agrees:

- a. To comply with HHS policy and regulations, unless otherwise expressly waived in the approved application and all other applicable Federal statutes and regulations in effect during the time that it is receiving grant funding.
- b. To amend the approved project plan as needed to comply with standards, goals, and priorities established by the Director;
- c. To submit quarterly performance and financial reports in a timely fashion based on the schedule that is described in Section VIII of this agreement.
- d. To abide by provisions of the Service Contract Act, Code of Federal Regulations (CFR) Title 29 and abide by applicable State wage determination guidelines in its program.

G. Adherence to ACF Policy on Grants to Faith-Based Organizations

Consistent with the ACF Policy on Grants to Faith-Based, ACF is mindful that potential grantees may have religious objections to providing certain kinds of services. ACF is committed to providing the full range of legally permissible services to people who need them, and to do so in a timely fashion and in a manner that respects the diverse religious and cultural backgrounds of those we serve. At the same time, ACF is also committed to exploring ways for organizations to partner with ACF and other grantees even if they object to providing specific services on religious grounds.

The following are ways in which organizations with such objections may be able to participate in human services programs:

- Serve as subgrantees: In many cases, subgrantees do not need to provide every service for which the grantee is responsible, so long as all clients served have access to all services required under the grant in a timely and respectful manner. Grantees must ensure that their overall program provides all of the required services, but grantees can use subgrantees to provide some services. Under this arrangement, as long as other subgrantees are readily available to provide clients with the objected-to services, a subgrantee may participate in the grant program while declining to provide services to which they have religious objection.
- Apply in a consortium: A second possibility is for faith-based organizations to apply in a consortium with one or more partners. The consortium would allow for a division of responsibility consistent with each organization's principles. Again, as long as clients have timely access to all required services, different organizations could divide up the services provided.
- Notify grantor: A third possibility in some circumstances would be for the grantee to notify the federal program office responsible for the grant if a client's needs or circumstances may require services, including referrals, to which the organization has a religious objection. It would then be the federal agency's responsibility to follow through with the needed services, or, if appropriate, transfer the case to another provider.

ACF will consider any combination of these approaches and is open to considering other approaches that would accomplish the goal of ensuring that people have access to a full range of services while enabling qualified faith-based organizations to participate in the delivery of those services in a manner consistent with their principles.

H. Responsibilities of ORR

ORR hereby agrees to the following:

1. To confirm project plan (which includes approach, activities, timelines, and results expected) and budget, and discuss minor modifications;
2. To submit and/or review FFR SF-425 to be sure it accurately reflects proposed activities;

3. To participate in status meetings by telephone to review project implementation (monthly, or as required by the ORR Project Officer or other ORR staff);
4. To keep United States Conference of Catholic Bishops informed of policy, regulatory and legal developments as they affect the implementation of the project;
5. To review and approve United States Conference of Catholic Bishops Sub-awards of organizations providing residential services;
6. To review and approve additions or hiring of key personnel, including those of Sub-Awardee of organizations providing residential services, in a timely manner;
7. To review all internal policies, procedures, and protocols used or created for the residential services for DUCO in a timely fashion;
8. To provide training and technical assistance, as needed, regarding project implementation, and residential service delivery; and,
9. To promptly review written requests for prior approval of deviations from the project plan or approved budget. Any changes that affect the terms and conditions of the grant award or revisions/amendments to the Cooperative Agreement or to the approved scope of activities will require prior approval by the ORR Project Officer and the Grants Management Specialist in the Office of Grants Management (OGM).

SECTION V: Budget and Financial Arrangement

The approved budget is reflected in the Notice of Award (NoA). The award will be based on the ORR and the OGM approved negotiated budget and project plan.

The Government shall not be obligated to reimburse the recipient for costs incurred in excess of the total amount allotted to this project, and the recipient shall not be obligated to continue performance under the Agreement (including actions under the termination clause) or otherwise to incur costs in excess of the amount allotted to this Agreement unless and until ORR and the OGM have notified the recipient in writing that additional funds have been awarded. No notice, communication, or representation from any person other than the Grants Management Specialist

shall authorize the expenditure of additional funds. The United States Government will not be obligated for any excess costs in the absence of a written notice of authorization from the Grants Management Officer. Changes issued pursuant to this Agreement shall not be considered an authorization to the recipient to exceed the allotted amount of this Agreement unless specifically stated by the Grants Management Officer.

SECTION VI: Monitoring

ORR will conduct announced and unannounced monitoring activities throughout the project period. The purpose of ORR monitoring is to ensure compliance with the Flores settlement agreement, pertinent federal laws and regulations, and ORR policies and procedures.

Performance and compliance measures are reflected in:

- The grant application, as funded;
- Program requirements contained in the authorizing statutes;
- Program regulations and guidelines incorporated in the grant award;
- Program grant and administrative requirements contained in regulations and policy;
- Relevant public policy requirements (assurances, certifications);
- This agreement;
- The ORR Policy Guide and relevant procedures; and,
- Special programmatic terms and conditions, if any.

ORR monitoring activities will include desk and on-site (announced and unannounced) monitoring and site visits. ORR will monitor or conduct site visits on programs based on some of the following factors:

- Costs and Total Support – high cost projects
- Complexity – projects with multiple service components;

- Age and Experience of Program – newly established program, one receiving Federal funds for the first time, one with inexperienced key personnel, or one whose legislation has recently undergone substantial change, may require closer scrutiny than a long established program;
- Prior Indication of Compliance issues – available audit or evaluation findings, recipient requests for assistance, or data on financial stability of an organization;
- Length of Grant – multi-year award, particularly one up for continuation awards that have never been visited may take precedent over new ones;
- Time Since Last Visit – if program has not been recently or previously visited;
- Geographic Location – proximity to other recipients, accessibility to program office;
- Agency Priority – high priority / visibility projects within the agency, high interest to Congress, the executive branch, or the public; and,
- Potential for Dissemination – programs / projects that show potential for developing exemplary practices suitable for dissemination.

ORR will provide United States Conference of Catholic Bishops with a monitoring report following formal monitoring visits or if required site visits, that will include citations for noncompliance, recommendations, a corrective action plan if needed, timelines for reporting, and consequences for not responding.

The monitoring report is not exhaustive of all that is reviewed during the monitoring visit. Rather, the report highlights the key issues in need of attention, as determined by the monitor and based on the review of all ORR policies and procedures. After review of the monitoring report, a formal corrective action plan should be submitted to the designated Project Officer within 30 business days. The corrective action plan will identify objectives, specific actions, persons responsible and date of completion for each monitoring citation.

SECTION VII: Continuation Applications

United States Conference of Catholic Bishops must submit an ORR provided continuation application by June 1, or a later date determined by ORR. For continuation applications, United States Conference of Catholic Bishops will provide the following information:

1. Standard Forms: SF 424 Application for Federal Assistance, SF 424A Budget Information for Non-Construction Programs, and SF 424B Assurances for Non-Construction Programs;
2. Certification Regarding Lobbying
3. Budget worksheets and narrative;
4. Program Description and Work plan;
5. Current State Residential Care License;
6. Proof of Insurance;
7. Facility lease or bank mortgage note on property (as applicable);
8. Indirect Cost Rate approval, if any;
9. Current Program Organizational Chart;
10. Staffing and Volunteer Roster;
11. Copy of all Child Protective Services reports, allegations and CPS investigations;
12. Property/Inventory List;
13. Project/Performance Site Location(s) form

United States Conference of Catholic Bishops must use the current version of all standard applications and reporting forms.

Current versions of the forms are available at: <https://www.grants.gov>

SECTION VIII: Applicable Regulations

United States Conference of Catholic Bishops must provide all residential services for UC in compliance with respective state residential care licensing, the Flores settlement agreement, pertinent federal laws and regulations, including Standards to Prevent, Detect, and Respond to Sexual Abuse and Sexual Harassment involving Unaccompanied Children, 45 C.F.R. 411, and ORR policies and procedures. Other applicable federal regulations are discussed in the attached Standard Terms and Conditions.

SECTION IX: Records and Reports

For quarterly performance reports, United States Conference of Catholic Bishops will use the ACF Performance Progress Report ACF-OGM SF-PPR form. Performance Reports are due quarterly based on the project period start date.

For financial status reports, United States Conference of Catholic Bishops will use the SF-425 form, which will include report of expenditures and unliquidated obligations. Quarterly financial reports are due every 90 days based on the project period start date.. The Annual Financial Status and Performance report is due 90 days after the end of the budget period. The Final Financial Status and Performance report is due 90 days after the end of the project period.

Funds awarded under this Cooperative Agreement shall be accounted for and reported upon separately from all other grant activities.

United States Conference of Catholic Bishops must use the current version of all reporting forms. Current versions of the forms are available at: <https://www.grants.gov>

All correspondence and reports related to this agreement must include the Grant Number and should be uploaded to GrantSolutions at <https://home.grantsolutions.gov/home/>. Notification of submission should be sent via email to the ORR Project Officer.

SECTION X: Project Contacts

United States Conference of Catholic Bishops designates the following person as project contact for this cooperative agreement:

Name: Kristyn Peck

Title: Associate Director, Children's Services

Address: 3211 4th Street, NE, Washington, DC 20017

Telephone: (202) 541-3039

Fax:

Email: kpeck@usccb.org

ORR designates the following person as ORR Project Officer for this cooperative agreement:

Name: Sathya Acevedo
Address: 330 C Street, SW, Washington, DC 20201
Telephone: (202) 401-5737
Fax: (202) 401-1022
Email: Sathya.Acevedo@acf.hhs.gov

SECTION XI: Duration of Agreement

This agreement will be effective February 1, 2017- January 31, 2020. Annual continuations will be entertained on a non-competitive basis, subject to availability of funds, satisfactory performance of the project, capacity needs and a determination that continued funding is in the best interest of the Federal Government.



E. Scott Lloyd **Date** 1/16/18
Director
Office of Refugee Resettlement



Anthony Picarello **Date** 4/26/17
Associate General Secretary & General Counsel
United States Conference of Catholic Bishops

Exhibit 15

Client Services Agreement
between
Catholic Charities, Diocese of Fort Worth, Inc.
and
United States Conference of Catholic Bishops/
Migration and Refugee Services
for
Unaccompanied Refugee Minor Program

This Agreement by and between **Catholic Charities, Diocese of Fort Worth, Inc.** (hereinafter "Sub-grantee"), 249 W. Thornhill Drive, Fort Worth, TX 76115, and the **United States Conference of Catholic Bishops/ Migration and Refugee Services** (hereinafter "USCCB/MRS"), 3211 Fourth Street, NE, Washington, D.C. 20017-1194, is hereby established with the following provisions and shall be effective on the date of the last signature below.

A. Purpose

Federal regulations at 45 CFR 400.301 allow the Director of the Office of Refugee Resettlement (ORR) to authorize Replacement Designees (RDs) to administer the provision of assistance and services to refugees when a state withdraws from a refugee program. ORR approved USCCB/MRS as the RD for the Unaccompanied Refugee Minor (URM) Program for Fiscal Year 2017 (FY17) beginning on February 1, 2017.

The purpose of this Agreement is to establish an appropriate programmatic and financial relationship between the Sub-grantee and USCCB/MRS to provide child welfare services to eligible refugee populations and promote safety, permanency, and well-being of participants.

This Agreement shall cover only program activities related to the services for URM Program for the period of October 1, 2016 to September 30, 2017.

Funds for the services outlined in this Agreement are derived from the Notice of Award (NOA) issued January 18, 2017, granted to USCCB/MRS by the U.S. Department of Health and Human Services (HHS)/ORR through the Refugee Cash and Medical Assistance Program. The Grant Document Number (GDN) is 1702TXRCMA. The Catalog of Federal Domestic Assistance (CFDA) number for this mandatory grant is 93.566, Refugee and Entrant Assistance_State Administered Programs (CFDA 93.566).

B. Responsibilities

Applicable Law and Policy

Sub-grantee must adhere to financial, services, and program reporting outlined in this Agreement, applicable local state law and:

- 45 CFR 400.5(e),
- ORR Dear Colleague Letter #16-01,
- Texas Department of Family and Protective Services Title IV-E State Plan of the Social Security Act and

- the Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.
- All applicable Federal statutes, regulations and policies, including the Terms and Conditions for this program as stipulated in section D below.

USCCB/MRS will:

serve as the Replacement Designee for the Texas Unaccompanied Refugee Minor Programs. In such role, USCCB/MRS will:

1. Ensure that responsibilities outlined in the Statement of Work (Attachment A) and subsequent guidance and revisions are met and are hereto incorporated by reference in this Agreement;
2. Liaise and coordinate with HHS/ORR concerning various aspects and needs of the program;
3. Ensure contractual compliance, and preparation and submission of reports to HHS/ORR;
4. Review the ORR-3, ORR-4 forms, and submit the ORR-6 to HHS/ORR;
5. Provide funds to Sub-grantee based on the negotiated budget and contingent on Sub-grantee providing services in accordance with the terms of this Agreement and subsequent guidance upon receipt of submitting approved reimbursement expense reports as stipulated in section C below. Services rendered shall be in accordance with the terms of this Agreement and subsequent guidance. Funds are based on available and continual funding by HHS/ORR and outlined in the USCCB/MRS NOA (Attachment B).
6. Ensure all program activities and expenditures comply with federal and state requirements.
7. Provide the Statement of Work outlining responsibilities of the sub-grantee.

The Sub-grantee will:

1. Meet the program deliverables outlined in the attached Statement of Work, which will be shared and disseminated to applicable program staff.
2. Make reasonable efforts to provide services that meet the individual needs of the client. Sub-grantee will develop and maintain a cultural competence plan that effectively provides services to people of various cultures, races, ethnic backgrounds, and religions in a manner that recognizes and affirms their worth, protects and preserves their dignity, and ensure equity of service delivery. Sub-grantee will take into consideration the intellectual functioning, literacy, level of education, and comprehension ability of each client in order to ensure that all information is presented in a way that meets the individual needs of each client. Sub-grantee provides services in the client's primary language, whether provided directly by Sub-grantee or through a translator.
3. Comply with all applicable federal and state regulations delivered under this Agreement.
4. Submit all reports and data in appropriate format and within the timeframe specified by USCCB/MRS.
5. Ensure all program activities and expenditures comply with federal and state requirements.
6. Submit monthly reimbursements as outlined in Section C.

C. Expenses and Reimbursements

USCCB/MRS shall reimburse the Sub-grantee by check or direct deposit on the basis of monthly reimbursement requests received for actual expenses incurred and only for authorized FY17 expenses.

The Sub-grantee shall submit monthly reimbursement requests through the MRIS database within fifteen (15) business days following the end of the month and maintain appropriate supporting documentation and any other records relevant to the work and activities performed during the reimbursement request period. MRIS database log-in information and instructions will be provided upon receipt of the signed Agreement.

All funds authorized under this Agreement shall be obligated by the Sub-grantee no later than September 30, 2017, unless otherwise approved in writing by USCCB/MRS.

D. Federal Assurances and Certifications

The Sub-grantee and USCCB/MRS shall comply with all applicable assurances and certifications which are required under U.S. contract laws and regulations, including but not limited to the ACF General Terms and Conditions and Program Specific Terms and Conditions (General Terms and Conditions; Terms and Conditions Addendum: Program Specific)

E. Audit

The Sub-Grantee shall have the federal funds passed through to it under the terms of this Agreement identified as part of its annual single audit performed by independent public accountants in accordance with Generally Accepted Government Auditing Standards (GAGAS) covering financial audits. The Sub-Grantee is also expected to comply with the GAGAS if issues arise from an audit as per 2 CFR 200 part F or any related compliance supplements to this part, the Sub-Grantee will notify USCCB/MRS. The Sub-grantee shall ensure all expenses are compliant with the terms of the award and all applicable Federal statutes, regulations and policies, including the Terms and Conditions for this program. Receipts should be kept on-site in accordance with 2 CFR 200 Part D Subsection on Record Retention Access. USCCB/MRS may request supporting documentation to be sent periodically for review and auditing purposes.

Case File Maintenance:

Sub-grantee will maintain secure physical custody of case files, on behalf of USCCB/MRS, and case files are subject to review by USCCB/MRS and/or HHS/ORR. Sub-grantee agrees to retain case files for all clients in order to respond to a potential federal audit of the HHS/ORR. Additionally, if Sub-grantee agency closes, it must notify USCCB/MRS promptly and in writing and submit all of its case files and financial support documentation for clients to the USCCB/MRS office.

Sub-grantee must also comply with 45 CFR 400.27 on Safeguarding and Storing Information, which reads as follows:

(a) Except for purposes directly connected with, and necessary to, the administration of the program, a State must ensure that no information about, or obtained from, an individual and in possession of any agency providing assistance or services to such individual under the plan, will

be disclosed in a form identifiable with the individual without the individual's consent, or if the individual is a minor, the consent of his or her parent or guardian.

(b) The provision by a State to a local resettlement agency or by a local resettlement agency to a State, of information as to whether an individual has applied for or is receiving cash assistance and the individual's address and telephone number is to be considered undertaken for a purpose directly connected with, and necessary to, the administration of the program during the first 36 months after such individual's entry into the United States.

On-site Reviews and Desk Audits:

Representatives from USCCB/MRS or HHS/ORR shall have the right to conduct on-site monitoring to ensure compliance with this Agreement, 45 CFR 400, and ORR Dear Colleague Letter #16-07. Following on-site reviews, USCCB/MRS will submit a report to the Sub-grantee to include any findings and recommendations and Sub-grantee will have 30 calendar days to respond to any corrective actions.

F. Confidential Information

Sub-grantee will not release confidential information to any party without the prior written approval of USCCB/MRS. Sub-grantee will not use any information supplied by HHS/ORR or USCCB/MRS except for the purposes that the Department intends the information to be used. If Sub-grantee stores, collects, or maintains any data, Sub-grantee will only use such data internally for implementing this program.

1. Sub-grantee will establish a method to ensure the confidentiality of records and other information relating to clients according to applicable federal and state laws, rules, and regulations.
2. This provision does not limit USCCB/MRS or HHS/ORR's right of access to client case records or other information relating to clients served under this agreement. USCCB/MRS and HHS/ORR will have an absolute right to access to and copies of such information, upon request.
3. If Sub-grantee receives any request or demand for disclosure of confidential information by oral questions, documents, subpoenas, civil investigative process, Sub-grantee will provide USCCB/MRS with immediate notice of such request (no later than two (2) business days) so that USCCB/MRS may seek an appropriate protective order and/or consent to Sub-grantee's disclosure of the requested records.
4. The provisions of this section remain in full force and effect following termination of cessation of the services performed under this Contract.

G. Indemnification

The Sub-grantee shall indemnify and hold harmless USCCB/MRS from and against any and all demands, claims, damages, losses, actions, and liabilities arising out of or caused by the Sub-grantee's provision of services under this Agreement. The Sub-grantee shall not have waived or be deemed to have waived by reason of this paragraph any defense which it may have with respect to such claims.

H. Catholic Identity

USCCB/MRS must ensure that services provided to those served under this Agreement are not contrary to the authentic teaching of the Catholic Church, its moral convictions, and religious beliefs. Accordingly, USCCB/MRS expects that the Sub-grantee will provide services under this Agreement within certain parameters including, among other things, that the Sub-grantee will not provide, refer, encourage, or in any way facilitate access to contraceptives or abortion services.

I. Program Management and Communication

The principal staff contacts for the Sub-grantee and USCCB/MRS assigned to this Program is as follows:

Program Management:

Tosin Ogunyoku King, Assistant Director, Foster Care
202-541-3043

Financial Management:

Ann Franken, Grants and Programs Administrator, Children's Services
202-541-3175

J. Assignment

Sub-grantee may assign some or all core services responsibilities to an outside agency (Sub-Sub-grantee). Any assignment shall be in accordance with standards for provision of foster care within the State of Texas. Any such assignment shall be accomplished only with a binding written agreement between Sub-grantee and Subcontractor that contains pertinent legal responsibility, applicable Federal regulations and related policies and procedures pertaining to the care of the Texas child welfare system. Sub-grantee shall use the Agreement provided by USCCB/MRS when contracting with outside agencies. Sub-grantee will be responsible for Subcontractor performance under this Agreement. Subcontractors providing services under this Agreement will meet the same requirements and level of experience as required by the Sub-grantee. Sub-grantee is responsible for performing monitoring of subcontractors. Sub-grantee will refrain from transferring or assigning any portion of this Agreement without prior written approval from USCCB/MRS.

K. Force Majeure

Neither party will be liable for any delay in performance under this Agreement related to an unavoidable cause not attributable to the fault or negligence of the respective party. Such delays will extend the period of performance at the discretion of USCCB/MRS and HHS/ORR. Sub-grantee must inform USCCB/MRS in writing of proof of force majeure within five (5) business days or otherwise waive this right as a defense.

L. Termination

Either party to this Agreement reserves the right to terminate this Agreement for any reason by providing ninety (90) calendar days' written notice by certified mail to the other party. This Agreement may also be terminated in the event that the federal grant which provides funding authority is terminated or significantly modified, at which time USCCB/MRS shall provide written notice of such termination to the Sub-grantee.

M. Terms of Agreement

Financial expenditures for this Agreement shall take effect February 1, 2017 and remain in effect until the end of the Project Period, September 30, 2018, or until such time as it is terminated or amended as stipulated in section L.

This Agreement contains all the provisions agreed upon by the parties hereto. Any amendment to this memorandum must be in writing and signed by the persons below or their duly authorized representatives.

This Agreement shall be governed by, and construed in accordance with, and any disputes resolved in accordance with the laws of the District of Columbia. This Agreement contains all covenants, stipulation, and provisions agreed upon by the parties. It may only be amended in writing by the parties.

Agreed to and signed:

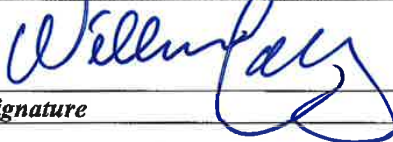
Catholic Charities, Diocese of Fort Worth, Inc. / 102474491	Migration and Refugee Services
<i>Sub-Grantee Name/DUNS</i>	<i>Organization Name</i>
X Heather Reynolds President / CEO	Bill Canny
<i>Authorizing Official and Title</i>	<i>Director, Migration and Refugee Services</i>
X 	X 
<i>Signature</i>	<i>Signature</i>
X 3-2-17	X 3/2/17
<i>Date</i>	<i>Date</i>

Exhibit 16

From: Veeraraghavan, Mimi (ACF) <Mimi.Veeraraghavan@acf.hhs.gov>
Sent time: 03/03/2017 08:34:26 AM
To: Kristyn Peck <KPeck@usccb.org>
Cc: Bill Canny <WCanny@usccb.org>
Subject: RE: Refugee Foster Care Program -- LGBT Foster Parents

Thanks!

From: Kristyn Peck [mailto:KPeck@usccb.org]
Sent: Friday, March 03, 2017 7:16 AM
To: Veeraraghavan, Mimi (ACF)
Cc: Bill Canny
Subject: Re: Refugee Foster Care Program -- LGBT Foster Parents

Hi Mimi,

Yes, that is correct. Catholic Charities of Fort Worth said that Fatma referred to her union as a same gender marriage and she used the word spouse in her email communication. Catholic Charities of Fort Worth did not ask Fatma for legal documentation of the marriage.

Best,
Kristyn

Sent from my iPhone

On Mar 3, 2017, at 6:56 AM, Veeraraghavan, Mimi (ACF) <Mimi.Veeraraghavan@acf.hhs.gov> wrote:

Good Morning Kristyn,

Thanks for this summary. To recap, ORR had also asked whether Catholic Charities of Fort Worth has knowledge of whether Ms. Fatma is *legally* married to her wife (using the word indicated in her inquiry below). I believe you had indicated that CCFW had noted that she used either the word 'spouse' or 'wife' in her communications with them, but that they did not ask for any documentation on that point or otherwise assess the legality of the marriage. Correct?

Thanks,
Mimi

From: Kristyn Peck [<mailto:KPeck@usccb.org>]
Sent: Thursday, March 02, 2017 4:47 PM
To: Veeraraghavan, Mimi (ACF)
Cc: Bill Canny
Subject: Re: Refugee Foster Care Program -- LGBT Foster Parents

Dear Mimi,

Thank you for sending the written inquiry.

As we discussed, I spoke to Heather Reynolds, CEO/President, and Dana Springer, Director of Child Welfare, at Catholic Charities of Fort Worth on Friday, February 24th following your questions during our phone call about the below complaint.

ORR question: *How did Fatma come to know about the program?*

Heather and Dana stated that Fatma came to a Catholic Charities of Fort Worth "KNOW Poverty Hour". These are regular community-based information sessions that are posted on Catholic Charities of Fort Worth's web site for the public to attend and learn about Catholic Charities of Fort Worth's services and programs to combat poverty. These sessions include a "How to Help" component where the need for foster parents is mentioned, in addition to other volunteer opportunities.

ORR question: *What else did you know about her interest?*

Heather and Dana stated that Fatma had requested a follow up call after the KNOW Poverty Hour and expressed her interest in the International Foster Care program (this is the unit in which URM is housed).

Dana Springer called Fatma to explain more about the program and at this time learned that Fatma was in a same-sex marriage and explained that Catholic Charities of Fort Worth does not

recruit/license same-sex foster parents due to their Catholic identity.

ORR question: *What was the basis of Catholic Charities of Fort Worth's decision?*

As a Catholic agency, Catholic Charities of Fort Worth's practices and services are rooted in and guided by Catholic teaching. One of the themes of Catholic teaching includes strengthening and supporting Christian marriage, which in God's image is between a male and a female.

ORR question: *Does Catholic Charities of Fort Worth have an official policy on whether same sex couples can serve as foster families?*

Catholic Charities of Fort Worth does not have such a policy as they are guided by Catholic teaching which supports their practice of recruiting foster parents that mirror the Holy Family.

ORR question: *Are there any state laws prohibiting same-sex couples from becoming foster parents?*

Catholic Charities of Fort Worth is not aware of any Texas state laws that prohibit same-sex couples from becoming foster parents.

ORR question: *Has Catholic Charities of Fort Worth dealt with this in the past?*

This has been Catholic Charities of Fort Worth's practice for as long as it has been in existence.

ORR question: *Does USCCB concur with Catholic Charities of Fort Worth's decision?*

As a Catholic organization, the USCCB also believes that marriage is between one man and one woman.

All the best,

Kristyn

Kristyn Peck, MSW

Associate Director, [Children's Services](#)

[Migration and Refugee Services](#), Office of Special Programs

United States Conference of Catholic Bishops

3211 4th Street, NE

Washington, DC 20017

Office: 202-541-3039

Cell: 202-578-2844

Email: kpeck@usccb.org

Follow MRS! Blog: Twitter:

MRS Vision Statement: "Creating a world where immigrants, refugees, migrants, and people on the move are treated with dignity, respect, welcome, and belonging."

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On Mar 1, 2017, at 9:57 AM, Veeraraghavan, Mimi (ACF)

<Mimi.Veeraraghavan@acf.hhs.gov> wrote:

Good Morning Kristyn,

Please remember to send me a written summary of Catholic Charities Fort Worth's take on the events described below, and their decision, as discussed yesterday. Were you able to determine whether the policy you referenced on the phone is a written policy? If so, please send that to.

Please also add USCCB's position – i.e., whether USCCB concurs with CCFW's decision. Are there any additional results from your internal conversations?

Thanks,

Mimi

From: Veeraraghavan, Mimi (ACF)

Sent: Tuesday, February 28, 2017 9:13 AM

To: 'Kristyn Peck'

Subject: FW: Refugee Foster Care Program -- LGBT Foster Parents

Here is the inquiry that I mentioned. Thanks for the information and thanks in advance for your written summary of what we discussed.

From: Marouf, Fatma E [<mailto:fatma.marouf@law.tamu.edu>]

Sent: Wednesday, February 22, 2017 4:34 PM

To: ACF Urmprogram (ACF)

Subject: Refugee Foster Care Program -- LGBT Foster Parents

Hello,

I am writing to ask whether Refugee Foster Care programs run by Catholic Charities are allowed to discriminate against LGBT prospective foster parents. My wife and I are a same-sex couple interested in refugee foster care, and we had an initial interview today with Catholic Charities in Fort Worth, TX. We were told we were not eligible because we did not "mirror the holy family." I presume Catholic Charities is operating this program based on a contract with ORR and is receiving federal funding. Are they allowed discriminate against same-sex couples in this manner? The state of Texas has no laws prohibiting same-sex couple from becoming foster care parents. If this is allowed, are there any other organizations involved in refugee foster care that allow same-sex couples to become foster parents?

Thank you - I appreciate any information you have on this issue.

Best,

Fatma

Fatma E. Marouf

Professor of Law

Director, Immigrant Rights Clinic

Texas A&M University School of Law

1515 Commerce St.

Fort Worth, Texas 76102

fatma.marouf@law.tamu.edu

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Exhibit 17

4/11/2018

Catholic Charities Diocese of Fort Worth Mail - Refugee Foster Care Program



Brenna Linehan <blinehan@ccdofw.org>

Refugee Foster Care Program

19 messages

Marouf, Fatma E <fatma.marouf@law.tamu.edu>
 To: "blinehan@ccdofw.org" <blinehan@ccdofw.org>
 Cc: "brynesplin@gmail.com" <brynesplin@gmail.com>

Thu, Feb 16, 2017 at 11:52 AM

Hi Brenna,

My spouse and I are interested in becoming foster parents through the refugee foster care program. Could you please let us know how to get more information about the program? We looked at the information online already and are interested in the next step.

Thank you!

Fatma

Fatma E. Marouf
 Professor of Law
 Director, Immigrant Rights Clinic
 Texas A&M University School of Law
 1515 Commerce St.
 Fort Worth, Texas 76102
 fatma.marouf@law.tamu.edu

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Brenna Linehan <blinehan@ccdofw.org>
 To: Todd Beard <tbeard@ccdofw.org>

Thu, Feb 16, 2017 at 2:12 PM

[Quoted text hidden]

Brenna Linehan
 Recruitment Coordinator
 The People Team
 Catholic Charities Fort Worth
 O: 817.289.0335
 F: 817.535.8779
 CatholicCharitiesFortWorth.org

App. 342
 CCFW 000018

f in

Thu, Feb 16, 2017 at 2:58 PM

Thu, Feb 16, 2017 at 10:05 PM

Fri, Feb 17, 2017 at 10:30 AM

CCFW 000019

4/11/2018

Catholic Charities Diocese of Fort Worth Mail - Refugee Foster Care Program

Recruitment Coordinator
The People Team
Catholic Charities Fort Worth
O: 817.289.0335
F: 817.535.8779
CatholicCharitiesFortWorth.org

Create. Eradicate. Transform.



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Esplin, Bryn S. <esplin@medicine.tamhsc.edu>

Fri, Feb 17, 2017 at 11:55 AM

To: "blinehan@ccdofw.org" <blinehan@ccdofw.org>

Cc: "fatma.marouf@law.tamu.edu" <fatma.marouf@law.tamu.edu>, bryn esplin <brynesplin@gmail.com>

Hi Brenna,

I'm Fatma Marouf's spouse, Bryn. Next Tuesday at 10:30 would be perfect for us to speak with the Director. We can either call directly, or feel free to pass on our phone number, (510) 499-6212.

Thanks for all your assistance -- have a great weekend,
-Bryn

Bryn S. Esplin, J.D. | Assistant Professor
Department of Humanities in Medicine | Texas A&M University
1359 TAMU | Bryan, TX 77807
ph: 979.436.0517 | esplin@medicine.tamhsc.edu

TEXAS A&M UNIVERSITY | FEARLESS on Every Front
[Quoted text hidden]

Brenna Linehan <blinehan@ccdofw.org>

Fri, Feb 17, 2017 at 12:34 PM

To: "Esplin, Bryn S." <esplin@medicine.tamhsc.edu>

Cc: "fatma.marouf@law.tamu.edu" <fatma.marouf@law.tamu.edu>, bryn esplin <brynesplin@gmail.com>

Hi Bryn and Fatma-

I am so so sorry about this, but does 11am work instead of 10:30?

I will pass on your number and she will give you a call!

[Quoted text hidden]

Esplin, Bryn S. <esplin@medicine.tamhsc.edu>

Fri, Feb 17, 2017 at 1:15 PM

To: Brenna Linehan <blinehan@ccdofw.org>

Cc: "fatma.marouf@law.tamu.edu" <fatma.marouf@law.tamu.edu>, bryn esplin <brynesplin@gmail.com>

Not a problem -- 11am is just fine.

Looking forward to it.

Bryn S. Esplin, J.D. | Assistant Professor
Department of Humanities in Medicine | Texas A&M University
1359 TAMU | Bryan, TX 77807
ph: 979.436.0517 | esplin@medicine.tamhsc.edu

App. 344

CCFW 000020

4/11/2018

Catholic Charities Diocese of Fort Worth Mail - Refugee Foster Care Program

TEXAS A&M UNIVERSITY | FEARLESS on Every Front**From:** Brenna Linehan [blinehan@ccdofw.org]**Sent:** Friday, February 17, 2017 12:34 PM**To:** Esplin, Bryn S.**Cc:** fatma.marouf@law.tamu.edu; bryn esplin

[Quoted text hidden]

[Quoted text hidden]

Esplin, Bryn S. <esplin@medicine.tamhsc.edu>

Tue, Feb 21, 2017 at 9:17 AM

To: Brenna Linehan <blinehan@ccdofw.org>

Cc: "fatma.marouf@law.tamu.edu" <fatma.marouf@law.tamu.edu>, bryn esplin <brynesplin@gmail.com>

Dear Brenna,

My sincere apologies- I had spoken too soon about agreeing to 11am for Fatma. She is with a client today until 2pm. Might the Director have any time to speak this afternoon, or if not, some flexibility tomorrow?

Thanks so much for your help, and again, I'm sorry to have to reschedule.

Best,

-Bryn

Bryn S. Esplin, J.D. | Assistant Professor

Department of Humanities in Medicine | Texas A&M University

1359 TAMU | Bryan, TX 77807

ph: 979.436.0517 | esplin@medicine.tamhsc.edu

TEXAS A&M UNIVERSITY | FEARLESS on Every Front**From:** Brenna Linehan [blinehan@ccdofw.org]**Sent:** Friday, February 17, 2017 12:34 PM**To:** Esplin, Bryn S.**Cc:** fatma.marouf@law.tamu.edu; bryn esplin**Subject:** Re: Refugee Foster Care Program

Hi Bryn and Fatma-

I am so so sorry about this, but does 11am work instead of 10:30?

I will pass on your number and she will give you a call!

On Fri, Feb 17, 2017 at 11:55 AM, Esplin, Bryn S. <esplin@medicine.tamhsc.edu<mailto:esplin@medicine.tamhsc.edu>> wrote:

Hi Brenna,

I'm Fatma Marouf's spouse, Bryn. Next Tuesday at 10:30 would be perfect for us to speak with the Director. We can either call directly, or feel free to pass on our phone number, (510) 499-6212<tel:(510)%20499-6212>.

Thanks for all your assistance -- have a great weekend,

-Bryn

Bryn S. Esplin, J.D. | Assistant Professor

Department of Humanities in Medicine | Texas A&M University

1359 TAMU | Bryan, TX 77807

ph: 979.436.0517<tel:(979)%20436-0517> | esplin@medicine.tamhsc.edu<mailto:esplin@medicine.tamhsc.edu>

TEXAS A&M UNIVERSITY | FEARLESS on Every Front

----- Forwarded message -----

From: Brenna Linehan <blinehan@ccdofw.org<mailto:blinehan@ccdofw.org>>

App. 345

CCFW 000021

4/11/2018

Catholic Charities Diocese of Fort Worth Mail - Refugee Foster Care Program

Date: Fri, Feb 17, 2017 at 10:30 AM

Subject: Re: Refugee Foster Care Program

To: "Marouf, Fatma E" <fatma.marouf@law.tamu.edu<mailto:fatma.marouf@law.tamu.edu>>

Cc: "brynesplin@gmail.com<mailto:brynesplin@gmail.com>" <brynesplin@gmail.com<mailto:brynesplin@gmail.com>>

Hi Fatma,

Our director of International Foster Care would love to chat with you. Are you free at 10:30 next Tuesday?

On Thu, Feb 16, 2017 at 11:52 AM, Marouf, Fatma E <fatma.marouf@law.tamu.edu<mailto:fatma.marouf@law.tamu.edu>> wrote:

Hi Brenna,

My spouse and I are interested in becoming foster parents through the refugee foster care program. Could you please let us know how to get more information about the program? We looked at the information online already and are interested in the next step.

Thank you!

Fatma

Fatma E. Marouf
 Professor of Law
 Director, Immigrant Rights Clinic
 Texas A&M University School of Law
 1515 Commerce St.
 Fort Worth, Texas 76102
 fatma.marouf@law.tamu.edu<mailto:fatma.marouf@law.tamu.edu>

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--

Brenna Linehan
 Recruitment Coordinator
 The People Team
 Catholic Charities Fort Worth
 O: 817.289.0335<tel:(817)%20289-0335>
 F: <https://urldefense.proofpoint.com/v2/url?u=http-3A__goog-5F1089591951_&d=CwMFaQ&c=cpvmSBWXd8YiHoMtYk_a9E2QliaEheG3-gfMB16YPq0&r=0CI94H5N2--bjV7hBG0Lb1p63qM15RJ0xebCD0NmzGA&m=bQOG-v65B24HIWaa3JdlcoX0IYMunfZkNNCPI8beYzg&s=L-z7PzWekhOyZYBjHamTFKxrq18A3FPSZH0eiN5bnl&e=> 817.535.8779<tel:(817)%20535-8779>
 CatholicCharitiesFortWorth.org<https://urldefense.proofpoint.com/v2/url?u=http-3A__catholiccharitiesfortworth.org_&d=CwMFaQ&c=cpvmSBWXd8YiHoMtYk_a9E2QliaEheG3-gfMB16YPq0&r=0CI94H5N2--bjV7hBG0Lb1p63qM15RJ0xebCD0NmzGA&m=bQOG-v65B24HIWaa3JdlcoX0IYMunfZkNNCPI8beYzg&s=J0UmBhE-XEQ1LCQDAwfo31CtqJCEHrxjqim49y2tMg&e=>

Create. Eradicate. Transform.

[https://www.facebook.com/catholiccharitiesFW/]<https://urldefense.proofpoint.com/v2/url?u=https-3A__www.facebook.com_catholiccharitiesFW_&d=CwMFaQ&c=cpvmSBWXd8YiHoMtYk_a9E2QliaEheG3-gfMB16YPq0&r=0CI94H5N2--bjV7hBG0Lb1p63qM15RJ0xebCD0NmzGA&m=bQOG-v65B24HIWaa3JdlcoX0IYMunfZkNNCPI8beYzg&s=gGOVjpUkjavmFHGm5u_vwH0sZn8LPJU7e9hIE4n85A&e=> [https://twitter.com/CCFortWorth] <CCFW000022
 proofpoint.com/v2/url?u=https-3A__twitter.com_CCFortWorth&d=CwMFaQ&c=cpvmSBWXd8YiHoMtYk_

4/11/2018

Catholic Charities Diocese of Fort Worth Mail - Refugee Foster Care Program

a9E2QliaEheG3-gfMB16YPq0&r=0CI94H5N2--bjV7hBG0Lb1p63qM15RJ0xebCD0NmzGA&m=bQOG-v65B24HIWaa3JdlcoX0IYMunfZkNNCPI8beYzg&s=XFF_vlxGGBB5nLiJ8cFOV7RCC8yXKvsQoBHhzdNOOEa&e=> [http://i.imgur.com/rxe1w6av.png] <https://urldefense.proofpoint.com/v2/url?u=https-3A__www.linkedin.com_company_catholic-2Dcharities-2Dfort-2Dworth&d=CwMFAQ&c=cpvmSBWXd8YiHoMtYk_a9E2QliaEheG3-gfMB16YPq0&r=0CI94H5N2--bjV7hBG0Lb1p63qM15RJ0xebCD0NmzGA&m=bQOG-v65B24HIWaa3JdlcoX0IYMunfZkNNCPI8beYzg&s=VTH8vd4k6xj33mdX3A0B7kO7fjFKoiWjuo_RBQFKsbg&e=> [https://www.youtube.com/CCDOFW] <https://urldefense.proofpoint.com/v2/url?u=https-3A__www.youtube.com_CCDOFW&d=CwMFAQ&c=cpvmSBWXd8YiHoMtYk_a9E2QliaEheG3-gfMB16YPq0&r=0CI94H5N2--bjV7hBG0Lb1p63qM15RJ0xebCD0NmzGA&m=bQOG-v65B24HIWaa3JdlcoX0IYMunfZkNNCPI8beYzg&s=Lc0sfhm7atXleih6ZMQ18S82JYU9G2_RWHWQRo87Z7E&e=>

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—
Brenna Linehan
Recruitment Coordinator
The People Team
Catholic Charities Fort Worth
O: 817.289.0335

F: <https://urldefense.proofpoint.com/v2/url?u=http-3A__goog-5F1089591951_&d=CwMFAQ&c=cpvmSBWXd8YiHoMtYk_a9E2QliaEheG3-gfMB16YPq0&r=0CI94H5N2--bjV7hBG0Lb1p63qM15RJ0xebCD0NmzGA&m=ahXdYvE01VbmY_n0jLbCNN4mNQwxa038wl2ctVmFAmA&s=FB1UDES-nC3IXIRYc5YuYbXyUo_4IIPHbdAobNWQj8&e=> 817.535.8779
CatholicCharitiesFortWorth.org<https://urldefense.proofpoint.com/v2/url?u=http-3A__catholiccharitiesfortworth.org_&d=CwMFAQ&c=cpvmSBWXd8YiHoMtYk_a9E2QliaEheG3-gfMB16YPq0&r=0CI94H5N2--bjV7hBG0Lb1p63qM15RJ0xebCD0NmzGA&m=ahXdYvE01VbmY_n0jLbCNN4mNQwxa038wl2ctVmFAmA&s=0HLVmBBWAJF047qxZ2ly1peGvcv0Y7Jnfuj3v-05iqw&e=>

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[https://www.facebook.com/catholiccharitiesFW/]<https://urldefense.proofpoint.com/v2/url?u=https-3A__www.facebook.com_catholiccharitiesFW_&d=CwMFAQ&c=cpvmSBWXd8YiHoMtYk_a9E2QliaEheG3-gfMB16YPq0&r=0CI94H5N2--bjV7hBG0Lb1p63qM15RJ0xebCD0NmzGA&m=ahXdYvE01VbmY_n0jLbCNN4mNQwxa038wl2ctVmFAmA&s=wyAMArIE-DBaDtFNTyjdFkMWyoewVnKi4mS5Sh_JAHc&e=> [https://twitter.com/CCFortWorth] <https://urldefense.proofpoint.com/v2/url?u=https-3A__twitter.com_CCFortWorth&d=CwMFAQ&c=cpvmSBWXd8YiHoMtYk_a9E2QliaEheG3-gfMB16YPq0&r=0CI94H5N2--bjV7hBG0Lb1p63qM15RJ0xebCD0NmzGA&m=ahXdYvE01VbmY_n0jLbCNN4mNQwxa038wl2ctVmFAmA&s=VMjBbeUfo1j8V-ASPsfHFwnW-cJh69zpgF3NWDYTAoNM&e=> [http://i.imgur.com/rxe1w6av.png] <https://urldefense.proofpoint.com/v2/url?u=https-3A__www.linkedin.com_company_catholic-2Dcharities-2Dfort-2Dworth&d=CwMFAQ&c=cpvmSBWXd8YiHoMtYk_a9E2QliaEheG3-gfMB16YPq0&r=0CI94H5N2--bjV7hBG0Lb1p63qM15RJ0xebCD0NmzGA&m=ahXdYvE01VbmY_n0jLbCNN4mNQwxa038wl2ctVmFAmA&s=uc_vRAU6WR-5e6rjmN6ka0VcSIIAvkAui-PvThh8usa&e=> [https://www.youtube.com/CCDOFW] <https://urldefense.proofpoint.com/v2/url?u=https-3A__www.youtube.com_CCDOFW&d=CwMFAQ&c=cpvmSBWXd8YiHoMtYk_a9E2QliaEheG3-gfMB16YPq0&r=0CI94H5N2--bjV7hBG0Lb1p63qM15RJ0xebCD0NmzGA&m=ahXdYvE01VbmY_n0jLbCNN4mNQwxa038wl2ctVmFAmA&s=qGGka7dSc1i2Q-K8zXbDLy96K6OnTePbY4gWpvgpSiQ&e=>

[Quoted text hidden]

Brenna Linehan <blinehan@ccdofw.org>

Tue, Feb 21, 2017 at 9:19 AM

To: "Esplin, Bryn S." <esplin@medicine.tamhsc.edu>

Cc: "fatma.marouf@law.tamu.edu" <fatma.marouf@law.tamu.edu>, bryn esplin <brynesplin@gmail.com>

Hi Bryn,

No worries, we understand. Does tomorrow at 9am work?

[Quoted text hidden]

Brenna Linehan

[Quoted text hidden]

F: 817.535.8779

App. 347

CCFW 000023

4/11/2018

Catholic Charities Diocese of Fort Worth Mail - Refugee Foster Care Program

CatholicCharitiesFortWorth.org

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Esplin, Bryn S. <esplin@medicine.tamhsc.edu>

Tue, Feb 21, 2017 at 9:25 AM

To: Brenna Linehan <blinehan@ccdofw.org>

Yes, that's perfect for both of us! I checked with Fatma this time :)

Feel free to call the same cell, (510) 499-6212 at that time.
-Bryn

From: Brenna Linehan <blinehan@ccdofw.org>
Date: Tuesday, February 21, 2017 at 9:19 AM**To:** "Esplin, Bryn S." <esplin@medicine.tamhsc.edu>
Cc: "fatma.marouf@law.tamu.edu" <fatma.marouf@law.tamu.edu>, bryn esplin
<brynesplin@gmail.com>

[Quoted text hidden]

[Quoted text hidden]

Marouf, Fatma E <fatma.marouf@law.tamu.edu>

Tue, Apr 25, 2017 at 11:03 AM

To: Brenna Linehan <blinehan@ccdofw.org>

Cc: "brynesplin@gmail.com" <brynesplin@gmail.com>

Hi Brenna,

My spouse and I had a phone conversation in February about international foster care. I believe it was with the Director of International Foster Care. I'm trying to find her contact information -- can you please send me her name and number?

Thank you!

Fatma

Fatma E. Marouf
Professor of Law
Director, Immigrant Rights Clinic
Texas A&M University School of Law
1515 Commerce St.

App. 348
CCFW 000024

4/11/2018

Catholic Charities Diocese of Fort Worth Mail - Refugee Foster Care Program

Fort Worth, Texas 76102

fatma.marouf@law.tamu.edu

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From: Brenna Linehan <blinehan@ccdofw.org>

Sent: Friday, February 17, 2017 12:34 PM

To: Esplin, Bryn S.

Cc: Marouf, Fatma E; bryn esplin

[Quoted text hidden]

[Quoted text hidden]

Brenna Linehan <blinehan@ccdofw.org>

To: Dana Springer <danaspringer@ccdofw.org>

Cc: Todd Beard <tbeard@ccdofw.org>

Tue, Apr 25, 2017 at 11:43 AM

----- Forwarded message -----

From: Marouf, Fatma E <fatma.marouf@law.tamu.edu>

Date: Tue, Apr 25, 2017 at 11:03 AM

Subject: Re: Refugee Foster Care Program

[Quoted text hidden]

--

Brenna Linehan

[Quoted text hidden]

F: 817.887.2179

CatholicCharitiesFortWorth.org

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Todd Beard <tbeard@ccdofw.org>

To: Dana Springer <danaspringer@ccdofw.org>

Cc: Brenna Linehan <blinehan@ccdofw.org>

Tue, Apr 25, 2017 at 1:40 PM

I think we may want to defer to Heather on this one. What do you think Dana?

[Quoted text hidden]

--

Todd A. Beard

People Team Director
Catholic Charities Fort Worth

App. 349

CCFW 000025

4/11/2018

Catholic Charities Diocese of Fort Worth Mail - Refugee Foster Care Program

O: 817.289.3813

F: 817.887.2179

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Dana Springer <danaspringer@ccdofw.org>
 To: Todd Beard <tbeard@ccdofw.org>
 Cc: Brenna Linehan <blinehan@ccdofw.org>

Tue, Apr 25, 2017 at 1:50 PM

I already did. :)

Sent from my iPhone

[Quoted text hidden]

Todd Beard <tbeard@ccdofw.org>
 To: Dana Springer <danaspringer@ccdofw.org>
 Cc: Brenna Linehan <blinehan@ccdofw.org>

Tue, Apr 25, 2017 at 1:57 PM



[Quoted text hidden]

Dana Springer <danaspringer@ccdofw.org>
 To: Todd Beard <tbeard@ccdofw.org>
 Cc: Brenna Linehan <blinehan@ccdofw.org>

Tue, Apr 25, 2017 at 9:13 PM

Hi, Brenna:

Go ahead and give her my information and let her know that I'm best reached via email, though she's welcome to call if that's better for her.

Thanks,
 Dana

Sent from my iPhone

[Quoted text hidden]

Brenna Linehan <blinehan@ccdofw.org>
 To: "Marouf, Fatma E" <fatma.marouf@law.tamu.edu>
 Cc: "brynesplin@gmail.com" <brynesplin@gmail.com>

Mon, May 1, 2017 at 9:01 PM

Hi Fatma,

I apologize for the delay! Her name is Dana Springer, and her email is danaspringer@ccdofw.org. Her phone number is 817.289.3893.

Let me know if I can do anything else for you!

Thanks,
 Brenna

[Quoted text hidden]

Brenna Linehan

[Quoted text hidden]

App. 350

CCFW 000026

4/11/2018

Catholic Charities Diocese of Fort Worth Mail - Refugee Foster Care Program

F: 817.887.2179

CatholicCharitiesFortWorth.org

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Marouf, Fatma E <fatma.marouf@law.tamu.edu>
To: Brenna Linehan <blinehan@ccdofw.org>
Cc: "brynesplin@gmail.com" <brynesplin@gmail.com>

Mon, May 1, 2017 at 9:05 PM

Thank you!

Fatma

From: Brenna Linehan <blinehan@ccdofw.org>
Sent: Monday, May 1, 2017 9:01 PM
To: Marouf, Fatma E
Cc: brynesplin@gmail.com

[Quoted text hidden]

[Quoted text hidden]

Exhibit 18

Dana Springer

From: Dana Springer
Sent: Wednesday, February 22, 2017 9:30 AM
To: Heather Reynolds
Subject: RE: Refugee Foster Care Program

Third call I've had to do like this between yesterday and today. They actually all went super well (because I'm the queen of sharing this news now). Anyways, the conversation was going amazing, until I shared our qualifications for licensing foster parents based on our CST & Catholic doctrine – and then she said “well we’re a same sex couple” and then cut me off and basically told me that children are fleeing their home countries because they are homosexual. To which I said we have not experienced that, but thank you for sharing that information so that we can be prepared for any upcoming trends in refugees. Then she said “well, goodbye”. Todd and I feel it might not be the end of it – so there you have it ☺

Thanks,

Dana Springer MA, LCCA
Director of Child Welfare
Catholic Charities Fort Worth
O: 817.289.3893
F: 817.535.8779
CatholicCharitiesFortWorth.org

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From: Heather Reynolds [mailto:hreynolds@ccdofw.org]
Sent: Thursday, February 16, 2017 8:25 PM
To: Dana Springer <danaspringer@ccdofw.org>
Subject: RE: Refugee Foster Care Program

Yay!

From: Dana Springer [mailto:danaspringer@ccdofw.org]
Sent: Thursday, February 16, 2017 8:23 PM
To: Heather Reynolds <hreynolds@ccdofw.org>
Subject: Re: Refugee Foster Care Program

I'm fine with it - if it doesn't go well I can escalate up to y'all!

Dana Springer, MA, LCCA
Director of Child Welfare
Catholic Charities Fort Worth
(817) 289-3893

Sent from my iPhone

On Feb 16, 2017, at 8:03 PM, Heather Reynolds <hreynolds@ccdofw.org> wrote:

I think the best course is for you to call her, share what we would typically do regarding our foster parents, and go from there...what do you think?

From: Dana Springer [mailto:danaspringer@ccdofw.org]

Sent: Thursday, February 16, 2017 5:17 PM

To: Heather Reynolds <hreynolds@ccdofw.org>

Subject: Fwd: Refugee Foster Care Program

Dana Springer, MA, LCCA
Director of Child Welfare
Catholic Charities Fort Worth
(817) 289-3893

Sent from my iPhone

Begin forwarded message:

From: Brenna Linehan <blinehan@ccdofw.org>

Date: February 16, 2017 at 2:58:54 PM CST

To: Dana Springer <danaspringer@ccdofw.org>

Subject: Fwd: Refugee Foster Care Program

She left a voicemail today as well

Brenna Linehan

Begin forwarded message:

From: "Marouf, Fatma E" <fatma.marouf@law.tamu.edu>

Date: February 16, 2017 at 11:52:27 AM CST

To: "blinehan@ccdofw.org" <blinehan@ccdofw.org>

Cc: "brynesplin@gmail.com" <brynesplin@gmail.com>

Subject: Refugee Foster Care Program

Hi Brenna,

My spouse and I are interested in becoming foster parents through the refugee foster care program. Could you please let us know how to get more information about the program? We looked at the information online already and are interested in the next step.

Thank you!

Fatma

Fatma E. Marouf
Professor of Law
Director, Immigrant Rights Clinic
Texas A&M University School of Law
1515 Commerce St.
Fort Worth, Texas 76102
fatma.marouf@law.tamu.edu

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Exhibit 19



Migration and Refugee Services

Office of Special Programs

3211 4th Street NE, Washington, D.C. 20017-1194

Tel: (202) 541-3081/3357 • Fax: (202) 722-8747/3323

June 27, 2019

Mr. Bernard Morgan, Grants Manager
Office of Grants Management
Administration for Children and Families
U.S. Department of Health and Human Services
330 C Street, SW
Washington, DC 20201

Dear Mr. Morgan:

This letter is to inform you that the United States Conference of Catholic Bishops, Migration and Refugee Services (USCCB/MRS) is submitting a Change in Scope request for Grant #90ZU0163. Due to a change in mission focus of subrecipient Catholic Charities Diocese of Fort Worth, programming will be transferred to Catholic Charities of Dallas with a proposed transition date of July 1, 2019.

The only line item affected as a result of the Change in Scope is the contractual line item, splitting the annual cost of the program between the two subrecipients. USCCB is requesting an FY 2019 budget increase of \$36,640 to accommodate start up and transition costs of the new sub-recipient. The total approved Federal funding for the budget period being requested is \$5,990,117.

Sincerely,

A handwritten signature in black ink, appearing to read "Kathryn Kuennen".

Kathryn Kuennen

USCCB/MRS

Director, Children's Services

Exhibit 20



Administration for Children and Families

Office of Refugee Resettlement

Standing Announcement for Residential (Long Term Foster Care) Services for Unaccompanied Children

HHS-2017-ACF-ORR-ZU-1135

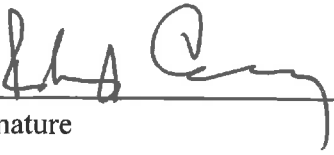
Application Due Date: 08/01/2016

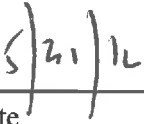
Due Date for Applications:

- FY 2016: 08/01/16
- FY 2017: 06/16/17
- FY 2018: 06/15/18

No applications will be accepted in between the open application periods.

Handwritten signature: Lisa C. [unclear] 5/31/16


Signature


Date

Standing Announcement for Residential (Long Term Foster Care) Services for Unaccompanied
Children

HHS-2017-ACF-ORR-ZU-1135

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**Department of Health & Human Services
Administration for Children and Families**

Program Office: Office of Refugee Resettlement
Funding Opportunity Title: Standing Announcement for Residential (Long Term Foster Care) Services for Unaccompanied Children
Announcement Type: Initial
Funding Opportunity Number: HHS-2017-ACF-ORR-ZU-1135
Primary CFDA Number: 93.676
Due Date for Applications: 08/01/2016

Due Date for Applications:

- FY 2016: 08/01/16
- FY 2017: 06/16/17
- FY 2018: 06/15/18

No applications will be accepted in between the open application periods.

Executive Summary

Notice:

- **Applicants are strongly encouraged to read the entire funding opportunity announcement (FOA) carefully and observe the application formatting requirements listed in *Section IV.2. Content and Form of Application Submission*. For more information on applying for grants, please visit "How to Apply for a Grant" on the ACF Grants Page at <http://www.acf.hhs.gov/grants/howto>.**

The Office of Refugee Resettlement/Division of Children's Services (ORR/DCS), within the Administration for Children and Families (ACF), provides temporary shelter care and other child welfare-related services to unaccompanied children (UC) in ORR custody. Residential care services begin once ORR accepts a UC for placement and ends when the UC is released from ORR custody, turns 18 years of age or the UC's immigration case results in a final disposition of removal from the United States. Residential care and other child welfare-related services are provided by state-licensed residential care programs in the least restrictive setting appropriate for the UC's age and needs.

ORR is announcing this funding opportunity announcement (FOA) to seek long-term foster care providers. Long term foster care providers are required to be licensed in the state in which they are located to provide foster care services and are required to meet the needs of UC by

providing quality care in a community setting. UC who may qualify for placement in long-term foster care include UC between the ages of 0-17 years of age, sibling groups, pregnant/parenting teens and/or UC who are especially vulnerable or with other needs.

All entities, funded under this FOA, must also comply with the *Flores v. Reno*, Case No. CV 85-4544RJK (C.D. Cal. 1996) (the *Flores* settlement agreement), the Perez-Olano Settlement Agreement, Case No. CV05-3604 (C.D. Cal., Dec. 14, 2010), pertinent regulations, laws, and ORR policies, instructions, and procedures. ORR encourages applicants to review ORR's policies, instructions, and procedures <http://www.acf.hhs.gov/programs/orr/resource/children-entering-the-united-states-unaccompanied> as these will be critical to the overall program design.

I. Program Description

Statutory Authority

This program is governed by: Section 462 of the Homeland Security Act (HSA) of 2002, 6 U.S.C. § 279, which in March 2003, transferred responsibility for the care and custody of UC from the Commissioner of the former Immigration and Naturalization Service to the Director of ORR. In making decisions on placement and services provided to UC, the Director is governed by §462 of the HSA of 2002; section 235 of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, Pub. L. No. 110-457 (TVPRA of 2008), as amended; relevant portions of the Prison Rape Elimination Act of 2003, Pub. L. No. 108-79 (PREA), as amended; and when it is not inconsistent with subsequent law, the *Flores* settlement agreement and the Perez-Olano Settlement Agreement, Case No. CV85-4544RJK (C. D. Cal. 1996) (Perez-Olano settlement agreement).

In December 2014, the Department of Health and Human Services (HHS) released an Interim Final Rule (IFR) on standards to prevent, detect, and respond to sexual abuse and sexual harassment involving UC. The IFR sets forth standards to prevent, detect, and respond to sexual abuse and sexual harassment in ORR care provider facilities that house UC in accordance with section 1101(c) of the Violence Against Women Reauthorization Act of 2013, Pub. L. 113-4 (VAWA 2013). The IFR does not apply to individual homes, such as the individual home of the long-term foster family with whom UC lives, but does apply to care providers and group homes. All long-term foster individual homes, group homes, and care providers must comply with relevant ORR policies and procedures related to sexual abuse and harassment

Description

BACKGROUND

The primary function of ORR/DCS is to provide temporary shelter care and other related services to UC in ORR custody.[1] The HSA of 2002 §462(g)(2) defines an unaccompanied alien child as a child who:

- (A) has no lawful immigration status in the United States;
- (B) has not attained 18 years of age; and
- (C) with respect to whom—

- (i) there is no parent or legal guardian in the United States; or
- (ii) no parent or legal guardian in the United States is available to provide care and physical custody.

Although the UC population generally consists of adolescents 12 to 17 years of age, with males representing a higher percentage of the overall population, ORR is seeking applicants who can provide services for a diverse population of UC of all ages and genders, as well as pregnant and parenting teens. UC come from all over the world, but most are from El Salvador, Honduras, Guatemala, and Mexico. Unless otherwise specified, successful applicants are expected to provide services for UC from any country.

UC are in the legal custody of the federal government throughout their stay in ORR care but are in the physical custody of the care provider. The majority of UC typically stay in ORR custody between 30-35 days, but a UC's length of care can vary. The size of the entire UC population in ORR custody will fluctuate depending on the number of UC the United States Department of Homeland Security refers to ORR for placement and the rate at which UC are discharged from ORR custody.

PROGRAM STRUCTURE

UC are referred to long term foster care (LTFC) following placement in a ORR/DCS care provider facility after efforts for the safe and timely release indicated no sponsor being willing or able to care for the UC. Generally, before placement into LTFC, the UC is interviewed by an immigration attorney and assessed for the basis of legal relief to remain in the United States. Once placed in LTFC, ORR continues to explore options for release. LTFC providers (care providers) meet the individual needs of UC aged from 0-17, sibling groups, pregnant/parenting teens, and/or UC who are especially vulnerable or with other special needs. Care providers must be licensed to provide foster care services by the relevant state or local agency or authority with jurisdiction where services will be rendered. In addition, care providers must have state-certified caregivers, referred to as a "foster parent" or "house parent" or an equivalent (as accepted by ORR). Care providers are responsible for recruiting, assessing, selecting, credentialing, training, monitoring, and retaining foster/house parents and foster care sites.

As community-based care, not all services are provided directly by the care provider. However, care providers remain responsible for ensuring that all required services, under the *Program Requirements* section in this FOA, are properly administered and documented. Care provider services include a continuum of services with a focus on basic care and providing placement in a home or home-like environment such as a group home. In a LTFC setting, care and stabilization of UC occurs in accordance with domestic child welfare guidelines administered through contracted provider programs specifically designed to meet the unique needs of UCs.

LTFC types vary depending on placement setting and level of care. Categories include: basic foster care, therapeutic foster care, basic group home (extended care), and/or therapeutic group home. Applicant can apply for one, multiple, or all levels of care under this FOA.

- Basic foster care: UC resides with an unrelated licensed foster parent(s) and requires only the minimal services required in a licensed foster care setting.

- Therapeutic foster care: UC resides with an unrelated licensed foster parent(s) but receives additional treatment services and/or supervision specific to the UC identified treatment needs. UC with significant emotional, behavioral, medical, and/or developmental needs receive structured treatment within a therapeutic foster care setting.
- Basic group home: UC resides in a group care living arrangement, with a designated house parent(s) and/or staff. This setting is used for those UC who do not wish to be placed in a family setting.
- Therapeutic group home: UC resides in a group care living arrangement with a designated house parent(s) and/or staff. This setting is used for those UC that have difficulties within a family setting and require therapeutic services/interventions due to significant emotional, behavioral, medical, and/or developmental needs. The UC receives additional treatment services and/or supervision specific to the UC identified treatment needs.

In addition to the placement settings mentioned above, care providers must have Respite Care/Homes available. Respite care is short term care of a UC by someone other than the primary foster parent(s). Respite care gives foster parent(s) and UC the chance to have short, regular periods of time apart in which they can rest and recharge. Respite care can also be offered in emergency situations, and it involves caring for a UC when a foster family must temporarily transfer the UC to a different home due to an emergency or other extenuating circumstances.

Care providers, not individual foster homes, must comply with the following ORR policies on sexual abuse and harassment:

- Maintaining and enforcing a zero tolerance policy for all forms of sexual abuse, sexual harassment, and inappropriate sexual behavior;
- Meeting personnel requirements including but not limited to background checks, training, and disciplinary sanctions and corrective actions;
- Meeting staffing and supervision requirements, including but not limited to staffing levels, staffing plans, and video monitoring restrictions;
- Providing responsive planning in the event there is an incident of sexual abuse or sexual harassment that occurs at the care provider facility;
- Providing a coordinated response in coordination with medical and mental health care practitioners community service providers, outside investigators, and care provider leadership immediately following an incident of sexual abuse or sexual harassment, as well as the follow-up necessary to ensure the safety of all UC and staff;
- Educating UC of policies and topics related to preventing, detecting, and responding to sexual abuse and harassment via an orientation, pamphlets, and bulletins board postings;
- Assessing all UC for risk of being a victim or a perpetrator of sexual abuse while in ORR care and custody in order to inform the UC's housing, education, recreation, and other service assignments;
- Providing medical and mental health care, including services following an incident of sexual abuse; and
- Reporting, providing notifications, and following up on sexual abuse, sexual harassment, and inappropriate sexual behavior occurring in ORR care, any retaliatory

actions resulting from reporting allegations, and staff neglect or violations of responsibilities that have contributed to incidents.

Unless waived by ORR, in addition to being state licensed, care providers must incorporate child welfare best practice standards and emphasize a child-centered approach while working with UC. Care providers must comply with all applicable state child welfare laws and regulations and all state and local building, fire, health, and safety codes.

Care providers' facility must be readily accessible to visitors, staff, and UC with disabilities and must comply with local, state and federal laws, codes, and regulations including the Americans with Disabilities Act (ADA).

Care providers are required to be located in areas easily accessible to immigration courts, pro bono legal services, national airports, and community mental health and medical services providers.

Care providers are required to have a security system to monitor the care provider facility from unauthorized entrance and egress, including the use of alarm systems and video monitoring. All security measures are required to be in compliance with state licensing standards and not pose a threat to the safety of UC. In the event a care provider provides services to UC at a central location, or location other than an individual foster care home, relevant security features, such as the use of video monitoring and storage are required.

Care providers must be familiar with the issue of human trafficking in order to provide appropriate services to UC who are victims of human trafficking, as well as to protect UC from potential threats of human trafficking. The Trafficking Victims Protection Act of 2008 (TVPA) defines human trafficking as: The recruitment, harboring, transportation, provision, or obtaining of a person for sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery. Any child (under the age of 18) engaged in commercial sex (including prostitution, pornography, stripping) is a victim of trafficking. For more information, click on link: <http://www.acf.hhs.gov/programs/orr/programs/anti-trafficking>.

UC Eligibility

A UC is a candidate for LTFC if he or she:[2]

- Is expected to have an extended stay of four months or more in ORR custody because he or she does not have a viable sponsor;
- A legal service provider has identified the UC as potentially eligible for various forms of immigration relief (unless waived by ORR); AND
- Is under the age of 17 and six months at the time of placement.

A UC who is ineligible for LTFC include:

- An UC with a moderate to high escape risk
- An UC with a history of significant criminal activity or violence who may pose a threat of harm to self, others (including the foster family), or community
- A UC who is seeking voluntary departure

ORR also considers a LTFC placement on a case-by-case basis for an UC who will have a longer stay due to other circumstances. ORR considers the following when making long term placement decisions:

- The UC's mental, emotional, behavioral, and physical health needs
- The UC's ability and commitment to live in a family and community-based setting
- The UC's age
- Availability of an appropriate placement that meets the individual's needs

However, a UC with past behavioral or safety concerns but who does not pose a threat to self, others (including the foster family) or the community may be considered for LTFC after demonstrating safe behavior in a non-secure setting.

LTFC Parent/House Parent Requirements

Care providers are required to follow the requirements of their state licensing agency; but at a minimum, all foster parents/house parents must:

- Be at least 21 years of age;
- Be able to obtain medical clearance from a health provider;
- Be able to meet family's current financial obligations;
- Reside in a home that passes health and fire inspection; and
- Obtain a background check clearance (including fingerprint background checks, child abuse and neglect checks, and other checks as required) in accordance with state law, including background checks of household members, the results of which must be available to ORR.

All foster parents identified to care for UC must meet the care provider's and state regulatory requirements and be actively licensed/certified to provide LTFC. Foster parents are required to attend, at a minimum, 30 hours of Model Approach to Partnership in Parenting (MAPP) Training or an equivalent foster parent training curriculum prior to being certified as a foster parent/house parent.

Care providers must recruit foster parents who are willing to foster UC males between the ages of 15-17 as they represent the majority of UC eligible for LTFC.

PROGRAM STAFFING REQUIREMENTS

Care providers are required to develop, implement, and document a staffing plan based on the population served, the scope and type of provided services, anticipated requirements, staff vacancies, and budgets. The staffing plan must include staffing ratios in accordance with state licensing requirements and as required by ORR's policies and procedures. Care provider facilities must be staffed with qualified professionals, bi-lingual professionals, paraprofessionals, and support staff to meet the diverse needs, level of care, supervision, safety, and well-being of UC. Care providers must also include a plan to staff sufficiently to cover a one-on-one safety plans, when necessary.

Care providers must supervise UC in accordance with state licensing requirements. However, staff-children ratios for group homes must be maintained at a minimum of:

- One on-duty staff for every eight UC during waking hours;
- One on-duty staff for every 16 UC during sleeping hours;
- One case manager for every eight UC; and
- One clinician for every 12 UC.

Care providers are subject to the provisions of the Service Contract Act, Code of Federal Regulations (CFR) Title 29 and must abide by applicable state wage determination guidelines in their programs. For additional information on the provisions of the Service Contract Act, please click here: <http://www.dol.gov/whd/govcontracts/sca.htm> and/or <http://www.wdol.gov/>.

Care providers must complete background investigations on all staff, contractors, and volunteers prior to hire to ensure the candidate is suitable for employment to work with minors in a residential setting. Background checks must be completed in accordance with ORR's policies and state licensing requirements. At a minimum, a background check must be updated every five years. For additional information on the specific types of checks that must be completed, please consult the ORR Policy Guide at section 4.3 Personnel <http://www.acf.hhs.gov/programs/orr/resource/children-entering-the-united-states-unaccompanied>.

All hired staff must (at the minimum):

- Be at least 21 years of age;
- Possess the relevant experience and/or qualifications to work with UC and/or children with special needs; and
- Be properly trained and licensed, as necessary.

Care providers' hiring and employment practices must abide by all standards outlined in the IFR on preventing, detecting, and responding to sexual abuse and sexual harassment standards apply to any care provider staff member, contractor or volunteer. For additional information on the standards outlined in the IFR, please click here: <http://www.acf.hhs.gov/programs/orr/resource/children-entering-the-united-states-unaccompanied-section-4#4.3> and/or <http://www.regulations.gov/#!documentDetail;D=ACF-2015-0002-0001>.

Care providers must have job descriptions and selection criteria for all staff positions that state the qualifications, performance standards, and responsibilities for each position (each job description must include a section on Essential Functions as mandated by ADA).

Care providers are required to have a clear organizational structure that outlines lines of authority and supervision. Staffing plans must be in place that provide a sound relationship between the proposed responsibilities of lead program staff.

Care providers must obtain prior approval from ORR for the positions noted below. Exceptions to the minimum qualifications require ORR's explicit written approval prior to hire.

Program Director is responsible for the overall management of the programmatic, administrative, financial, and operational systems related to the provision of care and services; provision of regular and timely reports to ORR regarding operations, services, and finances; establishing a respectful and supportive workplace environment; and elevating any issues or concerns to ORR. At a minimum, Program Director must have a Master's degree in social

work or an equivalent degree in education, psychology, sociology, or other relevant behavioral science degree or bachelor's degree plus five years' experience in child welfare administration, child protective services, program management, or as director of a licensed child care program. The Program Director must possess the administrator's license for the care provider's facility, if applicable.

Assistant Program Director provides support to the Program Director and serves as secondary liaison with ORR. The need for an Assistant Program Director will vary depending on the number of UC served at care provider facility. At a minimum, the Assistant Program Director must have a Bachelor's degree in education, psychology, sociology or other relevant behavioral science plus five years of progressive employment experience with a social services or childcare agency or organization.

Lead Clinician coordinates clinical services, trains new clinicians, and supervises clinical staff. At a minimum, the Lead Clinician must have a Master's degree in social work with clinical experience or Master's degree in psychology, sociology, or other relevant behavioral science in which clinical experience is a program requirement or a bachelor's degree plus five years clinical employment experience. Lead Clinician must be licensed.

Clinician conducts mental health assessments and provides ongoing individual and group counseling services, screens for human trafficking concerns, and provides crisis intervention services. At a minimum, the Clinician must have a Master's degree in social work with clinical experience or Master's degree in psychology, sociology or other relevant behavioral science in which clinical experience is a program requirement, or a bachelor's degree plus five years clinical employment experience. Clinician must be licensed or eligible for licensure.

Lead Case Manager is responsible for coordinating case management and safe and timely release services, training new case managers, and supervising the work of other case manager. At minimum, the Lead Case Manager must have a Master's degree in the behavioral sciences, human services or social services fields or bachelor's degree and at least three years progressive employment experience that demonstrates supervisory and case management experience.

Prevention of Sexual Abuse (PSA) Compliance Manager is responsible for managing implementation and ongoing compliance with the IFR on preventing, detecting, and responding to sexual abuse and sexual harassment. For additional information, please click here: <http://www.acf.hhs.gov/programs/orr/resource/children-entering-the-united-states-unaccompanied-section-4#4.2>. At minimum, the PSA Compliance Manager must have a Bachelor's degree in behavioral sciences, human services or social service fields or business administration or management, and at least one year experience working with child welfare standards, best practices, quality assurance or compliance.

PROGRAM REQUIREMENTS

Care providers are required to provide services in a structured, safe, and productive environment that meets respective state guidelines, relevant federal law and the ORR Policy Guide: <http://www.acf.hhs.gov/programs/orr/resource/children-entering-the-united-states-unaccompanied>.

Care providers are required to provide or arrange for the required program services in a

manner that is sensitive to the age, culture, religion, dietary needs, native language, sexual orientation, gender identity, and other unique needs of each UC. All UC in ORR care are entitled to human rights protections and freedom from discrimination and abuse. Care providers must ensure that UC who are lesbian, gay, bisexual, transgender, questioning, or intersex (LGBTQI) are fairly treated and served during their time in ORR custody. All services and assessments are required to be administered for all UC even if they are in ORR custody for a short period of time. Care providers are required to provide care and access to services in the language spoken by the UC and/or provide translation services.

Care providers are expected to provide all the services under *Program Requirements* unless otherwise noted in this announcement.

Important Time-Frames

Care providers must adhere to specific time-frames for required assessments and/or reports that must be administered to UC.

Report / Assessment	Initial Deadline
Initial Intakes Assessment	Within 24 hours of admission
Initial Medical Exam	Within 48 hours of admission
UC Assessment	Within five days of admission
Individual Service Plan	Within seven days of admission
UC Case Review	On the UC's 30th day in care and subsequently every 90 days

Acculturation and Adaptation Services

Care providers are required to provide acculturation and adaptation services that include the development of social and interpersonal skills that contribute to the ability to live independently and responsibly in the community.

Case Management Services

Care providers are required to implement and administer a case management system that tracks and monitors a UC's progress on a regular basis to ensure that each UC receives the full range of program services in an integrated and comprehensive manner. Care provider's case managers are required to meet with UC, at a minimum, twice a month, to include one face-to-face and one telephonic contact. The care provider's case management team is also responsible for maintenance of the UC Portal. All placement, transfer, and release requests, as well as all significant incident reports are processed through this web-based system. When necessary, the care provider's case management staff are required to also work collaboratively with agencies that conduct home studies and provide post release services. If applicable, care providers are required to conduct safety and well-being follow-up calls to a UC and sponsor 30 days after the UC is released.

Educational Services in a Community Based School

Educational services are required to be provided daily, Monday through Friday, and to be appropriate to the UC's level of development, education, and communication skills.

Educational services are required to be administered in a structured classroom setting and concentrate primarily on the development of basic academic competencies and secondarily on English Language Training. The educational program consists of instruction, educational materials, and other reading materials in the following basic academic areas: Science, Social Studies, Mathematics, Reading, Writing, and Physical Education. Care providers are required to enroll UCs into the local school district of the foster and/or group home.

Individual Counseling

Individual counseling, when needed, must be provided by qualified mental health professional.

Individualized Needs Assessments

Care providers are required to maintain individualized ongoing assessment for each UC, which includes:

- *Initial Intakes Assessment* (initial intake assessment, psychosocial summary, and trauma and human trafficking assessment), to be completed within five days of UC placement care provider, to gather initial information relating to the UC's journey; the UC and family's psychosocial assessment; trauma and substance abuse history; information about a UC's work history or concerns about working to pay off debt; exploitation or trafficking concerns; and other essential data relating to the identification and history of the UC and his/her family;
- An *Assessment for Risk*, which must be updated every 90 days, developed to identify risk factors for potential sexual victimization or sexual abuser tendencies so early intervention can take place to mitigate any potential risks or safety concerns;
- A *UC Assessment* and periodic *UC Case Review* every 90 days assessing the UC's:
 - mental health and identification of any special medical needs, including any specific issues that may require immediate intervention;
 - an educational assessment and plan;
 - ongoing assessment of a UC's behavioral issues and any previous juvenile justice or criminal involvement;
 - a statement of religious preference and practice; and
 - identifying information and continuing to pursue additional information regarding the UC's immediate family members, other relatives, or family friends who may be residing in the United States and able to be a UC's sponsor.

Individual Service Plan

Care providers are required to complete a comprehensive and realistic Individual Service Plan (ISP), every 90 days, for each UC in accordance with the UC's needs as determined by the UC Assessments and assessment of any trafficking concerns. ISPs are implemented and closely coordinated through an operative clinical assessment and intervention plan, as well as a case management system. The ISP must be completed within seven days of admission and updated every 90 days thereafter. In cases where human trafficking is suspected or confirmed, the care provider is required to refer the UC to ACF's Office of Anti-Trafficking in Persons division and provide or refer the UC for other services to ensure the UC has access to all services guaranteed by TVPRA of 2008.

Legal Services

Care providers are required to inform UC of the availability of free legal assistance, the right to be represented by counsel at no expense to the federal government and the rights victims of trafficking have under TVPRA of 2008. A private space for the UC and his/her attorney to meet and confer on legal matters must be made available.

The care provider must make reasonable accommodations to allow the UC to meet privately with their attorney and attend all hearings or proceedings to which the UC is a party.

Maintenance of Case Files

Care providers must maintain comprehensive, accurate, and up-to-date case files, as well as electronic records on UC that are kept confidential and secure at all times and must be accessible to ORR upon request. Electronic records include those on the care provider's network drive, as well as those on the UC Portal. Care providers must have written policies and procedures for organizing and maintaining the content of active and closed case files that incorporate state licensing requirements and/or accrediting agency requirements and ORR policies and procedures.

Medical Services

Care providers are required to provide:

- a complete medical examination (including a screening for infectious diseases) within 48 business hours of admission; excluding weekends and holidays, only if UC does not have documentation of a medical examination completed within the previous six months at another ORR facility;
- appropriate immunizations in accordance with the United States Public Health Service and the Centers for Disease Control and Prevention;
- family planning services, including pregnancy tests and comprehensive information about and access to medical reproductive health services and emergency contraception;
- other appropriate and routine medical and dental care;
- emergency health care services;
- administration of prescribed medication and special diets;
- appropriate mental health interventions, when necessary;
- arranging forensic medical examinations, as necessary; and
- sexually transmitted infections prophylaxis.

Mental Health Services

Care providers are required to provide clinical services, including regular on-site (or community based) individual and group counseling sessions and have the ability to access community mental health services for UC with special needs. Community mental health services include psychiatric evaluations and treatment, medication assessments and management, crisis intervention, in-patient acute psychiatric care, and other clinical interventions as identified by ORR.

Nutritional Services

Care providers must provide nutritional services in accordance with United States Department of Agriculture and HHS nutritional guidelines and state licensing requirements. They also must establish procedures to accommodate dietary restrictions, food allergies, health issues,

and religious or spiritual dietary requirements.

Orientation

Within 48 hours of admission, care providers are required to provide every UC with a comprehensive program orientation that covers the program's/foster/group home's services, rules (written and verbal), expectations, zero tolerance policy towards sexual abuse and sexual harassment and the availability of free legal assistance. The orientation must be provided in formats that are accessible to UC who are limited English proficient, deaf, visually impaired or otherwise disabled, as well as those who have limited reading skills.

Religious Access

Whenever possible, care providers must provide or arrange for access to any available religious services of the UC's choice. Care providers must abide by 45 CFR § 87.1(c), which prohibits the program administrators from providing inherently religious activities, such as worship, religious instruction or proselytization, as part of the federally funded program or services. This means that the materials disseminated by staff persons must be neutral in their treatment of religion. Neither staff nor materials used in these programs should promote, endorse, or favor religious beliefs over non-religious beliefs, nor should they disparage religious beliefs in any way. Further, they should not express a judgment with regard to religious beliefs or non-belief, or seek to influence the beliefs of UC with respect to religion. Yet, this does not limit the speech of any UCs who might choose to talk about religion, as long as the program administrators, instructors, or officials do not control, encourage, or approve of their speech after the fact. For example, a UC may choose to engage in prayer, subject to the same rules designed to prevent material disruption of the program that are applied to any other privately initiated speech. Additionally, as indicated above, care providers should provide or arrange for access to outside privately funded religious services that a UC requests by, for example, providing television access or arranging for transportation to such services.

If a care provider chooses to operate a program with inherently religious content then the provider must take steps to completely separate that program from the federally funded services in time or location, and do so in such a way that it is clear that the two programs are separate and distinct. For example, the inherently religious program may be offered in another facility. Yet, participation in that program must be voluntary for any UCs that chooses to attend, and that program must be privately funded.

Right to Privacy

UC have a reasonable right to privacy that includes the right to: (a) wear his or her own clothes (b) retain a private space in the residential facility, group, or foster home for the storage of personal belongings; (c) talk privately on the phone, as permitted by the care provider/foster home rules and regulations; (d) visit privately with guests, as permitted by care provider/foster home rules and regulations; and (e) receive and send uncensored mail unless there is a reasonable belief that the mail contains contraband.

Rules/Behavior Management

Care providers' program rules and discipline standards are required to be formulated with consideration for the range of ages and maturity levels of UC in the program and with cultural sensitivity towards all UC. A behavior management plan, used by the care

provider/foster/group home, must meet child welfare best practice standards and must be approved by ORR. Each foster/group home must have basic rules posted in both English and UCs native language. These rules must be reviewed with UC upon placement into foster/group home with a focus on safety, respect, and family living. Misbehavior must be resolved on an individual basis. All interventions must be positive, strength-based and must never subject UC to corporal punishment, humiliation, mental abuse, or punitive interference with the daily functions of living, such as eating or sleeping.

Safe and Timely Release Services

Care providers must adhere to ORR's policies and procedures that are in place to ensure the care and safety of UC. These policies require the timely release of UC to qualified parents, guardians, relatives or other adults, referred to as "sponsors." Safe and timely release must occur within a setting that promotes public safety and ensures that sponsors are able to provide for the physical and mental well-being of children. ORR evaluates potential sponsors' ability to provide for the UC's physical and mental well-being, as the law requires ORR to protect UC from smugglers, traffickers, or others who might seek to victimize or otherwise engage the UC in criminal, harmful or exploitative activity. The process for the safe and timely release of a UC from ORR custody involves many steps, including: the identification of sponsors; the submission by a sponsor of the application for release and supporting documentation; the evaluation of the suitability of the sponsor, including verification of the sponsor's identity and relationship to the UC, background checks, and in some cases home studies; and planning for post-release. The provision of safe and timely release services will be monitored and evaluated by ORR, and poor performance may result in corrective actions or termination of the agreement.

As a general matter, UC in long-term foster care do not have immediate sponsorship options and their placement into long-term foster care is a result of this. However, long-term foster care providers are required to continue efforts to identify a potential sponsor for UC in their care.

Safety Planning

Care providers must develop a written safety and security plan that includes policies and procedures for all UC in its care and program staff. The safety plan must address emergency situations covering the following areas: runaways, evacuations (for example due to a hurricane, fire, or other emergency), medical and mental health emergencies, and disease outbreaks.

Care providers must meet the safety requirements maintained by state and/or local licensing entities, fire code regulations, and local zoning and building code regulations.

Transportation/Escort

Care providers are required to provide UC with transportation services to local airports and if necessary provide an escort for the UC according to ORR policies and to local services and appointments, such as medical, mental health, and dental appointments, immigration court hearings, or community services as part of the ISP.

Visitation/Phone Calls

UC must be provided the opportunity to make a minimum of two telephone calls per week (10

minutes each) to family members and/or sponsors, in a private setting. UC are allowed to call both family members and sponsors living in the United States and abroad. UC also have a right to receive visitors. Attorneys of record are required to have reasonable access to UC according to ORR/DCS instructions and procedures and care provider's time and place restrictions. Visitations may need to occur in a setting other than the foster home placement to ensure the safety and well-being of the UC and others in the foster home.

Vocational Educational Services

Care providers are encouraged to create or provide access to vocational training opportunities that will provide UC with practical and competitive job skills and assist in the preparation for adulthood. Vocational programs may not replace academic education or be a substitute for the basic subject areas.

In addition to the *Program Requirements* listed above and here: <http://www.acf.hhs.gov/programs/orr/resource/children-entering-the-united-states-unaccompanied-section-3#3.3>, care providers must adhere to the requirements of the IFR which can be found by clicking on the link: <http://www.regulations.gov/#!documentDetail;D=ACF-2015-0002-0001>.

For more information on application requirements, please see *Section IV.2. The Project Description*.

FAITH BASED ORGANIZATIONS

Consistent with the ACF Policy on Grants to Faith-Based Organizations (please see *Section III.1 Eligible Applicants* for more information), ACF is mindful that potential grantees may have religious objections to providing certain kinds of services. ACF is committed to providing the full range of legally permissible services to people who need them, and to do so in a timely fashion and in a manner that respects the diverse religious and cultural backgrounds of those we serve. At the same time, ACF is also committed to exploring ways for organizations to partner with ACF and other grantees even if they object to providing specific services on religious grounds.

If an organization has a religious objection to providing any of the services required in the program, it may propose an approach to meeting its grant obligations consistent with ACF's faith-based policy. The alternative approach must be one that accomplishes the goal of ensuring that UC in ORR's custody understand the full range of services available in the program, including family planning services, and that there is a mechanism by which UC requesting such services can receive appropriate services. If an alternative approach is proposed, ORR will decide whether to accept the alternative approach, based upon a determination of whether the alternative approach will ensure timely provision of all services for which the individual is eligible, is not burdensome to the client, and is operationally feasible for ACF.

POST-AWARD REQUIREMENTS

ORR is seeking approval from the Office of Management and Budget (OMB) for information collection under the Paperwork Reduction Act (PRA) on the forms for post-award reporting. Forms will include, but are not limited to:

- UC Portal Capacity Report

- Notice of Placement in Secure or Staff Secure Facility
- Initial Intakes Assessment
- UC Assessment
- ISP
- UC Case Review Form
- Significant Incident Report (SIR)
- Sexual Abuse SIR Form
- Assessment for Risk Form
- Care Provider Incident Review Form
- New Sponsor Form
- Transfer Request and Tracking Form
- Long Term Foster Care Placement Memo
- Travel Request form for UC Long Term Foster Care
- Notice of Transfer to Immigration and Customs Enforcement (ICE) Chief Counsel and Change of Address
- Care Provider Family Reunification Checklist
- Release Request
- Discharge Notification
- Verification of Release
- Child Advocate Referral and Appointment Form
- Notice of Rights and Provision of Services Handout
- Legal Service Provider List for UC

NOTE: Consistent with the PRA of 1995, 44 U.S.C. §§ 3501-3521, under this FOA, ORR will not conduct or sponsor – and a person is not required to respond to - a collection of information covered by such Act, unless it displays a currently valid OMB control number. ORR is seeking approval of its UC forms through the OMB Office of Information and Regulatory Affairs. ORR will not request this information if these forms are not approved at the time that reports are due.

Please see Section VI.3. Reporting for more information.

[1] The term “unaccompanied child” or “UC” is used in place of the statutory term “unaccompanied alien child,” but it retains the statutory meaning.

[2] This references current ORR policy found in the ORR Policy Guide. Eligibility requirements pertaining to this policy are subject to change by ORR. In the event these policies or implementing procedures are revised ORR will notify the long term foster care provider.

II. Federal Award Information

Funding Instrument Type:	Cooperative Agreement
Estimated Total Funding:	\$13,500,000
Expected Number of Awards:	15

Award Ceiling: \$2,500,000 Per Budget Period
 Award Floor: \$100,000 Per Budget Period
 Average Projected Award Amount: \$900,000 Per Budget Period
 Anticipated Project Start Date: 10/01/2016

Length of Project Periods:

Length of Project Period: 36-month project with three 12-month budget periods

Additional Information on Awards:

Awards made under this announcement are subject to the availability of federal funds.

Applications requesting an award amount that exceeds the *Award Ceiling* per budget period, or per project period, as stated in this section, will be disqualified from competitive review and from funding under this announcement. This disqualification applies only to the *Award Ceiling* listed for the first 12-month budget period for projects with multiple budget periods. If the project and budget period are the same, the disqualification applies to the *Award Ceiling* listed for the project period. Please see *Section III.3. Other, Application Disqualification Factors*.

Note: For those programs that require matching or cost sharing, recipients will be held accountable for projected commitments of non-federal resources in their application budgets and budget justifications by budget period or by project period for fully funded awards, even if the projected commitment exceeds the required amount of match or cost share. **A recipient's failure to provide the required matching amount may result in the disallowance of federal funds.** See *Section III.2.* of this announcement for information on cost-sharing or matching requirements.

Funds for years two through three will be awarded on the basis of submission and approval of the non-competing continuation applications. Awards are subject to the satisfactory progress by the grantee and a determination that continued funding would be in the best interest of the federal government.

Applicants proposing staff allocated to several funding sources or several funding applications must ensure that Full Time Employees (FTEs) allocations do not exceed 100%.

Description of ACF's Anticipated Substantial Involvement Under the Cooperative Agreement

ORR supports grantees in the following areas:

- The design, implementation, and modification of program activities, services, and facilities;
- The design of protocols or procedures;
- The evaluation of contractors (if applicable);
- The approval of key program staff;

- The provision of training and technical assistance to staff;
- Input of case information into the UC Portal;
- Select decisions regarding individual case management activities; and
- The approval of all releases of UC to sponsors, when applicable.

ORR monitors grantees by reviewing of budgets, mandatory reports, and overall compliance outlined by the ORR/DCS policies and procedures manual. ORR will not request any UC reports from grantees unless it has received OMB approval under PRA. Although ORR reviews budgets, the Office of Grants Management (OGM) is included in all budgetary and fiscal matters and final budget approval is made by OGM.

III. Eligibility Information

III.1. Eligible Applicants

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 60 days of award to provide residential, group, or foster care services for dependent children.

Applications from individuals (including sole proprietorships) and foreign entities are not eligible and will be disqualified from competitive review and from funding under this announcement. See *Section III.3. Other, Application Disqualification Factors*.

Faith-based and community organizations that meet the eligibility requirements are eligible to receive awards under this funding opportunity announcement. Faith-based organizations are encouraged to review the ACF Policy on Grants to Faith-Based Organizations at: <http://www.acf.hhs.gov/acf-policy-on-grants-to-faith-based-organizations>.

See *Section IV.2. Legal Status of Applicant Entity* for documentation required to support eligibility.

III.2. Cost Sharing or Matching

Cost Sharing / Matching Requirement: No

For all federal awards, any shared costs or matching funds and all contributions, including cash and third-party in-kind contributions, must be accepted as part of the recipient's cost sharing or matching when such contributions meet all of the criteria listed in 45 CFR 75.306.

For awards that require matching by statute, recipients will be held accountable for projected commitments of non-federal resources in their application budgets and budget justifications by budget period, or by project period for fully funded awards, even if the projected commitment exceeds the amount required by the statutory match. **A recipient's failure to provide the statutorily required matching amount may result in the disallowance of federal funds. Recipients will be required to report these funds in the Federal Financial Reports.**

For awards that do not require matching or cost sharing by statute, where "cost sharing"

refers to any situation in which the recipient voluntarily shares in the costs of a project other than as statutorily required matching. These include situations in which contributions are voluntarily proposed by an applicant and are accepted by ACF. Non-federal cost sharing will be included in the approved project budget so that the applicant will be held accountable for proposed non-federal cost-sharing funds as shown in the Notice of Award (NOA). **A recipient's failure to provide voluntary cost sharing of non-federal resources that have been accepted by ACF as part of the approved project costs and that have been shown as part of the approved project budget in the NOA, may result in the disallowance of federal funds. Recipients will be required to report these funds in the Federal Financial Reports.**

III.3. Other

Application Disqualification Factors

Applications from individuals (including sole proprietorships) and foreign entities are not eligible and will be disqualified from competitive review and from funding under this announcement.

Award Ceiling Disqualification

Applications that request an award amount that exceeds the *Award Ceiling* per budget period or per project period as stated in *Section II. Federal Award Information*, will be disqualified from competitive review and from funding under this announcement. This disqualification applies only to the *Award Ceiling* listed for first 12-month budget period for projects with multiple budget periods. If the project and budget period are the same, the disqualification applies to the *Award Ceiling* listed for the project period.

Required Electronic Application Submission

ACF requires electronic submission of applications at www.Grants.gov. **Paper applications received from applicants that have not been approved for an exemption from required electronic submission will be disqualified from competitive review and from funding under this announcement.**

Applicants that do not have an Internet connection or sufficient computing capacity to upload large documents to the Internet may contact ACF for an exemption that will allow the applicant to submit applications in paper format. Information and the requirements for requesting an exemption from required electronic application submission are found in "Request an Exemption from Electronic Application Submission" in *Section IV.2. Content and Form of Application Submission*.

Missing the Application Deadlines (Late Applications)

The deadline for electronic application submission is 11:59 p.m., ET, on the due date listed in the Overview and in Section IV.4. Submission Dates and Times. Electronic applications submitted to www.Grants.gov after 11:59 p.m., ET, on the due date, as indicated by a dated and time-stamped email from www.Grants.gov, will be disqualified from competitive review and from funding under this announcement. That is, applications

submitted to www.Grants.gov, on or after 12:00 a.m., ET, on the day after the due date will be disqualified from competitive review and from funding under this announcement.

Applications submitted to www.Grants.gov at any time during the open application period, and prior to the due date and time, which fail the www.Grants.gov validation check, will not be received at, or acknowledged by, ACF.

Each time an application is submitted via www.Grants.gov, the submission will generate a new date and time-stamp email notification. Only those applications with on-time date and time stamps that result in a validated application, which is transmitted to ACF, will be acknowledged.

The deadline for receipt of paper applications is 4:30 p.m., ET, on the due date listed in the Overview and in Section IV.4. Submission Dates and Times. Paper applications received after 4:30 p.m., ET, on the due date will be disqualified from competitive review and from funding under this announcement. **Paper applications received from applicants that have not received approval of an exemption from required electronic submission will be disqualified from competitive review and from funding under this announcement.**

Notification of Application Disqualification

Applications that are disqualified under these criteria are considered to be “non-responsive” and are excluded from the competitive review process. Applicants will be notified of a disqualification determination by email or by USPS postal mail within 30 federal business days from the closing date of this FOA.

IV. Application and Submission Information

IV.1. Address to Request Application Package

Shannon McGhee
Administration for Children and Families
Office of Refugee Resettlement
Division of Children's Services
330 C Street, SW
Washington, DC 20201
Phone: (202) 205-9513
Fax: (202) 401-1022
Email: DCS_ProjectOfficers@acf.hhs.gov

Electronic Application Submission:

The electronic application submission package is available in the FOA's listing at www.Grants.gov.

Applications in Paper Format:

For applicants that have received an exemption to submit applications in paper format,

Standard Forms, assurances, and certifications are available in the Application Package available in the FOA's Grants.gov synopsis at www.Grants.gov. They are also available at <http://www.grants.gov/web/grants/forms/sf-424-family.html#sortby=1>. See *Section IV.2. Request an Exemption from Required Electronic Application Submission* if applicants do not have an Internet connection or sufficient computing capacity to upload large documents (files) to www.Grants.gov.

Standard Forms that are compliant with Section 508 of the Rehabilitation Act (29 U.S.C. § 794d):

Available at the Grants.gov Forms Repository website at <http://www.grants.gov/web/grants/forms/sf-424-family.html#sortby=1>.

Federal Relay Service:

Hearing-impaired and speech-impaired callers may contact the Federal Relay Service (FedRelay) for assistance at www.gsa.gov/fedrelay.

IV.2. Content and Form of Application Submission

FORMATTING APPLICATION SUBMISSIONS

In FY 2013 ACF implemented a new application upload requirement. Each applicant applying electronically via www.Grants.gov is required to upload only two electronic files, excluding Standard Forms and OMB-approved forms. No more than two files will be accepted for the review, and additional files will be removed. Standard Forms and OMB-approved forms will not be considered additional files.

FOR ALL APPLICATIONS:

Authorized Organizational Representative (AOR)

AOR is the designated representative of the applicant/recipient organization with authority to act on the organization's behalf in matters related to the award and administration of grants. In signing a grant application, this individual agrees that the organization will assume the obligations imposed by applicable Federal statutes and regulations and other terms and conditions of the award, including any assurances, if a grant is awarded.

AOR authorization is part of the registration process at www.Grants.gov, where the AOR will create a short profile and obtain a username and password from the Grants.gov Credential Provider. AORs will only be authorized for the DUNS number registered in the System for Awards Management (SAM).

Point of Contact

In addition to the AOR, a point of contact on matters involving the application must also be identified. The point of contact, known as the Project Director or Principal Investigator, should not be identical to the person identified as the AOR. The point of contact must be available to answer any questions pertaining to the application.

Application Checklist

Applicants may refer to *Section VIII. Other Information* for a checklist of application requirements that may be used in developing and organizing application materials.

Accepted Font Style

Applications must be in Times New Roman (TNR), 12-point font, except for footnotes, which may be TNR 10-point font.

Page Limitations

Applicants must observe the page limitation(s) listed under "PAGE LIMITATIONS AND CONTENT FOR ALL SUBMISSION FORMATS:". Page limitation(s) do not include SFs and OMB-approved forms.

All applications must be double-spaced. An application that exceeds the cited page limitation for double-spaced pages in the Project Description file or the Appendices file will have the last extra pages removed and the removed pages will not be reviewed.

Application Elements Exempted from Double-Spacing Requirements

The following elements of the application submission are exempt from the double-spacing requirements and may be single-spaced: the table of contents, the one-page Project Summary/Abstract, required Assurances and Certifications, required SFs, required OMB-approved forms, resumes, logic models, proof of legal status/non-profit status, third-party agreements, letters of support, footnotes, tables, the line-item budget and/or the budget justification.

Adherence to FOA Formatting, Font, and Page Limitation Requirements

Applications that fail to adhere to ACF's FOA formatting, font, and page limitation requirements will be adjusted by the removal of page(s) from the application. Pages will be removed before the objective review. The removed page(s) will not be made available to reviewers.

In instances where formatting and font requirements are not adhered to, ACF uses a formula to determine the actual number of pages to be removed. The formula counts the number of characters an applicant uses when following the instructions and using 12-point TNR and compares the resulting number with that of the submitted application. For example, an applicant using TNR, 11-point font, with 1-inch margins all around, and single-spacing, would have an additional 26 lines, or 1500 characters, which is equal to 4/5 of an additional page. Extra pages resulting from this formula will be removed and will not be reviewed. Applications that have more than one scanned page of a document on a single page will have the page(s) removed from the review.

For applicants that submit paper applications, double-sided pages will be counted as two pages. When the maximum allowed number of pages is reached, excess pages will be removed and will not be made available to reviewers.

NOTE: Applicants failing to adhere to ACF's FOA formatting, font, and page limitation requirements will receive a letter from ACF notifying them that their application was

amended. The letter will be sent after awards have been issued and will specify the reason(s) for removal of page(s).

Copies Required

Applicants must submit one complete copy of the application package electronically. Applicants submitting electronic applications need not provide additional copies of their application package.

Applicants submitting applications in paper format must submit one original and two copies of the complete application, including all Standard Forms and OMB-approved forms. The original copy must have original signatures.

Signatures

Applicants submitting electronic applications must follow the registration and application submission instructions provided at www.Grants.gov.

The original of a paper format application must include original signatures of the authorized representatives.

Accepted Application Format

With the exception of the required Standard Forms (SFs) and OMB-approved forms, all application materials must be formatted so that they are 8 ½" x 11" white paper with 1-inch margins all around.

If possible, applicants are encouraged to include page numbers for each page within the application.

ACF generally does not encourage submission of scanned documents as they tend to have reduced clarity and readability. If documents must be scanned, the font size on any scanned documents must be large enough so that it is readable. Documents must be scanned page-for-page, meaning that applicants may not scan more than one page of a document onto a single page.

PAGE LIMITATIONS AND CONTENT FOR ALL SUBMISSION FORMATS:

With the exception of the Standard Forms and OMB-approved forms, the application submission in its entirety (Project Description and Appendices) is limited to 100 pages.

The Project Description (Narrative) includes the following:

- A one page Project Summary/Abstract;
- Table of Contents;
- Approach;
- Organizational Capacity;
- Line-item Budget and Budget Justifications; and
- Program Performance Evaluation Plan.

The Appendices includes the following:

- Required Certifications and Assurances;
- Proof of Legal Status;
- A List of Organization's Board of Directors;
- Third-Party Agreements;
- Resumes of Current Staff, and/or Position Descriptions;
- Organizational Chart of Applicant Entity and the Project;
- Letter of Agreement with a Cognizant Federal Agency on Indirect Charges, if applicable;
- Letters of Support;
- Proof of licensure or license eligibility to provide residential, group, or foster care services;
- Management Letter/Summary Report in lieu of full audit reports; and
- Any other information the applicant deems relevant and necessary.

ELECTRONIC APPLICATION SUBMISSION INSTRUCTIONS

Applicants are required to submit their applications electronically unless they have requested and received an exemption that will allow submission in paper format. See *Section IV.2. Application Submission Options* for information about requesting an exemption.

Electronic applications will only be accepted via www.Grants.gov. **ACF will not accept applications submitted via email or via facsimile.**

Each applicant is required to upload ONLY two electronic files, excluding SFs and OMB-approved forms.

File One: Must contain the entire Project Description, and the Budget and Budget Justification (including a line-item budget and a budget narrative).

File Two: Must contain all documents required in the Appendices.

Adherence to the Two-File Requirement

No more than two files will be accepted for the review. Applications with additional files will be amended and files will be removed from the review. SFs and OMB-approved forms will not be considered additional files.

Application Upload Requirements

ACF strongly recommends that electronic applications be uploaded as Portable Document Files (PDFs). One file must contain the entire Project Description and Budget Justification; the other file must contain all documents required in the Appendices. Details on the content of each of the two files, as well as page limitations, are listed earlier in this section.

To adhere to the two-file requirement, applicants may need to convert and/or merge documents together using a PDF converter software. Many recent versions of Microsoft

Office include the ability to save documents to the PDF format without need of additional software. Applicants using the Adobe Professional software suite will be able to merge these documents together. ACF recommends merging documents electronically rather than scanning multiple documents into one document manually, as scanned documents may have reduced clarity and readability.

Applicants must ensure that the version of Adobe Professional they are using is compatible with Grants.gov. To verify Adobe software compatibility please go to Grants.gov and click on "Support" at the top bar menu and select "Adobe Software Compatibility", which is listed under the topic "Find Answers Online." The Adobe verification process allows applicants to test their version of the software by opening a test application package. Grants.gov also includes guidance on how to download a supported version of Adobe, as well as troubleshooting instructions if an applicant is unable to open the test application package. There is also a help page for configuring Firefox and Chrome to open PDFs using Adobe software.

The Adobe Software Compatibility page located on Grants.gov also provides guidance for applicants that have received error messages while attempting to save an application package. It also addresses local network and/or computer security settings and the impact this has on use of Adobe software.

For any systems issues experienced with Grants.gov or with SAM.gov, please refer to ACF's "Policy for Applicants Experiencing Federal Systems Issues" document for complete guidance at https://www.acf.hhs.gov/sites/default/files/assets/systems_issue_policy_final.pdf under "How to Apply for a Grant/Submit an Application."

Required Standard Forms (SFs) and OMB-approved Forms

Standard Forms (SFs) and OMB-approved forms, such as the SF-424 application and budget forms and the SF-P/PSL (Project/Performance Site Location), are uploaded separately at Grants.gov. These forms are submitted separately from the Project Description and Appendices files. See *Section IV.2. Required Forms, Assurances, and Certifications* for the listing of required Standard Forms, OMB-approved forms, and required assurances and certifications.

Naming Application Submission Files

Carefully observe the file naming conventions required by www.Grants.gov. Limit file names to 50 characters (characters and spaces). Special characters that are allowed under Grants.gov's naming conventions, and are accommodated by ACF's systems, are listed in the instructions available in the Download Application Package at Grants.gov. Please also see <http://www.grants.gov/web/grants/applicants/submitting-utf-8-special-characters.html>.

Use only file formats supported by ACF

It is critical that applicants submit applications using only the supported file formats listed here. While ACF supports all of the following file formats, we **strongly**

recommend that the two application submission files (Project Description and Appendices) are uploaded as PDF documents in order to comply with the two file upload limitation. Documents in file formats that are not supported by ACF will be removed from the application and will not be used in the competitive review. This may make the application incomplete and ACF will not make any awards based on an incomplete application.

ACF supports the following file formats:

- Adobe PDF – Portable Document Format (.pdf)
- Microsoft Word (.doc or .docx)
- Microsoft Excel (.xls or .xlsx)
- Microsoft PowerPoint (.ppt)
- Corel WordPerfect (.wpd)
- Image Formats (.JPG, .GIF, .TIFF, or .BMP only)

Do Not Encrypt or Password-Protect the Electronic Application Files

If ACF cannot access submitted electronic files because they are encrypted or password protected, the affected file will be removed from the application and will not be reviewed. This removal may make the application incomplete and ACF will not make awards based on an incomplete application.

FORMATTING FOR PAPER APPLICATION SUBMISSIONS:

The following requirements are only applicable to applications submitted in paper format. Applicants must receive an exemption from ACF in order for a paper format application to be accepted for review. See *Section IV.2. Request an Exemption from Required Electronic Application Submission* later in this section under *Application Submission Options* for more information.

Format Requirements for Paper Applications

All copies of mailed or hand-delivered paper applications must be submitted in a single package. If an applicant is submitting multiple applications under a single FOA, or multiple applications under separate FOAs, each application submission must be packaged separately. The package(s) must be clearly labeled for the specific FOA it addresses by FOA title and by Funding Opportunity Number (FON).

Because each application will be duplicated, do not use or include separate covers, binders, clips, tabs, plastic inserts, maps, brochures, or any other items that cannot be processed easily on a photocopy machine with an automatic feed. Do not bind, clip, staple, or fasten in any way separate sections of the application. Applicants are advised that the copies of the application submitted, not the original, will be reproduced by the federal government for review. **All application materials must be one-sided for duplication purposes. All pages in the application submission must be sequentially numbered.**

Addresses for Submission of Paper Applications

See *Section IV.7. Other Submission Requirements* for addresses for paper format

application submissions.

Required Forms, Assurances, and Certifications

Applicants seeking grant or cooperative agreement awards under this announcement must submit the listed Standard Forms (SFs), assurances, and certifications with the application. All required Standard Forms, assurances, and certifications are available in the Application Package posted for this FOA at www.Grants.gov.

Other versions of required Standard Forms, assurances, and certifications are available at Grants.gov <http://www.grants.gov/web/grants/forms/sf-424-family.html>.

Forms / Assurances / Certifications	Submission Requirement	Notes / Description
SF-LLL - Disclosure of Lobbying Activities	If submission of this form is applicable, it is due at the time of application. If it is not available at the time of application, it may also be submitted prior to the award of a grant.	If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the applicant shall complete and submit the SF-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
SF-424A - Budget Information - Non-Construction Programs and SF-424B - Assurances - Non-Construction Programs	Submission is required for all applicants when applying for a non-construction project. Standard Forms must be used. Forms must be submitted by the	Required for all applications when applying for a non-construction project. By signing and submitting the SF-424B, applicants are making the appropriate certification of their compliance with all federal

	application due date.	statutes relating to nondiscrimination.
Certification Regarding Lobbying (Grants.gov Lobbying Form)	Submission required of all applicants with the application package. If it is not submitted with the application package, it must be submitted prior to the award of a grant.	Submission of the certification is required for all applicants.
SF-424 Key Contact Form	Submission is required for all applicants by the application due date.	Required for all applications.
SF-424 - Application for Federal Assistance	Submission is required for all applicants by the application due date.	Required for all applications.
Mandatory Grant Disclosure	Submission is required for all applicants and recipients, in writing, to the awarding agency and to the HHS Office of the Inspector General (OIG) all information related to violations of federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the federal award. Disclosures must be sent in writing to: The Administration for Children and	Mandatory Disclosures, 45 CFR 75.113

	Families, U.S. Department of Health and Human Services, Office of Grants Management, ATTN: Grants Management Specialist, 330 C Street, SW., Switzer Building, Corridor 3200, Washington, DC 20201 <u>And</u> U.S. Department of Health and Human Services, Office of Inspector General, ATTN: Mandatory Grant Disclosures, Intake Coordinator, 330 Independence Avenue, SW., Cohen Building, Room 5527, Washington, DC 20201	
DUNS Number (Unique Entity Identifier) and Systems for Award Management (SAM) registration.	A DUNS number (Unique Entity Identifier) is required of all applicants. To obtain a DUNS number, go to http://fedgov.dnb.com/webform. Active registration at the Systems Award Management (SAM) website must be maintained	A DUNS number (Unique Entity Identifier) and SAM registration are eligibility requirements for all applicants. See <i>Section IV.3. Unique Entity Identifier and System for Award Management (SAM)</i> for more information.

	throughout the application and project award period. SAM registration is available at http://www.sam.gov .	
SF-Project/Performance Site Location(s) (SF-P/PSL)	Submission is required for all applicants by the application due date.	Required for all applications. In the SF-P/PSL, applicants may cite their primary location and up to 29 additional performance sites.

ORR Non-discrimination Assurance

Submission of an application for this funding opportunity constitutes assurance that in serving beneficiaries of this program; applicants have made reasonable good faith efforts to:

- have policies prohibiting discrimination and harassment of such beneficiaries based on race, sexual orientation, gender, gender identity (or expression), religion, and national origin in place;
- be inclusive of and non-stigmatizing toward lesbian, gay, bisexual, and transgender LGBTQI individuals including LGBTQI youth;
- ensure that all staff serving program beneficiaries are trained to prevent and respond to harassment in all forms; and
- to monitor claims of harassment and discrimination of beneficiaries, address them seriously, and document corrective action(s) so all participants are assured that programs are safe, inclusive, and non-stigmatizing by design and in operation.

Submission of an application for this award further constitutes an assurance that any subcontractors directly engaged in the care and custody of UC:

- will be inclusive of and non-stigmatizing toward LGBTQI individual, including LGBTQI youth;
- will ensure that all staff will be trained prior to program implementation on how to prevent and respond to harassment and discrimination of beneficiaries in all forms, and;
- are prepared to monitor claims of harassment and discrimination of beneficiaries, address them seriously, and document corrective action(s) so all participants are assured that programs are safe, inclusive, and non-stigmatizing by design and in operation.

Non-Federal Reviewers

Since ACF will be using non-federal reviewers in the review process, applicants have the option of omitting from the application copies (not the original) specific salary rates or amounts for individuals specified in the application budget as well as Social Security Numbers, if otherwise required for individuals. The copies may include summary salary information. If applicants are submitting their application electronically, ACF will omit the same specific salary rate information from copies made for use during the review and selection process.

The Project Description**The Project Description Overview****Purpose**

The project description provides the majority of information by which an application is evaluated and ranked in competition with other applications for available assistance. It should address the activity for which federal funds are being requested, and should be consistent with the goals and objectives of the program as described in *Section I. Program Description*. Supporting documents should be included where they can present information clearly and succinctly. When appropriate, applicants should cite the evaluation criteria that are relevant to specific components of their project description. Awarding offices use this and other information in making their funding recommendations. It is important, therefore, that this information be included in the application in a manner that is clear and complete.

General Expectations and Instructions

Applicants should develop project descriptions that focus on outcomes and convey strategies for achieving intended performance. Project descriptions are evaluated on the basis of substance and measurable outcomes, not length. Extensive exhibits are not required. Cross-referencing should be used rather than repetition. Supporting information concerning activities that will not be directly funded by the grant or information that does not directly pertain to an integral part of the grant-funded activity should be placed in an appendix.

General Instructions for Preparing a Full Project Description**Introduction**

Applicants must prepare the project description statement in accordance with the following instructions while being aware of the specified evaluation criteria in *Section V.1. Criteria*. The text options give a broad overview of what the project description should include while the evaluation criteria identify the measures that will be used to evaluate applications.

Table of Contents

List the contents of the application including corresponding page numbers. The table of contents must be single spaced and will be counted against the total page limitations.

Project Summary/Abstract

Provide a summary of the application's project description. The summary must be clear, accurate, concise, and without reference to other parts of the application. The abstract must include a brief description of the proposed grant project including the needs to be addressed, the proposed services, and the population group(s) to be served.

Please place the following at the top of the abstract:

- Project Title
- Applicant Name
- Address
- Contact Phone Numbers (Voice, Fax)
- E-Mail Address
- Web Site Address, if applicable

The project abstract must be single-spaced, in Times New Roman 12-point font, and limited to one page in length. Additional pages will be removed and will not be reviewed.

Approach

Outline a plan of action that describes the scope and detail of how the proposed project will be accomplished. Applicants must account for all functions or activities identified in the application. Describe any design or technological innovations, reductions in cost or time, or extraordinary social and/or community involvement in the project. Provide a list of organizations, cooperating entities, consultants, or other key individuals that will work on the project, along with a short description of the nature of their effort or contribution.

Cite potential obstacles and challenges to accomplishing project goals and explain strategies that will be used to address these challenges.

Program Design and Service Provision

- Applicants must describe their overall program design for either foster and/or group care and provide documentation supporting its ability to provide the required program services indicated in *Section I, Program Requirements*.
- Applicants must describe how their service delivery for either foster and/or group care is sensitive to the culture, native language, sexual orientation, and special needs of UC.
- Applicant's program design for either foster and/or group care must describe how it is appropriate for the target population.
- Applicants must describe experience and proficiency in implementing a behavioral management plan for either foster and/or group care as indicated *Section I, Program Requirements, Rules/Behavior Management*.
- Applicants must describe experience and provide documentation supporting their ability to provide appropriate case management services for either foster and/or group care including developing and updating ISPs, as well as other assessment required by ORR.
- Applicants must describe their ability to comply with the pertinent laws, regulations and settlement agreements, and with ORR policies, procedures, and instructions as referenced in *Section I, Program Description, Statutory Authority*.

- Applicants must design developmentally appropriate programs for either foster and/or group care that address the specialized and individual needs of all UC, including vulnerable and traumatized UC.
- Applicants must describe their capacity to identify possible victims of human trafficking and other crimes.
- Applicants must describe the ability to process the identification and safe and timely release of UC.
- Applicants must describe their ability to recruit and train foster parents utilizing MAPP or an equivalent foster parent training curriculum.
- If an applicant has a religious objection to providing any of ORR's required program services, applicant must explicitly describe an alternative approach to meeting the grant obligations consistent with ACF's faith-based policy. The alternative approach must be one that accomplishes the goal of ensuring that UC in ORR's custody understand the full range of services available in the program, including family planning services, and that there is a mechanism by which UC requesting such services can receive appropriate services. The alternative approach must ensure that all services for which the UC is eligible are timely, not be burdensome to the UC, and be operationally feasible for ORR.

Program Management

- Applicants must provide a comprehensive overview of the applicant's organization, including qualifications, history, organizational mission and goals, and lists of all federal, state, or local funded grants and/or contracts received.
- Applicants must describe their experience in the provision of child welfare services, child protective services, services to children with special needs and/or victims of trafficking, youth outreach, and/or other social services. Describe organizational experience working directly with UC or cross cultural/international or related services to children from various cultural backgrounds, various language capabilities, and special needs, including vulnerability to human trafficking.
- Applicants must provide documentation of clear organizational structure outlining lines of authority and supervision.
- Applicants must describe a plan to implement ORR's sexual abuse and harassment policies, including, but not limited to appropriate screening of new hires, developing internal policy documents, and training staff on PREA policies.
- Applicants must describe staffing plans that provide a sound relationship between the proposed responsibilities of lead program staff, including Program Director, Lead Clinician, and Lead Case Manager, and the educational and professional experience required for the position according to requirements outlined in *Section I, Program Staffing Requirements*.
- As required by state licensing, applicants must provide a detailed plan for completing background checks for applicable staff, contractors, and volunteers.
- Applicants must describe the ability to provide a comprehensive staff training plan that meets state licensing requirements, ORR policy requirements and include elements specific to working with the UC population, prevention and intervention in child abuse and neglect, including local reporting procedures and staff code of conduct.
- Applicants must describe case management staff is proficient in using the Internet and

related computer programs.

Administrative and Service Environment

- Applicants must describe their overall program service environment for foster and/or group care and provide documentation supporting its ability to provide the required program services indicated in *Section I, Program Requirements*.
- Applicants must describe the facility's accessibility to immigration court, airports, fire, police, and the local community. Applicants must provide evidence on the feasibility of administering a program in the area that is proposed.
- Applicants must clearly describe and/or provide photographs of the proposed facility (including description of sleeping arrangements, food preparation, kitchen and dining area, classrooms, office space, rest rooms, outside recreation areas, and living space).
- Applicants must describe that the facility meets all relevant zoning, licensing, fire, safety, and health codes required to operate a residential based social service program. Applicants must provide detailed information regarding type of state licensure, including information on capacity, age/gender permitted, and length of stay allowable. Any and all documented state licensing allegations/concerns must be reported.
- Applicants must explain and document facility ownership or leasing agreements.
- Applicants must describe all security measures for the facility and describe how they adequately meet the requirements of the program in order to prevent unauthorized absence from the facility and to monitor those who enter and exit the facility.
- Applicants must provide documented evidence/references or letters of local community support and acceptance of the applicant's program. This must include established relationships with local emergency services (i.e., police, fire), medical and mental health agencies, religious and community organizations, and state licensing offices' recommendations for serving UC.

Project Timeline and Milestones

Provide quantitative monthly or quarterly projections of the accomplishments to be achieved for each function, or activity, in such terms as the number of people to be served and the number of activities accomplished. Data may be organized and presented as project tasks and subtasks with their corresponding timelines during the project period. For example, each project task could be assigned to a row in the first column of a grid. Then, a unit of time could be assigned to each subsequent column, beginning with the first unit (i.e., week, month, quarter) of the project and ending with the last. Shading, arrows, or other markings could be used across the applicable grid boxes or cells, representing units of time, to indicate the approximate duration and/or frequency of each task and its start and end dates within the project period.

When accomplishments cannot be quantified by activity or function, list them in chronological order to show the schedule of accomplishments and their target dates.

Program Performance Evaluation Plan

Applicants must describe the plan for the program performance evaluation that will contribute to continuous quality improvement. The program performance evaluation should monitor ongoing processes and the progress towards the goals and objectives of the project. Include descriptions of the inputs (e.g., organizational profile, collaborative partners, key staff, budget, and other resources), key processes, and expected outcomes of the funded activities. The plan may be supported by a logic model and must explain how the inputs, processes and outcomes will be measured, and how the resulting information will be used to inform improvement of funded activities.

Applicants must describe the systems and processes that will support the organization's performance management requirements through effective tracking of performance outcomes, including a description of how the organization will collect and manage data (e.g. assigned skilled staff, data management software) in a way that allows for accurate and timely reporting of performance outcomes. Applicants must describe any potential obstacles for implementing the program performance evaluation and how those obstacles will be addressed.

- Applicants must describe effective and resource-efficient strategies for programmatic control, predictability, and accountability as evidenced by the program design for either foster and/or group care.
- Applicants must describe evaluation methodology based on performance. Focus must be placed on child welfare practices, particularly child safety and ability to ensure safe and timely release for those UC with potential sponsors, when applicable. Applicants must describe measures that effectively track performance in this area.
- Applicants must provide an effective plan for developing and maintaining internal structure, control, and accountability through programmatic means.
- Applicants must describe ability to produce statistical reports to track demographics and performance of program.
- Applicants must describe ability to maintain adequate records, including client files, medical files, financial files and personnel files.
- Applicants must provide documentation of a system that preserves the confidentiality of UC information and protects the records from unauthorized use or disclosure. The records of UC are the property of ORR and are required to be provided to ORR upon request.
- Applicants must describe the ability to make regular reports as required by ORR that permit ORR to monitor and enforce the Flores Settlement Agreement, federal requirements, ORR policies and procedures and other requirements and standards. ORR will not request any UC reports from grantees unless it has received OMB approval under PRA.
- Applicants must describe the ability to implement and maintain the UC Portal.
- Applicants must include a plan for assessing performance with regard to the safe and timely release process for UC, when applicable. Applicants must address how it will monitor the progression of individual cases and include a clear structured timeline with regard to working with each UC safe and timely release, when applicable.

Geographic Location

Describe the precise location of the project and boundaries of the area to be served by the proposed project.

Legal Status of Applicant Entity

Applicants must provide the following documentation:

Applicants must provide documentation in order to certify their legal status and/or eligibility. This may include but is not limited to, Governing Board Membership Documentation and/or articles of incorporation.

Non-profit organizations applying for funding are required to submit proof of their non-profit status. Proof of non-profit status is any one of the following:

- A reference to the applicant organization's listing in the IRS's most recent list of tax-exempt organizations described in the IRS Code.
- A copy of a currently valid IRS tax-exemption certificate.
- A statement from a state taxing body, state attorney general, or other appropriate state official certifying that the applicant organization has non-profit status and that none of the net earnings accrue to any private shareholders or individuals.
- A certified copy of the organization's certificate of incorporation or similar document that clearly establishes non-profit status.
- Any of the items in the subparagraphs immediately above for a state or national parent organization and a statement signed by the parent organization that the applicant organization is a local non-profit affiliate.

Unless directed otherwise, applicants must include proof of non-profit status in the *Appendices* file of the electronic application submission.

Additional Eligibility Documentation

Applicants must provide the additional, required documentation, or required credentials, to support eligibility for an award, as described in *Section III. Eligibility Information* of this announcement:

Applicant must provide documentation of licensure or eligibility (temporary, provisional, or an equivalent license) with license being issued, by a state licensing agency, within 60 days of award to provide residential, group, or foster care services for dependent children.

Organizational Capacity

Provide the following information on the applicant organization and, if applicable, on any cooperating partners:

- Organizational charts;
- Resumes (no more than two single-spaced pages in length);
- Financial statements adhering to Generally Accepted Accounting Principles (GAAP), if available, submit statements for up to the two most recently completed fiscal years (this requirement does not apply to start-up organizations);

- Audit reports or statements from Certified Public Accountants/Licensed Public Accountants, if available, submit statements for up to the two most recently completed fiscal years (this requirement does not apply to start-up organizations);
- Copy or description of the applicant organization's fiscal control and accountability procedures;
- Evidence that the applicant organization, and any partnering organizations, have relevant experience and expertise with administration, development, implementation, management, and evaluation of programs similar to that offered under this announcement;
- Evidence that each participating organization, including partners and/or subcontractors, possess the organizational capability to fulfill their role(s) and function(s) effectively;
- Child care licenses and other documentation of professional accreditation;
- Information on compliance with federal/state/local government standards;

Protection of Sensitive and/or Confidential Information

If any confidential or sensitive information will be collected during the course of the project, whether from staff (e.g., background investigations) or project participants and/or project beneficiaries, provide a description of the methods that will be used to ensure that confidential and/or sensitive information is properly handled and safeguarded. Also provide a plan for the disposition of such information at the end of the project period.

Third-Party Agreements

Third-party agreements include Memoranda of Understanding (MOU) and Letters of Commitment. General letters of support are **not** considered to be third-party agreements. Third-party agreements must clearly describe the project activities and support to which the third party is committing. Third-party agreements must be signed by the person in the third-party organization with the authority to make such commitments on behalf of their organization.

Provide written and signed agreements between grantees and subgrantees, or subcontractors, or other cooperating entities. These agreements must detail the scope of work to be performed, work schedules, remuneration, and other terms and conditions that structure or define the relationship.

Letters Of Support

Provide statements from community, public, and commercial leaders that support the project proposed for funding. All submissions must be included in the application package.

Plan for Oversight of Federal Award Funds

Provide a plan describing how oversight of federal funds will be ensured and how grant activities and partner(s) will adhere to applicable federal and programmatic regulations. Applicants must identify staff that will be responsible for maintaining oversight of program activities, staff, and partner(s). Applicants must describe procedures and policies used to oversee staff and/or partners/contractors.

Describe organizational records systems that relate financial data to performance data by identifying the source and application of federal funds so that they demonstrate effective control over and accountability for funds, compare outlays with budget amounts, and provide accounting records supported by source documentation.

The Project Budget and Budget Justification

All applicants are required to submit a project budget and budget justification with their application. The project budget is entered on the Budget Information Standard Form, either SF-424A or SF-424C, according to the directions provided with the SFs. The budget justification consists of a budget narrative and a line-item budget detail that includes detailed calculations for "object class categories" identified on the Budget Information Standard Form. Applicants must indicate the method they are selecting for their indirect cost rate. See Indirect Charges for further information.

Project budget calculations must include estimation methods, quantities, unit costs, and other similar quantitative detail sufficient for the calculation to be duplicated. If matching or cost sharing is a requirement, applicants must include a detailed listing of any funding sources identified in Block 18 of the SF-424 (Application for Federal Assistance). See the table in *Section IV.2. Required Forms, Assurances, and Certifications* listing the appropriate budget forms to use in this application.

Special Note: *The Consolidated Appropriations Act, 2016, (Division E, Title VII, General Provisions – Government-Wide), limits the salary amount that may be awarded and charged to ACF grants and cooperative agreements. Award funds issued under this announcement may not be used to pay the salary, or any percentage of salary, to an individual at a rate in excess of Executive Level II. The Executive Level II salary of the "Rates of Pay for the Executive Schedule" is \$185,100. This amount reflects an individual's base salary exclusive of fringe benefits and any income that an individual may be permitted to earn outside of the duties of the applicant organization. This salary limitation also applies to subawards and subcontracts under an ACF grant or cooperative agreement.*

Provide a budget using the 424A and/or 424C, as applicable, for each year of the proposed project. Provide a budget justification, which includes a budget narrative and a line-item detail, for the first year of the proposed project. The budget narrative should describe how the categorical costs are derived. Discuss the necessity, reasonableness, and allocation of the proposed costs.

Applicants proposing staff allocated to several funding sources or several funding applications must ensure that FTE allocations does not exceed 100%. Budgets must include the names of staff for positions already filled and level of effort (percentage dedicated to the project).

Funding for UC medical services is provided under a separate ORR managed care program and must not be included as a component of the applicant's budget. However, applicant must

include the cost of coordinating medical, dental, and mental health services. Coordination will include over the counter medication, having a staff person who dispenses medication, and books, and transports UC's to medical appointments.

Based on UC needs, transfer to a facility within ORR network may be necessary. In addition, temporary placement, outside of ORR network, in an acute psychiatric hospital and/or psychiatric residential setting, would require transportation of UC for placement and discharge once treatment has been completed. Placement decisions, outside of ORR's network, are initiated by the care provider in conjunction with ORR and final approval is made by ORR. These transfers would include airfare, escort, and transport to and from airport/facility. Applicant should include transport cost for no more than one percent of the estimated number of UC applicant proposes to serve annually.

Applicants and their subcontractor(s), if applicable, must provide a description of an internal financial monitoring system that demonstrates structure and accountability, as well as describe effective fiscal management and accountability. A discussion of most recent audit and findings should be included.

For profit organizations must clearly describe that they are only charging the program actual cost incurred.

General

Use the following guidelines for preparing the budget and budget justification. Both federal and non-federal resources (when required) shall be detailed and justified in the budget and budget narrative justification. "Federal resources" refers only to the ACF grant funds for which you are applying. "Non-federal resources" are all other non-ACF federal and non-federal resources. It is suggested that budget amounts and computations be presented in a columnar format: first column, object class categories; second column, federal budget; next column(s), non-federal budget(s); and last column, total budget. The budget justification should be in a narrative form.

Personnel

Description: Costs of employee salaries and wages.

Justification: Identify the project director or principal investigator, if known at the time of application. For each staff person provide: the title; time commitment to the project in months; time commitment to the project as a percentage or full-time equivalent; annual salary; grant salary; wage rates; etc. Do not include the costs of consultants, personnel costs of delegate agencies, or of specific project(s) and/or businesses to be financed by the applicant. Contractors and consultants should not be placed under this category.

Fringe Benefits

Description: Costs of employee fringe benefits unless treated as part of an approved indirect cost rate.

Justification: Provide a breakdown of the amounts and percentages that comprise fringe benefit costs such as health insurance, Federal Insurance Contributions Act (FICA) taxes,

retirement insurance, and taxes.

Travel

Description: Costs of out-of-state or overnight project-related travel by employees of the applicant organization. Do not include in-state travel or consultant travel.

Justification: For each trip show the total number of traveler(s); travel destination; duration of trip; per diem; mileage allowances, if privately owned vehicles will be used to travel out of town; and other transportation costs and subsistence allowances. If appropriate for this project, travel costs for key project staff to attend ACF-sponsored workshops/conferences/grantee orientations should be detailed in the budget.

Equipment

Description: "Equipment" means an article of nonexpendable, tangible personal property having a useful life of more than one year per unit and an acquisition cost that equals or exceeds the lesser of: (a) the capitalization level established by the organization for the financial statement purposes, or (b) \$5,000. (Note: Acquisition cost means the net invoice unit price of an item of equipment, including the cost of any modifications, attachments, accessories, or auxiliary apparatus necessary to make it usable for the purpose for which it is acquired. Ancillary charges, such as taxes, duty, protective in-transit insurance, freight, and installation, shall be included in or excluded from acquisition cost in accordance with the applicant organization's regular written accounting practices.)

Justification: For each type of equipment requested applicants must provide a description of the equipment; the cost per unit; the number of units; the total cost; and a plan for use of the equipment in the project; as well as a plan for the use, and/or disposal of, the equipment after the project ends. An applicant organization that uses its own definition for equipment should provide a copy of its policy, or section of its policy, that includes the equipment definition.

Supplies

Description: Costs of all tangible personal property other than that included under the Equipment category. This includes office and other consumable supplies with a per-unit cost of less than \$5,000.

Justification: Specify general categories of supplies and their costs. Show computations and provide other information that supports the amount requested.

Contractual

Description: Costs of all contracts for services and goods except for those that belong under other categories such as equipment, supplies, construction, etc. Include third-party evaluation contracts, if applicable, and contracts with secondary recipient organizations (with budget detail), including delegate agencies and specific project(s) and/or businesses to be financed by the applicant. This area is not for individual consultants.

Justification: Demonstrate that all procurement transactions will be conducted in a manner to provide, to the maximum extent practical, open, and free competition. Recipients and

subrecipients are required to use 45 CFR 75.328 procedures and must justify any anticipated procurement action that is expected to be awarded without competition and exceeds the simplified acquisition threshold fixed by 41 U.S.C. § 134, as amended by 2 CFR Part 200.88, and currently set at \$150,000. Recipients may be required to make pre-award review and procurement documents, such as requests for proposals or invitations for bids, independent cost estimates, etc., available to ACF.

Note: Whenever the applicant intends to delegate part of the project to another agency, the applicant must provide a detailed budget and budget narrative for each contractor/sub-contractor, by agency title, along with the same supporting information referred to in these instructions. If the applicant plans to select the contractors/sub-contractors post-award and a detailed budget is not available at the time of application, the applicant must provide information on the nature of the work to be delegated, the estimated costs, and the process for selecting the delegate agency.

Other

Description: Enter the total of all other costs. Such costs, where applicable and appropriate, may include but are not limited to: consultant costs, local travel; insurance; food (when allowable); medical and dental costs (noncontractual); professional services costs (including audit charges); space and equipment rentals; printing and publication; computer use; training costs, such as tuition and stipends; staff development costs; and administrative costs.

Justification: Provide computations, a narrative description, and a justification for each cost under this category.

Indirect Charges

Description: Total amount of indirect costs. This category has one of two methods that an applicant can select. An applicant may only select one.

- 1) The applicant currently has an indirect cost rate approved by the Department of Health and Human Services (HHS) or another cognizant federal agency.

Note: An applicant must enclose a copy of the current approved rate agreement. If the applicant is requesting a rate that is less than what is allowed under the program, the authorized representative of the applicant organization must submit a signed acknowledgement that the applicant is accepting a lower rate than allowed.

- 2) Per 45 CFR § 75.414(f) Indirect (F&A) costs, "any non-Federal entity [i.e., applicant] that has never received a negotiated indirect costs rate, ... may elect to charge a de minimis rate of 10% of modified total direct costs (MTDC) which may be used indefinitely. As described in § 75.403, costs must be consistently charged as either indirect or direct costs, but may not be double charged or inconsistently charged as both. If chosen, this methodology once elected must be used consistently for all Federal awards until such time as a non-Federal entity chooses to negotiate for a rate, which the non-Federal entity may apply to do at any time."

Justification: This method only applies to applicants that have never received an approved negotiated indirect cost rate from HHS or another cognizant federal agency. Applicants

awaiting approval of their indirect cost proposal may request the 10 percent de minimis. When the applicant chooses this method, costs included in the indirect cost pool must not be charged as direct costs to the grant.

Program Income

Description: The estimated amount of income, if any, expected to be generated from this project. Program income includes, but is not limited to, income from fees for services performed, the use or rental of real or personal property acquired under federally-funded projects, the sale of commodities or items fabricated under an award, license fees and royalties on patents and copyrights, and interest on loans made with award funds.

Justification: Describe the nature, source, and anticipated use of program income in the budget or refer to the pages in the application that contain this information.

Commitment of Non-Federal Resources

Description: Amounts of non-federal resources that will be used to support the project as identified in Block 18 of the SF-424. The match calculation applies to the total project cost (including match) and not just to the federal share.

Justification: If an applicant is relying on match from a third party, then a firm commitment of these resources (letter or other documentation) is required with the application. Detailed budget information must be provided for every funding source identified in Block 18 of the SF-424.

Note: Applicants are required to fully identify and document in their applications the specific costs or contributions they propose in order to meet a matching or cost-sharing requirement. Applicants are also required to provide documentation in their applications on the sources of funding or contribution(s) and, for in-kind contributions, a justification of how the stated valuation was determined.

Paperwork Reduction Disclaimer

As required by the Paperwork Reduction Act of 1995, 44 U.S.C. §§ 3501-3521, the public reporting burden for the Project Description and Budget/Budget Justification is estimated to average 60 hours per response, including the time for reviewing instructions, gathering and maintaining the data needed, and reviewing the collection information. The Project Description and Budget/Budget Justification information collection is approved under OMB control number 0970-0139, expiration date is 01/31/2019. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Application Submission Options

Electronic Submission via www.Grants.gov

Additional guidance on the submission of electronic applications can be found at <http://www.grants.gov/web/grants/applicants/apply-for-grants.html>.

After a grant application package is submitted to www.Grants.gov, a confirmation

screen will appear on the applicant's computer screen. This screen confirms that an application has been submitted an application to Grants.gov. This page also contains a tracking number to identify the status of the application submission in the Track My Application feature.

When the application has completed the Grants.gov submission process, Grants.gov will send email messages to advise the applicant of the progress of the application through its system. **Over the next two business days, an applicant should receive two emails from Grants.gov:**

- **Submission Receipt Email:** Confirms successful receipt of the application by the Grants.gov system and indicates the application's status as "Received."
- **Submission Validation –OR– Rejection with Errors Email:** Indicates that the application was either successfully validated or rejected by Grants.gov. Either the application has been successfully validated by the system prior to transmission to the grantor agency or the application has been rejected due to errors.

Application Validation at www.Grants.gov

After an application has been successfully submitted to www.Grants.gov, it still must pass a series of validation checks. After an application is submitted, Grants.gov generates a submission receipt via email and also sets the application status to "Received." This receipt verifies that the application has been successfully delivered to the Grants.gov system.

Next, Grants.gov verifies the submission is valid by ensuring it does not contain viruses, the opportunity is still open, and the applicant login and applicant DUNS number match. If the submission is valid, Grants.gov generates a submission validation receipt via email and sets the application status to "Validated."

If the application is not validated, the application status is set to "Rejected." The system sends a rejection email notification to the applicant and the applicant must re-submit the application package. See "What to Expect After Submitting" at www.Grants.gov for more information.

Each time an application is re-submitted to www.Grants.gov, the applicant will receive a new **Submission Receipt Email**. Only applications with on-time date and time stamps in Submission Receipt Email, and that pass validation, will be transmitted to ACF. Applications that are submitted on time that fail the validation check are not be transmitted to ACF and will not be acknowledged.

NOTE: The Grants.gov validation check can affect whether the application is accepted for review. If an application fails the Grants.gov validation check and is not resubmitted by 11:59 p.m., ET, on the due date, it will not be transmitted to ACF and will be excluded from the review.

Similarly, if an applicant resubmits their application to Grants.gov by 11:59 p.m., ET, on the due date, and the resubmitted application does not pass the validation check, it will

not be transmitted to ACF and will be excluded from the review.

Grants.gov Support Center

- If applicants encounter any technical difficulties in using www.Grants.gov, contact the Grants.gov Support Center at: 1-800-518-4726, or by email at support@grants.gov, to report the problem and obtain assistance. Hours of Operation: 24 hours a day, 7 days a week. The Grants.gov Support Center is closed on federal holidays.
- Applicants should always retain Grants.gov Support Center service ticket number(s) as they may be needed for future reference.
- **Contact with the Grants.gov Support Center prior to the listed application due date and time does not ensure acceptance of an application. If difficulties are encountered, the Grants Management Officer listed in *Section VII. HHS Awarding Agency Contact(s)* will determine whether the submission issues are due to Grants.gov system errors or user error.**

Issues with Federal Systems

For any systems issues experienced with Grants.gov or SAM.gov, please refer to ACF's "Policy for Applicants Experiencing Federal Systems Issues" document for complete guidance

at https://www.acf.hhs.gov/sites/default/files/assets/systems_issue_policy_final.pdf.

Request an Exemption from Required Electronic Application Submission

ACF recognizes that some applicants may have limited or no Internet access, and/or limited computer capacity, which may prohibit them from uploading large files at www.Grants.gov. To accommodate such applicants, ACF offers an exemption from required electronic submission. The exemption will allow applicants to submit hard copy, paper applications by hand-delivery, applicant courier, overnight/express mail couriers, or by other representatives of the applicant.

To receive an exemption from required electronic application submission, applicants must submit a written request to ACF that must state that the applicant qualifies for the exemption for one of the two following reasons:

- Lack of Internet access or Internet connection, or
- Limited computer capacity that prevents the uploading of large documents (files) at www.Grants.gov.

Applicants may request and receive the exemption from required electronic application submission by either:

- Submitting an email request to electronicappexemption@acf.hhs.gov, or
- Sending a written request to the Office of Grants Management Contact listed in *Section VII. HHS Awarding Agency Contact(s)* in this announcement.

Requests for exemption from required electronic application submission will be

acknowledged with an approval or disapproval.

Requests that do not state one of the two listed reasons will not be approved.

An exemption is applicable to all applications submitted by the applicant organization during the Federal Fiscal Year (FFY) in which it is received. Applicants need only request an exemption once in a FFY. Applicants must request a new exemption from required electronic submission for any succeeding FFY.

Please Note: electronicappexemption@acf.hhs.gov may only be used to request an exemption from required electronic submission. All other inquiries must be directed to the appropriate agency contact listed in *Section VII.* of this announcement. Queries or requests submitted to this email address for any reason other than a request for an exemption from electronic application submission will not be acknowledged or answered.

All exemption requests must include the following information:

- Funding Opportunity Announcement Title,
- Funding Opportunity Number (FON),
- The listed Catalog of Federal Domestic Assistance (CFDA) number,
- Name of Applicant Organization and DUNS Number,
- AOR name and contact information,
- Name and contact information of person to be contacted on matters involving the application (i.e., the Point of Contact), and
- The reason for which the applicant is requesting an exemption from electronic application submission. The request for exemption must state one of the following two reasons: 1) lack of Internet access or Internet connection; or 2) lack of computer capacity that prevents uploading large documents (files) to the Internet.

Exemption requests must be received by ACF no later than two weeks before the application due date, that is, 14 calendar days prior to the application due date listed in the *Overview* and in *Section IV.4. Submission Dates and Times*. If the fourteenth calendar day falls on a weekend or federal holiday, the due date for receipt of an exemption request will move to the next federal business day that follows the weekend or federal holiday.

Applicants may refer to *Section VIII. Other Information* for a checklist of application requirements that may be used in developing and organizing application materials. Details concerning acknowledgment of received applications are available in *Section IV.4. Submission Dates and Times* of this announcement.

Paper Format Application Submission

An exemption is required for the submission of paper applications. See the preceding section on "*Request an Exemption from Required Electronic Application Submission.*"

Applicants with exemptions that submit their applications in paper format, by mail or delivery, must submit one original and two copies of the complete application with all attachments. The original and each of the two copies must include all required forms, certifications, assurances, and appendices, be signed by the AOR, and be unbound. The original copy of the application must have original signature(s). See *Section IV.7.* of this announcement for address information for paper format application submissions. Applications submitted in paper format must be received by 4:30 p.m., ET, on the due date.

Applicants may refer to *Section VIII. Other Information* for a checklist of application requirements that may be used in developing and organizing application materials. Details concerning acknowledgment of received applications are available in *Section IV.4. Submission Dates and Times* in this announcement.

IV.3. Unique Entity Identifier and System for Award Management (SAM)

All applicants must have a DUNS Number (<http://fedgov.dnb.com/webform>) and an active registration with the System for Award Management (SAM.gov/SAM, <https://www.sam.gov>).

Obtaining a DUNS Number may take 1 to 2 days.

All applicants are required to maintain an active SAM registration until the application process is complete. If a grant is awarded, registration at SAM must be active throughout the life of the award.

Plan ahead. Allow at least 10 business days after you submit your registration for it to become active in SAM and at least an additional 24 hours before that registration information is available in other government systems, i.e. Grants.gov.

This action should allow you time to resolve any issues that may arise. Failure to comply with these requirements may result in your inability to submit your application through Grants.gov or prevent the award of a grant. Applicants should maintain documentation (with dates) of your efforts to register for, or renew a registration, at SAM. User Guides are available under the "Help" tab at <https://www.sam.gov>.

HHS requires all entities that plan to apply for, and ultimately receive, federal grant funds from any HHS Agency, or receive subawards directly from recipients of those grant funds to:

- Be registered in the SAM prior to submitting an application or plan;
- Maintain an active SAM registration with current information at all times during which it has an active award or an application or plan under consideration by an OPDIV; and
- Provide its active DUNS number in each application or plan it submits to the OPDIV.

ACF is prohibited from making an award until an applicant has complied with these requirements. At the time an award is ready to be made, if the intended recipient has not complied with these requirements, ACF:

- May determine that the applicant is not qualified to receive an award; and
- May use that determination as a basis for making an award to another applicant.

IV.4. Submission Dates and Times

Due Dates for Applications

Due Date for Applications:

- FY 2016: 08/01/16
- FY 2017: 06/16/17
- FY 2018: 06/15/18

No applications will be accepted in between the open application periods.

Explanation of Due Dates

The due date for receipt of applications is listed in the *Overview* section and in this section. See *Section III.3. Other, Application Disqualification Factors*.

Electronic Applications

The deadline for submission of electronic applications via www.Grants.gov is 11:59 p.m., ET, on the due date. Electronic applications submitted at 12:00 a.m., ET, on the day after the due date will be considered late and will be disqualified from competitive review and from funding under this announcement.

Applicants are required to submit their applications electronically via www.Grants.gov unless they received an exemption through the process described in *Section IV.2. Request an Exemption from Required Electronic Application Submission*.

ACF does not accommodate transmission of applications by email or facsimile.

Instructions for electronic submission via www.Grants.gov are available at: <http://www.grants.gov/web/grants/applicants/apply-for-grants.html>.

Applications submitted to www.Grants.gov at any time during the open application

period prior to the due date and time that fail the Grants.gov validation check will not be received at ACF. These applications will not be acknowledged.

Mailed Paper Format Applications

The deadline for receipt of mailed, paper applications is 4:30 p.m., ET, on the due date. Mailed paper applications received after the due date and deadline time will be considered late and will be disqualified from competitive review and from funding under this announcement.

Paper format application submissions will be disqualified if the applicant organization has not received an exemption through the process described in *Section IV.2. Request an Exemption from Required Electronic Application Submission*.

Hand-Delivered Paper Format Applications

Applications that are hand-delivered by applicants, applicant couriers, by overnight/express mail couriers, or other representatives of the applicant must be received on, or before, the due date listed in the *Overview* and in this section. These applications must be delivered between the hours of 8:00 a.m. and 4:30 p.m., ET, Monday through Friday (excluding federal holidays). Applications should be delivered to the address provided in *Section IV.7. Other Submission Requirements*.

Hand-delivered paper applications received after the due date and deadline time will be considered late and will be disqualified from competitive review and from funding under this announcement.

Hand-delivered paper format application submissions will be disqualified if the applicant organization has not received an exemption through the process described in *Section IV.2. Request an Exemption from Required Electronic Application Submission*.

No appeals will be considered for applications classified as late under the following circumstances:

- Applications submitted electronically via www.Grants.gov are considered late when they are dated and time-stamped after the deadline of 11:59 p.m., ET, on the due date.
- Paper format applications received by mail or hand-delivery after 4:30 p.m., ET, on the due date will be classified as late and will be disqualified.
- Paper format applications received from applicant organizations that were not approved for an exemption from required electronic application submission under the process described in *Section IV.2. Request an Exemption from Required Electronic Submission* will be disqualified.

Emergency Extensions

ACF may extend an application due date when circumstances make it impossible for an applicant to submit their applications on time. Only events such as documented natural disasters (floods, hurricanes, tornados, etc.), or a verifiable widespread disruption of electrical service, or mail service, will be considered. The determination to extend or

waive the due date, and/or receipt time, requirements in an emergency situation rests with the Grants Management Officer listed as the Office of Grants Management Contact in *Section VII. HHS Awarding Agency Contact(s)*.

Acknowledgement from www.Grants.gov

Applicants will receive an initial email upon submission of their application to www.Grants.gov. This email will provide a **Grants.gov Tracking Number**. Applicants should refer to this tracking number in all communication with Grants.gov. The email will also provide a **date and time stamp**, which serves as the official record of application's submission. Receipt of this email does not indicate that the application is accepted or that it has passed the validation check.

Applicants will also receive an email acknowledging that the received application is in the **Grants.gov validation process**, after which a third email is sent with the information that the submitted application package has passed, or failed, the series of checks and validations. Applications that are submitted on time that fail the validation check will not be transmitted to ACF and will not be acknowledged by ACF.

See "What to Expect After Submitting" at www.Grants.gov for more information.

Acknowledgement from ACF of an electronic application's submission:

Applicants will be sent additional email(s) from ACF acknowledging that the application has been retrieved from www.Grants.gov by ACF. Receipt of these emails is not an indication that the application is accepted for competition.

Acknowledgement from ACF of receipt of a paper format application:

ACF will not provide acknowledgement of receipt of hard copy application packages submitted via mail or courier services.

IV.5. Intergovernmental Review

This program is not subject to Executive Order (E.O.) 12372, "Intergovernmental Review of Federal Programs," or 45 CFR Part 100, "Intergovernmental Review of Department of Health and Human Services Programs and Activities." No action is required of applicants under this announcement with regard to E.O. 12372.

IV.6. Funding Restrictions

Costs of organized fund raising, including financial campaigns, endowment drives, solicitation of gifts and bequests, and similar expenses incurred to raise capital or obtain contributions are unallowable. Fund raising costs for the purposes of meeting the Federal program objectives are allowable with prior written approval from the Federal awarding agency. (45 CFR §75.442)

Proposal costs are the costs of preparing bids, proposals, or applications on potential Federal and non-Federal awards or projects, including the development of data

necessary to support the non-Federal entity's bids or proposals. Proposal costs of the current accounting period of both successful and unsuccessful bids and proposals normally should be treated as indirect (F&A) costs and allocated currently to all activities of the non-Federal entity. No proposal costs of past accounting periods will be allocable to the current period. (45 CFR §75.460)

Grant awards will not allow reimbursement of pre-award costs.

Construction is not an allowable activity or expenditure under this grant award.

Purchase of real property is not an allowable activity or expenditure under this grant award.

Funding for UC medical services is provided under a separate ORR managed care program and must not be included as a component of the applicant's budget.

Each year, the HHS appropriations includes a prohibition, stating that none of the funds appropriated may be expended for an abortion, except in cases where pregnancy is a result of rape or incest or where the woman suffers from a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, that would, as certified by a physician, place the woman in danger of death unless an abortion is performed. See Consolidated Appropriations Act, 2016, Pub.L. No. 114-113 §§ 506, 507.

IV.7. Other Submission Requirements

Submit paper applications to one of the following addresses. Also see *Section IV.2. Request an Exemption from Required Electronic Application Submission*.

Submission By Mail

William Kim
Administration for Children and Families
Office of Grants Management
Division of Discretionary Grants
Mary E. Switzer Building
330 C Street, SW
Washington, DC 20201

Hand Delivery

William Kim
Administration for Children and Families
Office of Grants Management
Division of Discretionary Grants
Mary E. Switzer Building
330 C Street, SW
Washington, DC 20201

Electronic Submission

See *Section IV.2.* for application requirements and for guidance when submitting applications electronically via <http://www.Grants.gov>.

For all submissions, see *Section IV.4. Submission Dates and Times.*

V. Application Review Information**V.1. Criteria**

Please note: Reviewers will not access, or review, any materials that are not part of the application documents. This includes information accessible on websites via hyperlinks that are referenced, or embedded, in the application. Though an application may include web links, or embedded hyperlinks, reviewers will not review this information as it is not considered to be part of the application documents. Nor will the information on websites be taken into consideration in scoring of evaluation criteria presented in this section. Reviewers will evaluate and score an application based on the documents that are presented in the application and **will not** refer to, or access, external links during the objective review.

Applications competing for financial assistance will be reviewed and evaluated using the criteria described in this section. The corresponding point values indicate the relative importance placed on each review criterion. Points will be allocated based on the extent to which the application proposal addresses each of the criteria listed. Applicants should address these criteria in their application materials, particularly in the project description and budget justification, as they are the basis upon which competing applications will be judged during the objective review. The required elements of the project description and budget justification may be found in *Section IV.2* of this announcement.

PROGRAM DESIGN AND SERVICE PROVISION**Maximum Points:30**

The application will be reviewed for the overall program design and the applicant's ability to explain the required services to be provided. This will be evidenced by the following:

- Detailed documentation supporting applicant's ability and/or experience in providing the required program services indicated in the *Section I, Program Requirements* for either foster and/or group home. Documentation must include evidence of applicant's ability to provide all program requirements listed in *Section I, Program Requirements*. If applicable, documentation must also include an alternative approach to providing any required program services due to religious objection. (0-5 points)
- Clear description of overall program design for either foster and/or group home and plan for provision of the services listed (i.e. medical services, ISP, education, etc.) in *Section I, Program Requirements*. Description must include ability to adhere to the time-frames required for the provisions of services. (0-6 points)
- Detailed information on how program activities, services, and materials are developed and provided in a manner that is appropriate for the target population taking into account the culture, native language, and special needs of UC. (0-5

- points)
- Detailed plan to identify and address the specialized needs of the UC population, including victims of trafficking and risk factors for potential sexual victimization or sexual abuser tendencies. (0-5 points)
 - Detailed description of how the applicant's behavior management plan for either foster and/or group home will be developed and implemented as required in *Section I, Program Requirements, Rules/Behavior Management*. Description must identify how the behavior management plan is strength based and meets child welfare best practices. In addition, how the behavior management plan takes in to consideration the range of ages, maturity levels, and cultural sensitivity of the UC. (0-3 points)
 - Provides detailed supporting documentation and description of experience in providing appropriate case management services, for either foster and/or group home, e.g. ISPs. Documentation must evidence applicants experience with providing case management services to the UC population, cross cultural/international and/or domestic children from various cultural backgrounds. (0-3 points)
 - Detailed plan on how applicant will identify, assess, and release UC with eligible domestic sponsors in a timely manner, when applicable. The plan identifies applicant's ability to facilitate safe and timely release of UC to include but not limited to: identifying sponsor(s); evaluating the suitability of the sponsor; and verification of sponsor's identity and relationship to the UC, when applicable. (0-3 points)

PROGRAM MANAGEMENT

Maximum Points:25

The application will be reviewed for the capacity of the organization to develop and manage a UC program by assessing the following:

- Comprehensive and concise overview of the applicant's organization including qualifications, history, and organizational mission and goals. Evidenced by applicant's key staff having sufficient and relevant experience, knowledge, and capability to implement and manage LTFC. (0-5 points)
- Detailed plan to provide child welfare services to minors with special needs and/or victims of trafficking and minors from various cultural backgrounds and with various language capabilities. (0-5 points)
- Clear and comprehensive organizational structure of the proposed program for either foster and/or group home that describes delineation of authority, roles and responsibilities and supervision across the entire organization allowing for communication and coordination between the various program components and partner agencies. Applicant addresses the educational and professional experience required for key positions according to requirements outlined in *Section I, Program Staffing Requirements*. (0-5 points)
- Detailed plan to screen, hire, and train staff to meet state licensing and ORR requirements. Training must address elements specific to working with the UC population, prevention and intervention in child abuse and neglect, local reporting procedures, and staff code of conduct. (0-4 points)
- Comprehensive plan to implement ORR's sexual abuse and harassment policies

including but not limited to, assigning a PREA Staff Coordinator, appropriate screening of new hires, developing internal policy documents, and training staff and UCs on these policies. (0-3 points)

- Documentation of a detailed, thorough, and realistic description of recruitment and retention staffing plan taking into consideration the particular needs of the target population. Detailed plan for completing background checks for staff, contractors, and volunteers. (0-3 points)

ADMINISTRATIVE AND SERVICE ENVIRONMENT

Maximum Points:15

The application will be reviewed for information regarding the geographic location, community services, and facility design to adequately support program services by assessing the following:

- Comprehensive description of overall program service environment for either foster and/or group home with documentation supporting its ability to provide the required program services indicated in *Section I, Program Requirements*. (0-5 points)
- Clear description of the proposed facility/foster and/or group homes, including description of sleeping arrangements, food preparation, kitchen and dining area, office space, rest rooms, outside recreation areas, designated personal telephone call space, and living space. (0-5 points)
- Documentation of facility/foster and/or group home accessibility to immigration court, airports, fire, police, and the local community. Facility/foster and/or group homes meets all relevant zoning, fire, safety, and health codes required to operate a residential based social service program. Detailed information regarding type of state licensure, including information on capacity, age/gender permitted, and length of stay allowable. Any and all documented state licensing allegations/concerns must be reported. (0-3 points)
- Explanation and documentation of facility ownership or leasing agreements. Documented evidence/references or letters of local community support and acceptance of the applicant's program. This should include established relationships with local emergency services (i.e., police, fire), medical and mental health agencies, religious and community organizations, and state licensing offices' recommendations for serving UC. (0-2 points)

PROGRAM PERFORMANCE EVALUATION PLAN

Maximum Points:15

The application will be reviewed for evidence of the organization's capacity to manage proper documentation and reporting with regard to the proposed program, including internal accountability and plan for monitoring of performance through evaluation and other measures. Evidence of the following must be provided:

- Clear description of an effective model for programmatic control, predictability, and accountability as evidenced by the program design for either foster and/or group home. (0-5 points)
- Detailed evaluation methodology based on performance. Evidenced by focus on child welfare practices, particularly child safety, safe and timely release

performance and ability to ensure timely and appropriate release for UC with potential sponsors, when applicable. Measures that effectively track performance in this area must be described in detail. (0-5 points)

- Ability to maintain adequate electronic and/or hard copy records, including client files, medical files, financial files, and personnel files. Ability to produce reports that track demographics and program performance, effective monitoring and enforcement of the Flores Settlement Agreement, federal requirements, ORR policies and procedures, and other requirements and standards. (0-3 points)
- Proposes an effective and efficient plan to operate the UC Portal and to upload all appropriate UC forms and file information within the timeframes indicated in *Section I, Program Requirements, Important Time-frames*. (0-2 points)

BUDGET AND BUDGET JUSTIFICATION

Maximum Points:15

The application will be reviewed for fiscal soundness and accountability by assessing the following:

- Accurate and detailed budget and budget justification noting line-item expenses with sufficient detail for understanding per item costs for applicant and their contractors, if applicable to include inclusion of the names of staff for positions already filled and level of effort (percentage dedicated to the project) (0-4 points)
- Clear delineation of fixed verses per capita costs and a well-defined structure for calculating each. (0-2 points)
- The costs are reasonable, allocable, and program-related and are commensurate with the types and range of activities to be conducted. (0-4 points)
- Comprehensive plan for overall fiscal management including internal and third-party financial monitoring systems that demonstrate structure and accountability for applicant and any sub-contractors, if applicable. (0-2 points)
- Documentation of a sound plan in compliance with the funding restrictions as noted in *Section IV.5*, of the FOA. (0-1 points)
- Documentation of most recent financial audit management letter/summary report. (0-2 points)

V.2. Review and Selection Process

No grant award will be made under this announcement on the basis of an incomplete application. No grant award will be made to an applicant or sub-recipient that does not have a DUNS number (www.dbn.com) and an active registration at SAM (www.sam.gov). See *Section IV.3. Unique Entity Identifier and System for Award Management (SAM)*.

Initial ACF Screening

Each application will be screened to determine whether it meets any of the disqualification factors described in *Section III.3. Other, Application Disqualification Factors*.

Disqualified applications are considered to be “non-responsive” and are excluded from the

competitive review process. Applicants will be notified of a disqualification determination by email or by USPS postal mail within 30 federal business days from the closing date of this FOA.

Objective Review and Results

Applications competing for financial assistance will be reviewed and evaluated by objective review panels using only the criteria described in *Section V.I. Criteria* of this announcement. Each panel is composed of experts with knowledge and experience in the area under review. Generally, review panels include three reviewers and one chairperson.

Results of the competitive objective review are taken into consideration by ACF in the selection of projects for funding; however, objective review scores and rankings are not binding. Scores and rankings are only one element used in the award decision-making process.

ACF may elect not to fund applicants with management or financial problems that would indicate an inability to successfully complete the proposed project. Applications may be funded in whole or in part. Successful applicants may be funded at an amount lower than that requested. ACF reserves the right to consider preferences to fund organizations serving emerging, unserved, or under-served populations, including those populations located in pockets of poverty. ACF will also consider the geographic distribution of federal funds in its award decisions.

ACF may refuse funding for projects with what it regards as unreasonably high start-up costs for facilities or equipment, or for projects with unreasonably high operating costs.

Federal Awarding Agency Review of Risk Posed by Applicants

As required by 2 CFR 200 of the Uniform Guidance, effective January 1, 2016, ACF is required to review and consider any information about the applicant that is in the Federal Awardee Performance and Integrity Information System (FAPIIS), <https://www.fapiis.gov/>, before making any award in excess of the simplified acquisition threshold (currently \$150,000) over the period of performance. An applicant may review and comment on any information about itself that a federal awarding agency has previously entered into FAPIIS. ACF will consider any comments by the applicant, in addition to other information in FAPIIS, in making a judgment about the applicant's integrity, business ethics, and record of performance under federal awards when completing the review of risk posed by applicants as described in 2 CFR § 200.205 Federal Awarding Agency Review of Risk Posed by Applicants http://www.ecfr.gov/cgi-bin/text-idx?node=se2.1.200_1205&rgn=div8.

Please refer to *Section IV.2.* of this announcement for information on non-federal reviewers in the review process.

Approved but Unfunded Applications

Applications recommended for approval that were not funded under the competition because of the lack of available funds may be held over by ACF and reconsidered in a subsequent review cycle if a future competition under the program area is planned. These applications will be held over for a period of up to one year and will be re-competed for funding with all other competing applications in the next available review cycle. For those applications

determined as approved but unfunded, notice will be given of the determination by email.

V.3. Anticipated Announcement and Federal Award Dates

Announcement of awards and the disposition of applications will be provided to applicants at a later date. ACF staff cannot respond to requests for information regarding funding decisions prior to the official applicant notification.

VI. Federal Award Administration Information

VI.1. Federal Award Notices

Successful applicants will be notified through the issuance of a Notice of Award (NoA) that sets forth the amount of funds granted, the terms and conditions of the grant, the effective date of the grant, the budget period for which initial support will be given, the non-federal share to be provided (if applicable), and the total project period for which support is contemplated. The NoA will be signed by the Grants Officer and transmitted via postal mail, email, or by GrantSolutions.gov or the Head Start Enterprise System (HSES), whichever is relevant. Following the finalization of funding decisions, organizations whose applications will not be funded will be notified by letter signed by the cognizant Program Office head. Any other correspondence that announces to a Principal Investigator, or a Project Director, that an application was selected is not an authorization to begin performance.

Project costs that are incurred prior to the receipt of the NoA are at the recipient's risk and may be reimbursed only to the extent that they are considered allowable as approved pre-award costs. Information on allowable pre-award costs and the time period under which they may be incurred is available in *Section IV.6. Funding Restrictions*.

VI.2. Administrative and National Policy Requirements

Unless otherwise noted in this section, administrative and national policy requirements that are applicable to discretionary grants are available at:

<http://www.acf.hhs.gov/administrative-and-national-policy-requirements>.

Care providers are subject to the provisions of the Service Contract Act, Code of Federal Regulations (CFR) Title 29 and must abide by applicable state wage determination guidelines in their programs." For additional information click here: <http://www.dol.gov/whd/govcontracts/sca.htm> and/or <http://www.wdol.gov/>.

The U.S. Government is opposed to prostitution and related activities, which are inherently harmful and dehumanizing, and contribute to the phenomenon of trafficking in persons. U.S. non-governmental organizations, and their sub-grantees, cannot use U.S. Government funds to lobby for, promote, or advocate the legalization or regulation of prostitution as a legitimate form of work. It is the responsibility of the primary grantee to ensure these criteria are met by its sub-grantees. Accordingly, the grant application must ensure that no monies, if awarded,

will be used for these unallowable purposes.

VI.3. Reporting

Recipients under this FOA will be required to submit performance progress and financial reports periodically throughout the project period. Information on reporting requirements is available on the ACF website at

<http://www.acf.hhs.gov/discretionary-post-award-requirements#chapter-2>.

For planning purposes, the frequency of required reporting for awards made under this announcement are as follows:

Performance Progress Reports: Quarterly

Financial Reports: Quarterly

Recipients under this FOA will be required to submit/administer forms to include but not limited to:

- UC Portal Capacity Report
- Notice of Placement in Secure or Staff Secure Facility
- Initial Intakes Assessment
- UC Assessment
- ISP
- UC Case Review Form
- SIR
- Sexual Abuse SIR Form
- Assessment for Risk Form
- Care Provider Incident Review Form
- New Sponsor Form
- Transfer Request and Tracking Form
- Long Term Foster Care Placement Memo
- Travel Request form for UC Long Term Foster Care
- Notice of Transfer to ICE Chief Counsel and Change of Address
- Care Provider Family Reunification Checklist
- Release Request
- Discharge Notification
- Verification of Release
- Child Advocate Referral and Appointment Form
- Notice of Rights and Provision of Services Handout
- Legal Service Provider List for UC

VII. HHS Awarding Agency Contact(s)

Program Office Contact

Shannon McGhee

Administration for Children and Families
Office of Refugee Resettlement
Division of Children's Services
Mary E. Switzer Building
330 C Street, SW
Washington, DC 20201
Phone: (202) 205-9513
Fax: (202) 401-1022
Email: DCS_ProjectOfficers@acf.hhs.gov

Office of Grants Management Contact

William Kim
Administration for Children and Families
Office of Grants Management
Division of Discretionary Grants
Mary E. Switzer Building
330 C Street, SW
Washington, DC 20201
Phone: (202) 205-4717
Fax: (202) 205-3449
Email: William.Kim@acf.hhs.gov

Federal Relay Service:

Hearing-impaired and speech-impaired callers may contact the Federal Relay Service (FedRelay) at www.gsa.gov/fedrelay.

VIII. Other Information

Reference Websites

U.S. Department of Health and Human Services (HHS) <http://www.hhs.gov/>.

HHS Grants Forecast <http://www.acf.hhs.gov/hhsgrantsforecast/index.cfm>.

Administration for Children and Families (ACF) <http://www.acf.hhs.gov/>.

ACF Grants Homepage <https://www.acf.hhs.gov/grants>.

ACF Funding Opportunities <http://www.acf.hhs.gov/grants/open/foa/>.

ACF "How to Apply for a Grant" <https://www.acf.hhs.gov/grants/>

[how-to-apply-for-grants.](#)

Catalog of Federal Domestic Assistance (CFDA) <https://www.cfda.gov/>.

For submission of a paper format application, all required Standard Forms (SF), assurances, and certifications are available on the ACF Grants-Forms page through <https://www.acf.hhs.gov/grants-forms>.

Standard grant forms are available at the [Grants.gov](http://www.grants.gov) Forms Repository webpage at <http://www.grants.gov/web/grants/forms/sf-424-family.html>.

For information regarding accessibility issues, visit the Grants.gov Accessibility Compliance Page at <http://www.grants.gov/web/grants/accessibility-compliance.html>

Code of Federal Regulations (CFR) <http://www.ecfr.gov/>.

The *Federal Register* <https://www.federalregister.gov/>.

United States Code (U.S.C.) <http://uscode.house.gov/>.

Application Checklist

What to Submit	Where Found	When to Submit
DUNS Number (Unique Entity Identifier) and Systems for Award Management (SAM) registration.	Referenced in <i>Section IV.3. Unique Entity Identifier and System for Award Management (SAM)</i> in the announcement. To obtain a DUNS number (Unique Entity Identifier), go to http://fedgov.dnb.com/webform . To register at SAM, go to http://www.sam.gov .	A DUNS number (Unique Entity Identifier) and registration at SAM.gov are required for all applicants. Active registration at SAM must be maintained throughout the application and project award period.

Mandatory Grant Disclosure	Requirement, submission instructions, and mailing addresses are found in the "Mandatory Grant Disclosure" entry in the table in <i>Section IV.2. Required Forms, Assurances and Certifications</i> .	Concurrent submission to the Administration for Children and Families and to the Office of the Inspector General is required.
SF-Project/Performance Site Location(s) (SF-P/PSL)	Referenced in <i>Section IV.2. Required Forms, Assurances, and Certifications</i>. For electronic application submission, these forms are available on the FOA's Grants.gov "Download Opportunity Instructions and Application" page under "Download Application Package" in the section entitled, "Mandatory." Also available at http://www.grants.gov/web/grants/forms.html by using the link to "SF-424 Family."	Submission is due by the application due date found in the <i>Overview</i> and in <i>Section IV.4. Submission Dates and Times</i>.
Certification Regarding Lobbying (Grants.gov Lobbying Form)	Referenced in <i>Section IV.2. Required Forms, Assurances, and Certifications</i>. For electronic application submission, these forms are available on the FOA's Grants.gov page under the "Application Package" tab in the section entitled, "Mandatory." Available at http://www.grants.gov/web/grants/forms.html by using the link to "SF-424 Family."	Submission is due with the application package or prior to the award of a grant.

SF-424 - Application for Federal Assistance

Referenced in *Section IV.2. Required Forms, Assurances, and Certifications.*

For electronic application submission, these forms are available on the FOA's Grants.gov "Download Opportunity Instructions and Application" page under "Download Application Package" in the section entitled, "Mandatory."

Also available at <http://www.grants.gov/web/grants/forms.html>

by using the link to "SF-424 Family."

Submission is due by the application due date found in the

Overview and in Section IV.4. Submission Dates and Times.

SF-LLL - Disclosure of Lobbying Activities

"Disclosure Form to Report Lobbying" is referenced in *Section IV.2. Required Forms, Assurances, and Certifications.*

For electronic application submission, this form is available on the FOA's Grants.gov "Download Opportunity Instructions and Application" page under "Download Application Package" in the section entitled, "Optional."

The form is available in the electronic application kit at Grants.gov

and at <http://www.grants.gov/web/grants/forms.html> by using the link to "SF-424 Family."

If applicable, submission of this

If submission of this form is applicable, it is due at the time of application.

If it not available at the time of application, it may also be submitted prior to the award of a grant.

form is required if any funds have been paid, or will be paid, to any person for influencing, or attempting to influence, an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan.

SF-424A - Budget Information - Non-Construction Programs

and

SF-424B - Assurances - Non-Construction Programs

Referenced in *Section IV.2. Required Forms, Assurances, and Certifications.*

For electronic application submission, these forms are available on the FOA's Grants.gov "Download Opportunity Instructions and Application" page under "Download Application Package" in the section entitled, "Mandatory."

Also available at <http://www.grants.gov/web/grants/forms.html> by using the link to "SF-424 Family."

These forms are ***required*** for applications under this FOA:

- Projects that include only non-construction activities must submit the SF-424A and SF-424B, along with the SF-424 and SF-P/PSL.

Submission is due by the application due date found in the *Overview* and in *Section IV.4. Submission Dates and Times.*

SF-424 Key Contact Form	Referenced in <i>Section IV.2. Required Forms, Assurances, and Certifications.</i> For electronic application submission, this form is available on the FOA's Grants.gov "Download Opportunity Instructions and Application" page under "Download Application Package" in the section entitled, "Optional." The form is also available at http://www.grants.gov/web/grants/forms.html by using the link to "SF-424 Family."	Submission is due with the application by the application due date found in the <i>Overview and in Section IV.4. Submission Dates and Times.</i>
Commitment of Non-Federal Resources	Referenced in <i>Section IV.2. The Project Budget and Budget Justification.</i>	Submission is due by the application due date found in the <i>Overview and Section IV.4. Submission Dates and Times.</i>
Table of Contents	Referenced in <i>Section IV.2. The Project Description.</i>	Submit with the application by the due date found in the <i>Overview and in Section IV.4. Submission Dates and Times.</i>
Project Summary/Abstract	Referenced in <i>Section IV.2. The Project Description.</i> The Project Summary/Abstract is limited to one single-spaced page.	Submission is due by the application due date found in the <i>Overview and in Section IV.4. Submission Dates</i>

		<i>and Times.</i>
Third-Party Agreements (also, MOUs and Consortia Agreements)	Referenced in <i>Section IV.2. Project Description.</i>	If available, submission is due by the application due date found in the <i>Overview</i> and in <i>Section IV.4.</i> If not available at the time of application submission, due by the time of award.
Letters of Support	Referenced in <i>Section IV.2. The Project Description.</i>	Submission is due by the application due date listed in the <i>Overview</i> and in <i>Section IV.4.</i> <i>Submission Dates and Times.</i>
Proof of Non-Profit Status	Referenced in <i>Section IV.2. The Project Description, Legal Status of Applicant Entity.</i>	Proof of non-profit status should be submitted with the application package by the due date listed in the <i>Overview</i> and <i>Section IV.4.</i> <i>Submission Dates and Times.</i> If it is not available at the time of application submission, it must be submitted prior to the award of a grant.

The Project Description	Referenced in <i>Section IV.2. The Project Description</i> .	Submission is due by the application due date found in the <i>Overview</i> and in <i>Section IV.4. Submission Dates and Times</i> .
The Project Budget and Budget Justification	Referenced in <i>Section IV.2. The Project Budget and Budget Justification</i> of the announcement.	Submission is required in addition to submission of SF-424A or SF-424C. It must be submitted with the application package by the due date in the <i>Overview</i> and in <i>Section IV.4. Submission Dates and Times</i> .
Indirect Cost Rate Agreement (IDR)	Referenced in <i>Section IV.2. The Project Budget and Budget Justification</i> . The IDR must be submitted with the application package.	If the IDR is available by the application due date, it must be submitted with the application package. If it is not available by the application due date, listed in the <i>Overview</i> and <i>Section IV.4. Submission Dates and Times</i> , it may be submitted prior to the award of a grant.

Exhibit 21



ADMINISTRATION FOR
CHILDREN & FAMILIES

Office of Refugee Resettlement | 330 C Street, S.W., Washington, DC 20201
www.acf.hhs.gov/programs/orr

Eskinder Negash
President
U.S. Committee for Refugees and Immigrants
2231 Crystal Dr. Ste 350
Arlington, VA 22202-3794

September 28, 2021

Dear Eskinder:

Thank you for the U.S. Committee for Refugees and Immigrants' (USCRI's) commitment to implement the "Texas URM consortium" in partnership with the United States Conference of Catholic Bishops (USCCB) and Lutheran Immigration and Refugee Service (LIRS). While USCCB and LIRS serve as URM Replacement Designees (i.e. URDs) to administer the URM program in Texas, USCRI's role in the consortium is to:

- establish a hotline and email to receive inquiries from individuals or couples interested in fostering minors in the URM program in the Dallas/Fort Worth, Texas area;
- respond to all inquiries from individuals or couples interested in fostering minors in the URM program in the Dallas/Fort Worth, Texas area;
- conduct initial intakes of the individuals or couples, to collect basic demographic and family composition information; and
- refer the individuals or couples to one of the two URM provider agencies, i.e. Catholic Charities Dallas and Upbring, for further vetting, training, and licensing.

In this new role, USCRI is also committing to collaborating with USCCB and LIRS in the development of procedures and processes to ensure a smooth implementation of the consortium model.

ORR understands that USCRI will include costs associated with its role and responsibilities in the URM consortium in your FY 2022 ORR-1 estimate due November 1, 2021 and will outline this task in your FY 2022 Medical Replacement Designee (MRD) Plan due on January 7, 2022.

Please direct any questions about this letter to Anne Mullooly, URM Supervisor, at Anne.Mullooly@acf.hhs.gov or (202) 401-5369.

Thank you for accepting the responsibility of conducting intakes with prospective foster families in the Dallas/Fort Worth, Texas area for the URM program. We look forward to this new partnership.

Sincerely,

Kenneth Tota
Deputy Director
Office of Refugee Resettlement

Exhibit 22

Transmitted by Email

February 25, 2022

Amy Scott
Branch Director III - TN State Director
Bethany Christian Services

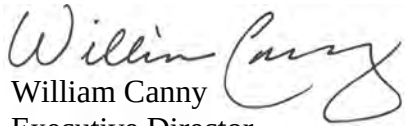
Dear Ms. Scott:

We have been made aware of a court case, *Easter v. U.S. Department of Health & Human Services*, No. 1:21-cv-02681 (D.D.C.), filed in U.S. District Court for the District of Columbia by a Nashville resident, Kelly Easter. In her complaint, Ms. Easter alleges that she is a single woman with a homosexual orientation who approached Bethany Christian Services (BCS) regarding opportunities to serve as a foster parent through federally funded programs for unaccompanied immigrant children. Ms. Easter further alleges that BCS informed her that it was bound by the policies of the U.S. Conference of Catholic Bishops (USCCB), which purportedly preclude her from participation in such programs due to her sexual orientation.

It appears that this litigation is driven by a misunderstanding concerning the USCCB's religious beliefs that govern foster care placements. In reality, neither the USCCB's religious beliefs nor its subgrant agreement with BCS bars a single person with a homosexual orientation from serving as a foster parent by virtue of his or her orientation. Likewise, placement of a foster child with such an individual would violate neither the USCCB's religious beliefs nor its subgrant agreement with BCS.

We hope this is helpful.

Sincerely,


William Canny
Executive Director
Migration and Refugee Services

cc: Tawnya Brown
Senior VP of Global, Refugee and Immigrant Services, National Administration
Bethany Christian Services

Dana Anderson
Vice President, Refugee & Immigrant Children's Services
Bethany Christian Services

Constanza Morales
Project Officer
Office of Refugee Resettlement,
US Department of Health and Human Services

Exhibit 23

Dallas/Fort Worth, DFW Texas URM Consortium Charter

The Dallas/Fort Worth (DFW), Texas Unaccompanied Refugee Minors (URM) Consortium, henceforth referred to as the “DFW Texas URM Consortium,” is a collaboration between Lutheran Immigration and Refugee Services (LIRS), the U.S. Conference of Catholic Bishops (USCCB) and the U.S. Committee for Refugees and Immigrants (USCRI), at the request of and under the initial guidance of the Office for Refugee Resettlement (ORR). The DFW Texas URM Consortium specifically relates to the work of the URM provider agencies in the recruitment of prospective URM foster parents (PFPs). The content of the Charter, Conflict of Interest Plan and Intake and Referral Procedures will be incorporated into the agreements between the URDs and their respective subrecipients, the URM provider agencies. As such, the URM provider agencies are also accountable to this Charter through their agreements with the URDs.

The DFW Texas URM Consortium serves to maintain communication and facilitate licensing of prospective foster families seeking to serve the unaccompanied refugee minors population in Dallas/Fort Worth, Texas, utilizing USCRI as a neutral third-party determinant to support recruitment efforts by LIRS and USCCB’s URM provider agencies, Upbring and Catholic Charities Dallas Children’s Services, respectively. Nothing in this Charter or in the Consortium’s engagements shall be construed to require any individual organization to engage in any conduct that violates that organization’s religious beliefs or moral convictions.

Roles of the Consortium members:

- USCRI: will establish and maintain communication mechanisms for prospective foster parent referrals; hire staff and operate intake functions; respond to inquiries from PFPs and conduct initial intake; refer PFPs to URM provider agencies; maintain all data collected during the intake process; provide summaries on data points as outlined in the “Intakes and Referral Procedures” document.
- USCCB and LIRS: will develop agreements with URM provider that address the functions and procedures of the Consortium; provide oversight and monitoring of the URM provider agencies’ adherence to the process and timeframes outlined in the “Intake and Referral Procedures” document.
- All Replacement Designees: will continuously collaborate, coordinate, contribute to procedures and shared documents to ensure the functioning of the intake and referral process; communicate regularly, including to address concerns with the process; ensure that all PFPs have an opportunity to work with a URM provider agency to determine their eligibility to be licensed to provide foster care for URMs; ensure requested information is reported to ORR in a timely manner.
- Upbring and Catholic Charities Dallas Children’s Services: will refer all PFPs to USCRI; respond to referrals from USCRI within the established timeframes; hold recruitment events for PFPs; make trainings available per licensing requirements; license all PFPs that meet Texas state licensing, agency, accreditation, and home study requirements.

USCRI will establish and operate a centralized phone number and email inbox, as well as an online URM Prospective Foster Parent Intake form to be utilized by URM provider agencies in both their web-based and hard copy promotional materials as a means of receiving prospective foster parent inquiries and allocating prospective foster parent referrals to one of the two URM provider agencies in Dallas/Fort

Worth, Texas. Regardless of the method of initial communication, all prospective URM foster parents will be referred to USCRI for the initial intake process. For example, this would include:

- if a prospective foster parent were to attend a recruitment event held by a URM provider agency and have initial contact with said agency
- if the prospective foster parent were referred by an existing, licensed foster parent with one of the URM provider agencies
- if the prospective foster parent expressed interest in working specifically with one of the URM provider agencies
- and all other scenarios in which a prospective foster parent may initially come into contact with the URM provider agency.

The URM provider agencies will commit to referring all prospective URM foster families in the Dallas/Fort Worth area to the centralized phone number, inbox and/or online intake form. LIRS and USCCB will liaise with their respective provider agencies in Dallas/Fort Worth, Texas to ensure compliance with the utilization of a third-party affiliate and monitor the URM provider agencies for the implementation of the USCRI prospective foster parent intake procedures in their recruitment and referral efforts. In instances when conflicts of interest arise, LIRS, USCCB and USCRI will reference the pre-determined and agreed upon Conflict of Interest plan for addressing conflicts of interest to seek a resolution.

LIRS and USCCB will independently communicate with staff and URM provider agencies in Dallas/Fort Worth, Texas and will engage in joint training opportunities to address alterations to marketing and recruitment materials and review the third-party recommender process and program expectations. LIRS, USCCB and USCRI will conduct regular DFW Texas URM Consortium planning meetings to discuss progress, address concerns, and ensure productive communication and relationship-building efforts. LIRS, USCCB and USCRI will also maintain regular communication with ORR to ensure program and agency compliance and provide situational awareness regarding URM service provision and foster parent licensure in Texas. USCRI will provide ORR with the data on the following: the number of inquiries received; referral sources by percentage; the number of intakes completed; the number of referrals sent to each consortium member and URM provider agency.

Intake and Referral Procedures

The purpose of this document is to outline the procedures for the Dallas/Fort Worth Texas URM Prospective Foster Parent Intake within the Dallas/Fort Worth Texas URM Consortium. The U.S. Committee for Refugees and Immigrants (USCRI) is responsible for conducting intake and referring prospective foster parents, within the Dallas/Fort Worth, Texas area to consortium partners, the United States Conference of Catholic Bishops (USCCB) and Lutheran Immigration and Refugee Service (LIRS). *(Please see the Dallas/Fort Worth, Texas URM Consortium Charter for a full description of the scope of the consortium and its members.)*

- 1) Prospective Foster Parents (PFP) contacts consortium partners or local URM provider agencies regarding their interest in becoming a foster parent for the URM program in Dallas/Fort Worth, Texas. Any individual responding to an inquiry will provide a description of the consortium, its purpose, and the intake process. The PFP shall be directed to the Dallas/Ft. Worth URM Prospective Foster Parent Intake by any of the following means: Weblink: <https://refugees.org/dfw-urm/> Email: DFW-URM@uscrimail.org, Phone: 703-214-1073.
- 2) The PFP completes and submits the online intake form to USCRI. If the PFP calls and would like to complete the intake over the phone, USCRI will collect the same information listed on the online form.
- 3) USCRI staff will go through the intake form and ensure that all required information is collected from the PFP. If additional information or clarification is necessary for online submissions, USCRI staff will contact the PFP to collect additional information over the phone.
- 4) Within 5 business days of the inquiry, USCRI will make a determination to refer the PFP to the most appropriate consortium partner. The determination will be based on information collected during the intake process, including the following:
 - a) Information regarding PFPs
 - i) Demographic information, household and background information including any religious preferences, language(s) spoken, family composition, age, and country of origin preferences for foster children.
 - b) Requirements of consortium partner and URM provider agency
 - i) Established criteria for foster parents' eligibility of consortium partners and/or URM provider agencies.
 - c) Referral source
 - i) Where the PFP learned about the URM program
 - ii) Any existing ties to a local URM provider agency
- 5) Immediately upon making a determination, USCRI will send the information collected to the selected local URM provider agency and copy the associated consortium partner (LIRS or USCCB).

- 6) The URM provider agency will contact the PFP within 10 business days of receiving an applicant's information. If the selected provider does not accept the referral, the PFP inquiry will be remanded to USCRI for reconsideration. USCRI will send the inquiry to the alternate URM provider agency within two business days.
 - a) A URM provider agency cannot decline a referral because it appears, based on the information collected by USCRI, that the PFP will not meet TX licensing requirements. The URM provider agency must gather additional information and determine the PFP's eligibility under state licensing standards. In instances where a URM provider agency determines that a PFP does not meet eligibility requirements, they will document the decision, notify the PFP and inform USCRI. Ineligible PFPs should not be referred to the alternate URM provider agency.
 - b) In any scenario where a URM provider agency decides, for reasons unrelated to Texas licensing requirements, they can no longer work with a PFP, they will notify the PFP and provide their information to the alternate URM provider agency, with the PFP's consent. The URM provider agency will also notify USCRI of the change. If the PFP does not consent to have their information shared, they will be referred back to USCRI.
 - c) In any instance where a PFP is already licensed by a URM provider agency, or after the intake function launches, is licensed by the URM provider agency solely for another non-URM purpose (TFC for UCs, domestic foster care) and later becomes interested in serving URM, that PFP will not need to be referred to USCRI to complete the intake process. The URM provider should document such occurrences for their URD, which should notify USCRI and LIRS.

Data Collection and Information Sharing

1. USCRI will maintain all data collected during the intake process and will provide, at a minimum, the following summaries to consortium members and ORR:
 - a. Number of inquiries received
 - b. Referral sources by percentage
 - c. Number of intakes completed
 - d. Number of referrals sent to each consortium member and URM provider agency
2. Consortium members can request data for a specific inquiry or intake in writing at any time. USCRI will provide the information within three business days.

In any case of conflict or dispute, consortium members will adhere to the Conflict of Interest Plan for the Dallas/Fort Worth, Texas URM Consortium.

Script Describing the DFW, TX URM Consortium- for URM provider staff

There are two URM provider agencies in the Dallas/Fort Worth area: Catholic Charities Dallas Children's Services and Upbring. In order to ensure an equitable distribution of prospective foster parent (PFP) inquiries, a neutral third party (the U.S. Committee for Refugees and Immigrants) operates a centralized intake process to collect basic information from all PFPs. USCRI uses the information collected during the intake process to determine the most appropriate URM provider agency for a PFP. Upon selecting the appropriate URM provider agency, USCRI will provide the PFP's information to the provider, who will contact the PFP within 10 business days. The URM provider agency is then responsible for determining a PFP's eligibility to become a foster parent and completing the licensing process.

Script Describing the URM Program for USCRI Staff

The Unaccompanied Refugee Minors Program (URM) provides foster care and supportive services to some of the most vulnerable minors in the world - those fleeing persecution, violence, or abuse, who enter the United States without a parent or custodian. Minors and youth in the program represent about 50 nationalities, including *[insert top countries of origin, currently: Guatemala, Honduras, Eritrea, Democratic Republic of Congo, and Afghanistan]*. Some minors are resettled into the U.S. by the State Department as refugees. Others arrive in the U.S. on their own and first receive care through the Unaccompanied Children's (UC) program before meeting federal criteria for the URM program, with eligibility determined by Office of Refugee Resettlement (ORR). Most minors who enter the URM program are males between 15-17 years of age. The program helps unaccompanied refugee minors develop appropriate skills to enter adulthood and to achieve self-sufficiency. Foster parents are an essential part of the URM program, as they provide long-term care for minors and help prepare them for adulthood.

To become a foster parent for the URM program in the Dallas/Fort Worth area, an interested individual or family must become licensed with a child-placing agency licensed through Texas Health and Human Services (HHS) Child Care Regulation. In order to be licensed, an individual or family must, at a minimum:

- Meet all eligibility requirements
- Complete a thorough background check (this includes all household members age 14 and older)
- Complete a home study
- Complete pre-service training (Additional specialized training is required to become a foster parent for the URM program)

On average it takes three to six months to complete the licensing process. The two agencies who operate the URM program in the Dallas/Fort Worth area are Catholic Charities Dallas Children's Services and Upbring. *(Begin the script describing the consortium and intake process)* The selected URM provider will provide more information on the URM program, the youth served, and details about the licensing process in follow up communications.

Thank you for your interest in becoming a foster parent for the [Unaccompanied Refugee Minors Program](#) in the Dallas/Fort Worth area. There are two local URM provider agencies: Catholic Charities Dallas Children's Services and Upbring. In order to ensure an equitable distribution of prospective foster parent inquiries, the U.S. Committee for Refugees and Immigrants operates a centralized, neutral intake process to collect basic information from all prospective foster parents. USCRI will use the information collected in this form to determine the most appropriate URM provider agency to provide more information about the URM program and work with you further. Please complete the entire form to the best of your ability and contact us with any questions at 703-214-1073 or DFW-URM@uscrimail.org.

Applicant Information

Full Name

Date of Birth

Address City State Zip

Email Address

Phone Number

Gender (*Dropdown: Male, Female, Transgender Male, Transgender Female, Non-conforming, Not Listed (Other), Prefer Not to Answer*)

Religious Affiliation (*If listed, then prompt for religious institution*)

Languages Spoken (*Multiple check box*)

Household information- Please list information for all individuals living in the home.

Name

Date of Birth

Gender (*Same Dropdown*)

Relationship to Applicant (*Spouse, Domestic Partner, Child (own), Child (Step/adopted), Child (foster), Parent, Sibling, Grandchild, Grandparent, Roommate, Other (please specify)*)

Languages Spoken (*Multiple check box*)

Fostering Interest

1. How did you hear about the Unaccompanied Refugee Minor (URM) program?
 - Catholic Charities Dallas Children's Services
 - Upbring
 - Family or friend
 - Internet search
 - Lutheran Immigration and Refugee Service
 - U.S. Conference of Catholic Bishops
 - Other
2. How did you become interested in becoming a URM foster parent?
3. Please describe any previous foster care experience.
4. What experience do you have with diverse communities?
5. Please share anything else you would like to share as it relates to fostering unaccompanied refugee youth.
6. Do you have any children or godchildren? *If yes, dropdown menu for number of children and age(s).*

Restrictions or Preferences

1. Do you have any restrictions or preference regarding age? If so, please list.
2. Do you have any restrictions or preference regarding gender? If so, please list.
3. Are you willing to accept children with a different religious affiliation?
4. Are you willing to accept children who identify as lesbian, gay, bisexual, transgender, or queer?
5. Do you have any other restrictions or preferences regarding a potential child?

Eligibility Requirements

The following questions are to initially assess your eligibility to become a foster parent. These criteria are established by Texas licensing requirements.

1. Do you currently have a stable income?
2. Do you have access to reliable transportation?
3. If married, have you been married for at least one year?
4. If divorced, have you been divorced for at least one year?
5. Have you had a major life change in the past 12 months (i.e. death of a spouse, adoption, job loss, etc.)? Please explain:
6. Are you currently licensed with another Child-Placing Agency for foster care/adoption? (If yes, indicate which agency)
7. Have you been convicted of any crimes? If yes, please describe below.
8. Do you have any physical or mental health conditions that may impact your ability to care for a child?
9. Are you willing to complete the following requirements to become a licensed foster parent? (Check all that apply)
 - Complete a criminal background check, including Child Abuse and Neglect Registry check, for everyone ages 14 and above in the household
 - Complete a home fire and health inspection
 - Attend pre-service training (Approx. 40 hours)
 - Complete a home study
10. May we share your contact information and the information collected in this form with a foster care program near you?

Thank for completing this form. Your information will be provided to a designated URM provider agency that will contact you within 15 business days. The URM provider agency will be available to answer your questions and is responsible for determining your eligibility to become a foster parent, as well as completing the licensing process.

CONFLICT OF INTEREST PLAN: DALLAS/FORT WORTH, TEXAS URM CONSORTIUM

Section I: Conflict of Interest

The Dallas/Fort Worth (DFW), Texas Unaccompanied Refugee Minor (URM) Consortium, henceforth referred to as the “DFW Texas URM Consortium”, is a collaboration between Lutheran Immigration and Refugee Services (LIRS), the U.S. Conference of Catholic Bishops (USCCB) and the US Committee for Refugees and Immigrants (USCRI), at the request of and under the initial guidance of the Office for Refugee Resettlement (ORR). The DFW Texas URM Consortium partners will adhere to the procedures established by the Consortium group, as outlined in the DFW Texas URM Consortium Charter, this Conflict of Interest Plan, and the Intake and Referral Procedures Plan.

Purpose: To ensure ethical practices and relationships between all parties, LIRS, USCCB, and USCRI and to strive to make the operations of the DFW Texas URM Consortium open and transparent.

Conflict: This Conflict of Interest Plan applies to LIRS, USCCB, and USCRI and by extension, the subrecipient URM provider agencies of USCCB and LIRS in the operation of the DFW Texas URM Consortium. The DFW Texas URM Consortium Team works to ensure URM service providers are committed to ethical, business, and lawful conduct. This includes but is not limited to referral, recruitment events, collaboration, families being referred to each agency, and understanding licensing standards and compliance for foster homes. If a conflict arises regarding conflict of interest within the DFW Texas URM Consortium, it will be resolved by the DFW Texas URM Consortium Team, and if necessary, by the Children’s Services Directors of USCRI, USCCB, and LIRS identifying a resolution within 7 calendar days and/or elevating to the Executive leadership of their respective agencies.

Section II: Stakeholders

The DFW Texas URM Consortium Team includes representatives from LIRS, USCCB, and USCRI. LIRS, USCCB, and USCRI agree on the roles, responsibilities, and relationships outlined in the DFW Texas URM Consortium Charter.

Section III: Activities and Principles

Communication: The DFW Texas URM Consortium Team will enable effective communication and coordination by adhering to the following activities and principles:

1. Encourage transparency and accountability by making full and accurate information available to the extent possible without violating each stakeholder’s confidentiality.

2. Act in the best interests of the group. Members cannot use information obtained as a member for personal gain or for the advantage of the member's local and/or national resettlement agency.
3. Take a position on behalf of the consortium.
4. Participate actively in the planning processes and working groups to ensure continuity of the consortium and completion of tasks.
5. Activities shall be characterized by cooperation, coordination, mutual support, and open communication when discussing program planning, problem solving, and certain joint service operations.
6. Encourage programs to address the cultural and linguistic needs of refugees.
7. Support flexible utilization of all available resources.
8. Support partner agencies to implement client-focused services.
9. Respect the right of clients to self-determination.
10. Support public engagement efforts on behalf of refugees and refugee programs.

A link will serve to track all inquiries to the USCRI website for third-party review and referral to Catholic Charities Dallas Children's Services and Upbring. (Link will be included later)

Section IV: Communication

Office of Refugee Resettlement: Members of the DFW Texas URM Consortium Team have a responsibility to share information when it has the potential to impact the statewide consortium group. To the extent possible, questions and communication to ORR that might impact the DFW Texas URM Consortium Team should be discussed within the group and an agreed upon approach to ORR should be decided. Being separate agencies, performance reports will be submitted individually to ORR.

Internal: Members of the DFW Texas URM Consortium Team have a responsibility to ensure collaboration and communication. Members are expected to cooperate, contribute feedback, provide input to shared documents/reports, provide accurate information, ensure confidentiality, and abide by the principles in this document.

Section V: Accountability and Agreement

Members of the DFW Texas URM Dallas Consortium Team are required to openly communicate and collaborate, to use appropriate decision-making techniques, and to resolve disagreements. When the DFW Texas URM Dallas Consortium Team makes decisions that impact the group, the consortium group will use the following tools:

- Working group recommendations
- Consortium discussions
- Evidence-based practices
- Subject matter experts

If the DFW Texas URM Consortium is unable to come to an agreement, the issue will be raised to the Children's Services Directors of USCCB, USCRI, and LIRS and/or elevated to the Executive Leadership of the respective agencies.

Nothing in this policy shall be construed to require any individual organization to engage in any conduct that violates that organization's religious beliefs or moral convictions.

Section VI: Confidentiality and Information Sharing

Members shall not discuss or disclose information about the DFW Texas URM Consortium Team and its discussions, nor any specifics regarding Texas resettlement activities to any person or entity unless such information is already a matter of public knowledge, such person or entity has a need to know, or the disclosure of such information is in furtherance of the groups purposes or can reasonably be expected to benefit the group. In addition, Members shall not share any individual level or provider level data with any external entity without prior knowledge and approval of the member, except for the reasons stated above.

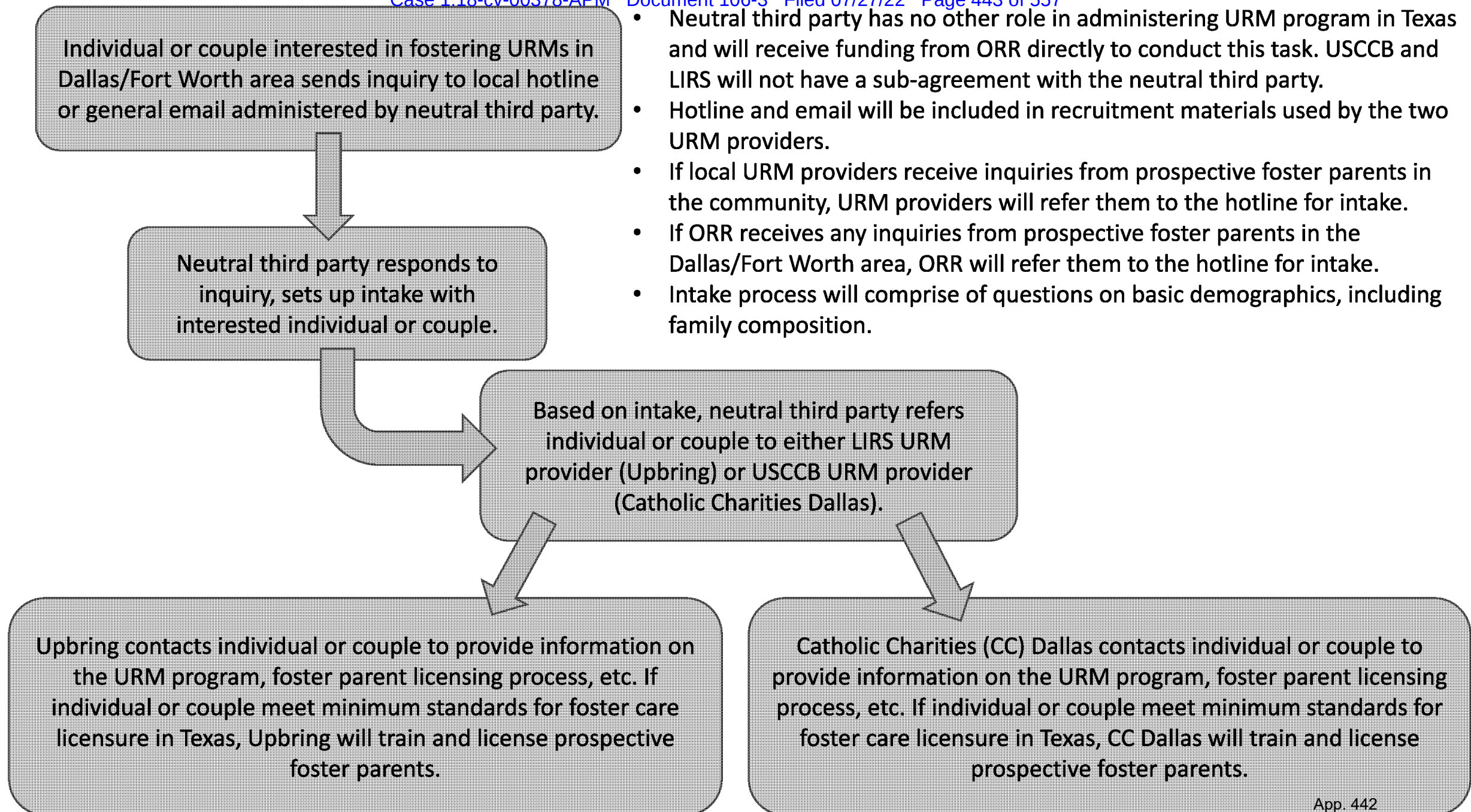
Section VII: Data Sharing

The DFW Texas URM Consortium Team shall abide by 45 CFR 400.27 -28, and ORR Policy Letter "Data Sharing" 17-02 to ensure the safeguarding and sharing of information. Data shared across the group will be submitted through encrypted emails. The aim to data sharing is to assist with providing the group with data to support efforts in the coordination and administration of program services across Texas.

Section VIII: Acknowledgement

Modification of this Conflict of Interest Plan may be necessary, among other reasons, due to changes in the refugee program and/or member organizations. All members agree to review the Conflict of Interest Plan annually in January, or as needed. Any modifications to this Plan must be in writing and agreed upon unanimously.

Exhibit 24



- Neutral third party has no other role in administering URM program in Texas and will receive funding from ORR directly to conduct this task. USCCB and LIRS will not have a sub-agreement with the neutral third party.
- Hotline and email will be included in recruitment materials used by the two URM providers.
- If local URM providers receive inquiries from prospective foster parents in the community, URM providers will refer them to the hotline for intake.
- If ORR receives any inquiries from prospective foster parents in the Dallas/Fort Worth area, ORR will refer them to the hotline for intake.
- Intake process will comprise of questions on basic demographics, including family composition.

Exhibit 25



ADMINISTRATION FOR CHILDREN & FAMILIES

April 1, 2022

NOTE TO FILE: URM Consortium in Dallas/Fort Worth, Texas

Introduction

ORR is documenting its decision to select the U.S. Committee for Refugees and Immigrants (USCRI) to conduct the initial intake function for prospective foster parents of the Unaccompanied Refugee Minors (URM) Program in the Dallas/Fort Worth, Texas area, as well as the development of the Texas URM Consortium.

Background

In May 2021 ORR decided to name a neutral third party to field all inquiries from prospective URM foster parents in the Dallas/Fort Worth, Texas area. The neutral third party would have no other role in the administration of the URM programs in Texas. The U.S. Conference of Catholic Bishops (USCCB) and Lutheran Immigration and Refugee Service (LIRS) would remain the two URM Program Replacement Designees (URDs) in Texas to administer all other aspects of the program. The third party, and USCCB and LIRS would collaborate on the development and implementation of the new foster parent intake function, in a consortium that ORR has referred to as the "Texas URM Consortium." Responsibilities of the neutral third party would include:

1. Establish a hotline and email to receive inquiries from individuals or couples interested in fostering minors in the URM program in the Dallas/Fort Worth, Texas area.
2. Respond to all inquiries from individuals or couples interested in fostering minors in the URM program in the Dallas/Fort Worth, Texas area.
3. Conduct initial intakes of the individuals or couples, to collect basic demographic and family composition information.
4. Refer the individuals or couples to one of the two URM provider agencies, i.e., Catholic Charities Dallas Children's Services and Upbring, for further vetting, training, and licensing.

The attached flow chart, created by ORR staff, summarizes the parameters and responsibilities indicated above.

The ORR Director approved the consortium proposal via email on May 27, 2021. ORR then facilitated separate calls with USCCB and LIRS on June 24, 2021 to discuss the consortium concept. USCCB expressed openness to the new foster parent intake function on the June 24th call. On June 29, 2021,

LIRS confirmed that it discussed the consortium concept with its URM provider (i.e., Upbring) and both LIRS and Upbring were amenable.

Decision

To develop and implement the consortium in a timely and effective manner, ORR decided to approach USCRI to explore their interest in taking on this new task. USCRI had been serving as the Medical Replacement Designee (MRD) in Texas since 2017; thus, it was already a Cash and Medical Assistance (CMA) grantee of ORR and had a local presence (e.g., staff) in Texas. Another advantage was that USCRI is not affiliated with either USCCB or LIRS and, outside of providing ORR-funded medical assistance to URM in Texas and Michigan, is not involved in the administration of the URM program anywhere else in the country. Therefore, USCRI was truly a neutral entity. Finally, USCRI has expertise is working with migrating children as a current ORR grantee for the Unaccompanied Children's Program. All these reasons led ORR to believe that USCRI was the most appropriate entity to take on this new work.

ORR facilitated a call with USCRI on July 1, 2021 to discuss extending their MRD role to include fielding foster parent inquiries for the local URM providers in the Dallas/Fort Worth area. USCRI confirmed via email later that same day (i.e., July 1, 2021) that it was willing to take on this function in the consortium.

Consortium Development

On September 14, 2021, ORR emailed USCCB, LIRS and USCRI notifying the three parties that ORR was moving forward with implementing the URM consortium model in the Dallas/Fort Worth, Texas area, where USCRI will conduct the initial intake of all individuals and couples interested in fostering URM. ORR then facilitated a call with the three parties on September 21, 2021 to discuss timeframe for implementation. On September 29, 2021, ORR issued a letter to USCRI, indicating formal approval of USCRI's new task related to URM foster parent intakes. ORR indicated that funding for the URM task would be included in their CMA award for their MRD work.

Working Group

During early October 2021, USCCB, LIRS and USCRI identified key points of contact for the consortium. ORR also identified staff to work with the consortium, from ORR's URM team, which provides programmatic oversight for USCCB and LIRS as URDs, and ORR's Division of Refugee Health, which provides programmatic oversight to USCRI as the MRD. On October 14, 2021, ORR pulled together identified staff from the three partner agencies, to kick off a working group to support the consortium. In this meeting ORR clarified that the three agencies, all funded to provide state-level administration in the state of Texas, were to collaborate on administration for the consortium, including developing processes and procedures. ORR defined its role in the working group as checking on progress and reviewing, commenting on, and verifying work products.

During the kick-off meeting, ORR requested that the consortium develop the following work products and provide them to ORR for review:

- Workplan with deadlines and milestones;
- Four key administrative documents:

1. Charter or similar document explaining the purpose and scope of consortium, roles of the members, and coordination
2. Plan to address conflicts of interests and resolve disputes
3. Procedures describing referral of inquiries to USCRI, intake, and referral of prospective foster parents by USCRI to a URM provider agency
4. Initial intake form, addressing family composition
 - Inventory of public-facing recruitment materials or webpages to be updated with the intake function's contact information;
 - Copies of, or links to, foster parent recruiting materials once updated; and
 - Confirmation that relevant consortium and URM provider staff are trained in the intake and referral function.

During the working group kick-off call, ORR clarified that all three agencies would need to include information on their role in the consortium in their forthcoming state plans, and that USCRI should provide an estimate of costs in their forthcoming ORR-1 budget estimate. The working group agreed to meet on a biweekly basis until the intake function launched, and then to re-evaluate the frequency of meetings during implementation.

The original goal was to launch the intake function in early January 2022. Due to larger events affecting resettlement services and staffing nationwide, including at all three consortium partner agencies, the working group later agreed to broaden the target timing for implementation to the second quarter of FY 2022.

Following the kick-off meeting, consortium members met amongst themselves, dividing up tasks and the responsibility for drafting the key documents, with USCRI taking responsibility for the procedures and intake form, USCCB taking responsibility for the conflict of interest plan, and LIRS taking responsibility for the charter. Consortium members coordinated with each other on the documents prior to submission to ORR. ORR received the first version of the workplan on 10/29/2021. Drafts of the four key consortium documents (charter, conflict of interest plan, procedures, and intake form) were submitted to ORR, reviewed, and discussed in biweekly working group meetings between December 14, 2021, revised and resubmitted over a period of three and a half months. During this time roles of consortium members were honed, and a decision was made to refer to the consortium as the "Dallas/Fort Worth URM Consortium" considering the project's geographic boundaries (i.e., not relevant for the Houston URM provider agency).

On March 2, 2022, ORR emailed the most recent version of the four key documents to consortium partners, with a green light to proceed with developing the web-based version of the intake form and the training for URM provider staff. Changes to the four key documents after that point in time have consisted of inclusion of a link for the web-based intake form and edits to replace the name of USCCB's subrecipient with the legal name on their license; the documents now refer to USCCB's subrecipient as Catholic Charities Dallas Children's Services. After verifying these simple edits, and that no other changes were made, ORR sent the four key documents back to consortium members on March 30, 2022.

On March 25, 2022, USCRI conducted a training on the consortium and the new intake function for URM provider agency staff, as well as staff of LIRS and USCCB who handle inquiries from potential foster parents. USCRI provided ORR an opportunity to comment on the training and forwarded both the final version of the training and training log to ORR.

LIRS and USCCB both provided their URM provider subrecipients with advance notification that the intake function would launch on March 28, 2022, following which all inquiries from prospective foster families would need to be referred to USCRI's intake function. Both URDs have forwarded these email notifications to ORR and have indicated that they have arranged for inquiries received by their agencies, at the national level, to be referred to USCRI.

USCRI intends to hire a program coordinator, based in Dallas/Fort Worth, for the intake position but decided not to move forward with their initial candidate. On March 25, 2022, USCRI confirmed to ORR by phone that they would, initially, be staffing the intake function from their headquarters and remote offices in Virginia, and that the staff involved had full access to the email address, phone account, and intake webform submissions.

LIRS and USCCB are in the process of updating an inventory list of the recruiting materials previously produced by Catholic Charities Dallas Children's Services which need to be updated with contact information for USCRI's intake function, and new recruiting materials which are being developed by Upbring. ORR will review and verify the updates once the inventory list and documents are provided by LIRS and USCCB.

ORR also intends to verify that LIRS and USCCB have incorporated content and expectations from the four key consortium documents into their own agreements with their URM provider agencies. LIRS has forwarded an agreement and amendment with Upbring to ORR; it has not yet been reviewed. USCCB has indicated that they anticipate forwarding similar documents to ORR the first week of April.

The working group will continue to meet on a biweekly basis through the end of April and then will reassess meeting frequency, with an expectation of switching to monthly or quarterly meetings.

State Plans and ORR-1 Estimates

Due to the changing nature of resettlement services, as the U.S. geared up to serve Afghan humanitarian parolees at the beginning of FY 2022, ORR sought OMB approval on adaptations to the state plan template which had been approved by OMB and shared with grantees in the summer of 2022. As a result, ORR pushed back the state plan submission date for all Cash and Medical Assistance grantees, which is typically August 15th. On November 30, 2021, ORR provided LIRS and USCCB with recommendations for incorporating the work of the consortium into their state plans. ORR had previously provided the two URDs with ancillary instructions for filling out the new standardized state plan template, given their limited role and prior use of a URD-specific state plan template. On December 8, 2021, ORR disseminated an updated version of the OMB-approved state plan template, revised to capture services provided through Afghan Supplemental Assistance funds, to all States and Replacement Designees, indicating that the new due date for state plan submissions would be January 7, 2022. On December 13, 2021, ORR provided USCRI a revised version of the MRD state plan template, with

prompts for content on USCRI's plan for and role in the consortium. All three state plans have been received by ORR; USCRI's remains under review. Both LIRS and USCCB are in the process of revising their state plans based on feedback from ORR, largely related to other changes in the state plan template and administration for refugee services in the state of Texas. However, following review of the two URD plans, ORR adjusted both the ancillary instructions for URDs, and recommendations related to consortium; these were both provided to LIRS and USCCB in separate grant management meetings on March 29, 2022.

ORR received USCRI's ORR-1 budget estimate for MRD activities on November 16, 2021, with an estimated cost for and brief description of the consortium intake function. Since submission of the ORR-1, USCRI has decided to reduce staffing to one program coordinator and eliminated their plan to also hire an administrative assistant for the intake function. ORR anticipates that USCRI will submit a revised ORR-1 estimate in the future, due to changes in the eligibility period for Refugee Medical Assistance, and will, at that point, revise their budget estimate for the consortium and intake function.

Drafted by Anne Mullooly and Mimi Veeraraghavan

Exhibit 26



Project Title: Replacement Designee for the Unaccompanied Refugee Minor Program and Refugee School Impact Grant in Texas

Applicant: United States Conference of Catholic Bishops/Migration and Refugee Services (USCCB/MRS)

Address: 3211 4th Street NE Washington, D.C. 20017-1194

Contact: Kristyn Peck, Associate Director of Children's Services, USCCB/MRS

Phone: 202-541-3039

E-mail: kpeck@usccb.org

www.usccb.org/mrs

Abstract

The United States Conference of Catholic Bishops' department of Migration and Refugee Services (USCCB/MRS) has partnered with the U.S. Department of Health and Human Services' Office of Refugee Resettlement (HHS/ORR) and the U.S. Department of State's Bureau of Population, Refugees, and Migration (DOS/PRM) since the late 1970s to place unaccompanied refugee children in its network of community-based foster care programs, known as the URM (Unaccompanied Refugee Minor) program. The URM program has been the only program in the United States offering unique expertise in providing foster care to unaccompanied minors who are in the custody of the State or local entities yet with adapted services to meet the special needs of the foreign-born child with forced migration experiences. Through this same network, USCCB/MRS has partnered with HHS/ORR since 2003 to provide a continuum of residential services on a short and long-term basis for unaccompanied children who are in federal custody. Prior to 2003, USCCB/MRS worked with the former Immigration and Naturalization Service to provide community-based foster care for children in immigration proceedings. USCCB/MRS, through the Bridging Refugee Youth and Children's Services (BRYCS) Program, was also the national technical assistance provider for all Refugee School Impact Grant (RSIG) programs from 2009-2011. BRYCS continues to conduct outreach and provide technical assistance (TA) to these grantees as 20 percent of all incoming requests are school-related.

In response to the urgent need for an entity to take over the administration of the URM programs and the RSIG following the withdrawal of the State of Texas from administration of HHS/ORR-funded refugee programs on January 31, 2017, USCCB/MRS proposes to serve as the "Replacement Designee" for the URM program and RSIG in the State of Texas.

USCCB/MRS provides the components of a nationally administered program to ensure timely and quality services in compliance with funder requirements. Services provided through USCCB/MRS and its sub-recipients will comply with applicable State and HHS/ORR URM regulations for children in out-of-home care. In particular, USCCB/MRS will ensure parity in services to youth in this program that are

provided to children in state foster care through close cooperation and advance consultation with the state child welfare entities. In addition, USCCB/MRS must ensure that services provided under this application are not contrary to the authentic teaching of the Catholic Church, its moral convictions, or religious beliefs. In instances where a client's needs or circumstances may require services, including referrals, that USCCB/MRS cannot provide due to its religious convictions, USCCB/MRS will notify HHS/ORR. HHS/ORR will assume responsibility to ensure the client's needs are met.

USCCB/MRS has placed unaccompanied refugee minors with the two agencies in Texas that have URM Programs-- Catholic Charities of Fort Worth since 2009 and Catholic Charities of Galveston-Houston since 2003-- and would sub-grant directly with these two programs to ensure seamless delivery of services to unaccompanied refugee minors.

USCCB/MRS also proposes to provide services for school-age refugee children and their families that will promote the effective integration and education of this population in areas of the state that have a significant number of refugee school-age children enrolled in the school systems. Services will focus on refugee students between the ages of 5-18 that have been in the country for one year or less. Services will also be directed to refugee students who have been in the United States three years or less and continue to face persistent challenges in school. All services are inclusive of all refugee eligible students, including lesbian, gay, bisexual, and transgender (LGBT) populations. As the "Replacement Designee" for RSIG in Texas, USCCB/MRS will enter into Memorandums of Understanding (MOUs) with the agencies and school districts who anticipated participating in RSIG in FY 2017: Houston Independent School District (ISD), Catholic Charities Diocese of Ft. Worth, Catholic Charities of the Archdiocese of San Antonio, Austin ISD, and the Dallas ISD.

Organizational Capacity

The mission of USCCB/MRS is to carry out the commitment of the U.S. Catholic bishops to serve and advocate for immigrants, refugees, migrants, and people on the move. The Vision Statement of

USCCB/MRS is “*Creating a world where immigrants, refugees, migrants, and people on the move are treated with dignity, respect, welcome and belonging.*” USCCB/MRS is one of only two agencies authorized by the U.S. Department of State to resettle unaccompanied refugee minors. USCCB/MRS partners with the largest national network of Catholic social service agencies, which consists of more than 1,400 local organizations in every state and the U.S. territories. For more than 35 years, USCCB/MRS has provided services to thousands of unaccompanied foreign-born children through specialized and culturally appropriate licensed child welfare programs nationwide. In its role with its URM program network, USCCB/MRS provides national placement coordination to ensure quality placement matches of eligible children; capacity development of the network through coordination of peer exchanges, monthly webinars, and training; systems advocacy and coordination; and research and evaluation. USCCB/MRS also stays abreast of trends in migration flows and patterns, arrivals of unaccompanied alien children, numbers of unaccompanied refugee minors in the resettlement pipeline, and service needs of arriving children. USCCB/MRS incorporates this information in its strategic plan for the foster care unit to ensure that it is developing the expertise of its network to meet the emerging needs of newly referred children, that it is developing the capacity of its network to place all referred children, and that it is helping the network diversify placement options to ensure the best placement match.

USCCB/MRS placed 670 unaccompanied children in the URM program (both children referred by the Department of State as unaccompanied refugee minors and unaccompanied children who were in HHS/ORR custody that had no family reunification options and became eligible for the URM program as a survivor of human trafficking or legal relief through the T visa, U visa, Special Immigrant Juvenile Status (SIJS), or asylum) from January 1, 2013 – August 31, 2016.

In 2002, USCCB/MRS began working with foreign-born victims of human trafficking, including children. In 2006, USCCB/MRS was awarded the sole contract from HHS/ORR for the provision of services to pre-certified and certified victims of trafficking nationwide. The USCCB/MRS Anti-Trafficking Program

continues to provide technical assistance and training nationally and internationally, and its knowledge and expertise is an asset to the USCCB/MRS residential services network.

BRYCS, operational since 2001, has the nation's largest searchable online clearinghouse of resources related to refugee and immigrant children and families. With more than one million downloads annually, the BRYCS information hub increases staff knowledge, builds long-term capacity, promotes collaboration at the local, state, and national levels, and ultimately raises awareness about newcomer populations and migration issues. BRYCS documents new Promising Practices that are successfully meeting the needs of unaccompanied children and trafficking victims, and generates highlighted resource lists, monthly newsletters, and social media campaigns.

Due to its expertise in child welfare, migration, and community-based care for foreign-born children, USCCB/MRS was invited in 2013 by the Council on Accreditation (COA) to become a supporting organization. COA holds agencies to higher standards of services and quality assurance measures, including regular case file reviews. USCCB/MRS assisted COA with the development of accrediting standards for immigrant children in care.

URM Administration

Administrative Structure and Oversight

USCCB/MRS will be the Unaccompanied Refugee Minors Replacement Designee (URD) in Texas. As the URD, USCCB/MRS assumes responsibility for all aspects of the URM Program, including acting as the fiduciary agent and program reporting. USCCB/MRS plans to provide services to all URM-eligible populations through sub-recipient arrangements with Catholic Charities of Galveston-Houston and Catholic Charities of Fort Worth. Sub-recipient agreements will require Catholic Charities of Houston and Fort Worth to assume legal responsibility for the children assigned to their respective agencies and to provide the full range of assistance, care, and services to which these children are entitled, ensuring that they are not contrary to the authentic teaching of the Catholic Church, its moral convictions, or religious beliefs. In

Exhibit 27

PROJECT SUMMARY/ABSTRACT

Project Title: *Safe Passages I* – Residential (Long Term Foster Care) Services for Unaccompanied Children

Applicant: United States Conference of Catholic Bishops/Migration and Refugee Services

Address: 3211 4th Street NE Washington, D.C. 20017-1194

Phone: 202-541-3039 **Fax:** 202-722-8747 **E-mail:** Kristyn Peck, kpeck@usccb.org

www.usccb.org/mrs

The United States Conference of Catholic Bishops' department of Migration and Refugee Services (USCCB/MRS) has partnered with the Office of Refugee Resettlement's Division of Children's Services (ORR/DCS) to provide placement and care to unaccompanied children (UC) since ORR/DCS' inception. As one of ORR's longest-standing partners, USCCB/MRS proposes to continue and expand long-term foster care services for UC who are in federal custody in Federal Fiscal Year (FY) 2017 through its residential program, called *Safe Passages I*. USCCB/MRS *Safe Passages I* currently provides long-term foster care for UC with potential immigration relief for whom repatriation to their home country or family reunification in the United States is not possible. Long-term foster care settings range from foster families in the community to therapeutic group homes.

USCCB/MRS will implement *Safe Passages I* through seven Unaccompanied Refugee Minor (URM) programs, which have more than 30 years of experience in providing community-based and culturally sensitive foster care services for migrating and refugee children and a new partner that will specialize in providing long-term foster care for parenting and pregnant youth. The sub-recipient programs are located in seven different states; each has established relationships with community partners to provide culturally and linguistically appropriate services to UC. All services provided through USCCB/MRS and its sub-recipients will comply with ORR/DCS Policies and Procedures (ORR/DCS P&P), the Flores Settlement Agreement, the Perez-Olano Settlement Agreement, the Trafficking Victims Protection Act, as amended, and all pertinent federal and state regulations, guidelines, laws, and instructions. In addition, USCCB must ensure that services provided under this application are not contrary to the authentic teaching of the Catholic Church, its moral convictions, and religious beliefs in an approach that is consistent with the ACF Policy on Grants to Faith-Based Organizations.¹

USCCB/MRS provides the components of a nationally administered program to ensure timely and quality services, to include: foster care placement matching and program development, training and technical assistance to sub-recipient providers to improve knowledge and services, on-site monitoring and desk audits to ensure quality services and compliance with applicable policies and procedures, and analysis of data and trends to inform ORR/DCS about national program and client implications. Lastly, USCCB/MRS will continue to develop and maximize relationships with partners with national presence and recognized expertise in legal and social services to UC.

¹ <http://www.acf.hhs.gov/acf-policy-on-grants-to-faith-based-organizations> See also subheading *Medical and mental health services* on page 9; heading *Subrecipient Program Profile, Structure and Staffing* on page 18.

Exhibit 28

Agreement Between
Sub-Recipient
and
**United States Conference of Catholic Bishops/
Migration and Refugee Services**

This Agreement by and between _____ (hereinafter "Sub-recipient"), and the **United States Conference of Catholic Bishops/Migration and Refugee Services** (hereinafter "USCCB/MRS"), 3211 Fourth Street, NE, Washington, D.C. 20017-1194, is hereby established with the following provisions and shall be effective on the date of the last signature below.

A. Purpose

The Office of Refugee Resettlement (hereinafter "ORR") has been authorized by Congress, through the Homeland Security Act, to provide care and legal custody of unaccompanied alien children. ORR's responsibilities include the initial placement of such children in a range of settings such as foster family, group home, shelter, staff secure or secure and associated services for transitional or long-term periods of time until the children are reunified with family in the U.S., turn 18, are returned to their country, or are placed in another care setting. ORR's Division of Children's Services (hereinafter "ORR/DCS") is charged with these responsibilities.

The purpose of this Agreement is to establish an appropriate programmatic and financial relationship between the Sub-recipient and USCCB/MRS to provide placements for unaccompanied alien children in federal custody. This Agreement shall cover only program activities and financial expenditures related to the services for ORR/DCS-funded placements of unaccompanied alien children for the period October 1, 2015 – September 30, 2016 (Fiscal Year 2016). Please note that this Agreement supersedes all previous agreements between USCCB/MRS and the Sub-recipient pertaining to this program. Funds for the services outlined in this Agreement are derived from the present Award No. 90ZU0090 granted to USCCB/MRS by ORR/DCS.

B. Responsibilities

Applicable Law and Policy

Sub-recipient must adhere to ORR/DCS Policies and Procedures and subsequent adjustments to the program, which are provided on MyMembership through USCCB/MRS. Subsequent adjustments to the program are hereto incorporated by reference in this Agreement. Access information for MyMembership is made available by USCCB/MRS.

In addition, the program must adhere to applicable local state law. If and when a conflict between state law and ORR/DCS Policies and Procedures, in effect as of August 2006, seems to exist, the Sub-recipient should contact the USCCB/MRS Program Management staff for discussion and clarification. The Sub-recipient is responsible for ensuring compliance with the following laws and regulations:

- The Flores v Reno Settlement Agreement - (A class action law suit, Flores v. Reno (507 U.S. 292 (1993)), was filed against the INS, challenging the agency's arrest, processing, detention, and release of minors in its custody. In 1993, the Supreme Court ruled in favor of the INS on several issues, but the parties to the lawsuit were able to negotiate a settlement on other key issues, including the detention, release, and treatment of minors in INS custody. This settlement is known as the Flores settlement agreement.) Note: INS is now US Citizenship and Immigration Services (CIS).

F. Catholic Identity

USCCB/MRS must ensure that services provided to those served under this Agreement are not contrary to the authentic teaching of the Catholic Church, its moral convictions, and religious beliefs. Accordingly, USCCB/MRS expects that the Sub-recipient will provide services under this Agreement within certain parameters including, among other things, that the Sub-recipient will not provide, refer, encourage, or in any way facilitate access to contraceptives or abortion services.

G. Program Management and Communication

The principal staff contacts for the Sub-recipient and USCCB/MRS assigned to this Program is as follows:

Program Management:

Anne Mullooly, Assistant Director, Foster Care

202-541-3091

Financial Management:

Ann Franken, Grant Monitor, Grants & Program Administration

202-541-3175

H. Assignment

Sub-recipient may assign some or all core services responsibilities to an outside agency. Any assignment shall be in accordance with standards for provision of foster care within the State of _____. Any such assignment shall be accomplished only with a binding written agreement between Sub-recipient and outside agency that contains pertinent legal responsibility and related policies and procedures pertaining to the care of the child in the ORR/DUCS custody. Sub-recipient shall use the Agreement provided by USCCB/MRS when contracting with outside agencies.

I. Termination

Either party to this Agreement reserves the right to terminate this Agreement for any reason by providing ninety (90) days written notice to the other party. This Agreement may also be terminated in the event that the federal grant which provides funding authority is terminated or significantly modified, at which time USCCB/MRS shall provide written notice of such termination to the Sub-recipient.

J. Terms of Agreement

This Agreement shall take effect October 1, 2014 and remain in effect until the end of the Project Period, September 30, 2016, or until such time as it is terminated or amended as stipulated in section J. This Agreement contains all the provisions agreed upon by the parties hereto. Any amendment to this memorandum must be in writing and signed by the persons below or their duly authorized representatives. This Agreement shall be governed by, and construed in accordance with, and any disputes resolved in accordance with the laws of the District of Columbia. This Agreement contains all covenants, stipulation, and provisions agreed upon by the parties. It may only be amended in writing by the parties.

Agreed to and signed:

Organization Name
Name and Title
Signature
Date

Migration & Refugee Services/USCCB

Executive Director
Signature
Date

Exhibit 29

Message

From: Mullooly, Anne (ACF) [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=3F679DB159504D6AA6B4612C3730D816-MULLOOLY, A]
Sent: 11/17/2016 1:20:52 PM
To: Rubenstein, Carl (ACF) [carl.rubenstein@acf.hhs.gov]; Mahar-Piersma, Colleen (ACF) [colleen.mahar-piersma@acf.hhs.gov]; Colon, Mr. Ramon L (ACF) [ramon.colon@acf.hhs.gov]
CC: Veeraraghavan, Ms. Mimi (ACF) [mimi.veeraraghavan@acf.hhs.gov]; Schmalz, Jennifer (ACF) [jennifer.schmalz@acf.hhs.gov]
Subject: Fwd: FW: URM and RSIG Proposal
Attachments: USCCB Proposal for URM and RSIG_111516.pdf; APPENDIX A_USCCB Children's Services Org Chart_URM and RSIG administrati....pdf; APPENDIX B_KPeck Resume 11.2016.pdf; APPENDIX C_TKing Resume 11.2016.pdf; APPENDIX D_Catholic Charities of Fort Worth CPA license.pdf; APPENDIX E_Catholic Charities of Galveston Houston CPA License.pdf; ORR-1 Form.pdf; FY17 RSIG Budget.pdf; FY17 URM Budget Justification.pdf; FY17 URM Budget.pdf; FY17 RSIG Budget Justification.pdf; CC Fort Worth Budget Narrative.pdf; CC Fort Worth Budget.pdf; CC Houston 8month Budget.pdf

Hi Carl, Ramon, and Colleen,

As you may know, USCCB submitted their proposal yesterday afternoon. Mimi and I will begin our review. Please let us know if you have any questions or concerns.

Anne

----- Original Message -----

From: Tosin Ogunyoku-King <TOgunyoku-King@usccb.org>
Date: Wed, November 16, 2016 3:48 PM -0500
To: "Mullooly, Anne (ACF)" <Anne.Mullooly@acf.hhs.gov>, "Veeraraghavan, Ms. Mimi (ACF)" <Mimi.Veeraraghavan@acf.hhs.gov>
Subject: FW: URM and RSIG Proposal

Tosin Ogunyoku King, MSW
 Assistant Director - Foster Care
Migration and Refugee Services
 United States Conference of Catholic Bishops
 3211 Fourth Street NE
 Washington, DC 20017

Tel: 202-541-3043
 Fax: 202-722-8711
 Email: TOgunyoku-king@usccb.org

CONFIDENTIALITY NOTICE--This e-mail is intended for the sole use of the individual or entity to which it is addressed and may contain confidential and privileged material, which is exempt from disclosure under applicable law. This message is for the sole use of the intended recipient(s). Any review, distribution or copying of this communication by others is strictly prohibited. If you are not an intended recipient and received this communication in error, please notify the sender by return e-mail and delete this message and any attachments. Thank you.

From: Ann Franken
Sent: Wednesday, November 16, 2016 3:22 PM
To: carl.rubenstein@acf.hhs.gov
Cc: Tosin Ogunyoku-King <TOgunyoku-King@usccb.org>; Kristyn Peck <KPeck@usccb.org>
Subject: URM and RSIG Proposal
Importance: High

Dear Mr. Rubenstein,

CONFIDENTIAL

HHS03059

The United States Conference of Catholic Bishops, Migration and Refugee Services (USCCB/MRS) appreciates the opportunity to apply for the role of Replacement Designee for the Unaccompanied Refugee Minors (URM) Program and lead for the Refugee School Impact Program (RSIG) in Texas.

The enclosed documents include: (1) USCCB/MRS' proposal for services and corresponding appendices (2) the ORR-1 Form (3) USCCB/MRS URM budget and budget narrative (4) USCCB/MRS RSIG budget and budget narrative (5) Catholic Charities Fort Worth budget and budget narrative (6) Catholic Charities Houston budget and budget narrative.

We will continue to compile the information within the Annual Service Plan and will submit to you no later than November 22nd.

Should you have any questions, please feel free to contact Kristyn Peck (kpeck@usccb.org) or Tosin King (togunyoku-king@usccb.org).

We look forward to this opportunity to work together and to continue to contribute to the positive outcomes of refugee minors. Thank you for your consideration.

Sincerely,



Kristyn Peck, MSW
Associate Director
Children's Services

CONFIDENTIAL

HHS03060

Exhibit 30

Message

From: Schmalz, Jennifer (ACF) [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=0409F47DAA7C47D8AAF8B330CCC6F482-SCHMALZ, JE]
Sent: 11/4/2016 3:21:02 PM
To: Tota, Kenneth (ACF) [kenneth.tota@acf.hhs.gov]
CC: Gregg, Laura (ACF) [laura.gregg@acf.hhs.gov]; Rubenstein, Carl (ACF) [carl.rubenstein@acf.hhs.gov]; Mullooly, Anne (ACF) [anne.mullooly@acf.hhs.gov]
Subject: Invitation to Apply - URM
Attachments: TMP_TX_URD_Proposal_110416.pdf; LTR_URD Invitation to Apply_110416.pdf; Annual Service Plan Instructions.doc; ORR Annual Service Plan.docx; ORR Instructions for ORR-1 and Justification.pdf; ORR-1 Form.xlsx

Hi Ken,

I'm re-attaching the invitation letter with the corrected due date.

Thanks!

From: Schmalz, Jennifer (ACF)
Sent: Friday, November 04, 2016 9:50 AM
To: Tota, Kenneth (ACF)
Cc: Gregg, Laura (ACF); Rubenstein, Carl (ACF); Mullooly, Anne (ACF)
Subject: Invitation to Apply - URM

Hi Ken,

Please find attached the invitation letter for the URM RD. I've also attached the proposal checklist, ORR-1, and Annual Service Plan that are referenced in the letter.

Thanks!

jenn

Jennifer Schmalz
 Program Specialist
 Office of the Director – Division of Policy
 Office of Refugee Resettlement
 Administration for Children and Families
 U.S. Department of Health and Human Services
 Phone: (202) 260-5186
 Email: Jennifer.Schmalz@acf.hhs.gov

Unaccompanied Refugee Minors Proposal

This document serves as an outline for the required components of a proposal for the Replacement Designee for the Unaccompanied Refugee Minors Program in Texas. Additionally, the Replacement Designee will act as the fiduciary agent for the Refugee School Impact Program for fiscal year 2017. Additional information may be included, as appropriate.

Unaccompanied Refugee Minors Program

I. ADMINISTRATION

A. Administrative Structure and Oversight

1. [Name of Agency] will be the Unaccompanied Refugee Minors Replacement Designee (URD) in Texas. As URD, [Name of Agency] assumes responsibility for all aspects of the Unaccompanied Refugee Minors (URM) Program, including acting as the fiduciary agent and program reporting.
2. Describe the administrative arrangements for the provision of services to URM with the provider agencies, and the roles of the agencies involved in the URM Program.
3. Describe how the URD will exercise oversight responsibility for the care of URM.
4. Describe the URD's role on the Replacement Designee Coordinating Board.
5. Provide an assurance that the provider agencies are licensed according to state requirements.
6. Describe the procedures the URD will use to safeguard the disclosure of client information (45 CFR 400.27).

B. General Assurances

1. The URD will comply with the provisions of Title IV, Chapter 2 of the Act [42 U.S.C. § 1522], and official issuances of the Director (45 CFR 400.5(i)(1)).
2. The URD will meet the requirements in 45 CFR Part 400 (45 CFR 400.5(i)(2)).
3. The URD will comply with all other applicable federal statutes and regulations in effect during the time that it is receiving grant funding (45 CFR 400.5(i)(3)).
4. The URD will modify activities to comply with ORR standards, goals and priorities established by the Director, as needed (45 CFR 400.5(i)(4)).
5. The URD will provide services to all refugees and other ORR-served populations without regard to race, religion, nationality, sex, or political opinion (45 CFR 400.5(g)).
6. The URD will participate with the Regional Replacement Designees in meetings of public and private stakeholders at least quarterly, unless exempted by ORR (45 CFR 400.5(h)).

II. LEGAL RESPONSIBILITY

1. Describe the procedures for initiating the process of establishing legal responsibility within 30 days of a URM's arrival into the program.
2. Indicate the entity that takes legal responsibility of URM and the type(s) of legal authority allowed for URM enrollment.
3. Describe court oversight for URM, and related age parameters.

4. Describe any voluntary placement process for older youth to remain in care beyond age 18.

III. ELIGIBILITY

1. Provide an assurance that provider agencies will serve all URM-eligible populations (Policy Letter #16-01).
2. Indicate the age(s) that foster care or other placement services end (absent continued placement on a voluntary basis).
3. Indicate the age that youth 'age-out' from voluntary placements.
4. Describe the triggers that would terminate eligibility from the URM program.
5. Describe available provisions that allow former foster children to return to placement and/or services.
6. Indicate the higher age that eligibility for ORR-funded independent living services or education benefits end.

IV. SERVICES AND CASE REVIEW/PLANNING

1. Provide an assurance that the provision of benefits and services to URM youth are of the same range as available to other foster children in the state, including the state's plans under titles IV-B and IV-E of the Social Security Act.
2. Provide an assurance that cases are reviewed every six months for the continuing appropriateness of living arrangements and services.
3. Describe the arrangements for permanency plan reviews, including those conducted in parity with the state's Title IV-B plan, addressing the full range of permanency options, including but not limited to adoption.
4. Provide an assurance that the following elements are addressed in case plans: family reunification, placement, health screening and treatment, mental health needs, social adjustment, education/training, English language training, career planning, preparation for independent living, and preservation of ethnic and religious heritage.
5. Describe how health coverage is provided for URM youth (<age 19, and ages 19-21).
6. Describe the procedures for the movement of minors to other states.
7. Describe placement options available, including any special arrangements to diversify the range of placement (e.g. through subcontracts, memoranda of understanding, etc.).
8. Describe arrangements for providing independent living services and educational training vouchers (ETVs) with ORR funding.
9. Provide any additional information on available benefits and services, as desired.

V. REPORTING AND MONITORING

1. Describe how the URD conducts monitoring of contracted URM providers.
2. Describe the process for the URD's review of required placement and outcome reports for URM youth (ORR-3 and ORR-4 reports).
3. Provide an assurance that the URD will maintain records necessary for federal monitoring and submit reports as required by ORR (45 CFR 400.28).

Refugee School Impact Program

I. ADMINISTRATION

A. Administrative Structure and Oversight

1. [Name of Agency] will act as the fiduciary agent for the Refugee School Impact (RSI) Program in Texas for fiscal year 2017.
2. Provide an administrative budget.
3. Provide an assurance that RSI services will be provided in accordance with 45 CFR 400.155 and Dear Colleague Letter #16-07.
4. Describe the URD's plan for communications with subcontractors.

Exhibit 31

Message

From: Kathryn Kuennen [KKuennen@usccb.org]
Sent: 2/25/2019 9:33:21 PM
To: Park, Esther (ACF) [esther.park@acf.hhs.gov]; Veeraraghavan, Mimi (ACF) [mimi.veeraraghavan@acf.hhs.gov]
CC: Lindsay Stepp [LStepp@usccb.org]
Subject: RE: call regarding URM program at CCFW

Hi Esther,

Absolutely. Below are the best points of contact for Catholic Charities Dallas:

Dave Woodyard
 CEO – Catholic Charities
 412-720-0164
<https://protect2.fireeye.com/url?k=16af5e05-4afb4779-16af6f3a-0cc47adc5fa2-2b9556f53b3b0058&u=http://www.ccdallas.org/>

Jari Mema
 Chief Services Officer
 Catholic Charities Dallas
 1421 W. Mockingbird Lane, Dallas, TX 75247
 Main: 866.CCD.7500 | Direct: 469-801-8116
 Cell: 682-702-9170
jmema@CCDallas.org

Both are appreciative of the opportunity to connect with other programs on this, and you may pass their contact information along.

Thank you,
 Katie

From: Park, Esther (ACF) <Esther.Park@acf.hhs.gov>
Sent: Monday, February 25, 2019 7:34 AM
To: Kathryn Kuennen <KKuennen@usccb.org>; Veeraraghavan, Mimi (ACF) <Mimi.Veeraraghavan@acf.hhs.gov>
Cc: Lindsay Stepp <LStepp@usccb.org>
Subject: RE: call regarding URM program at CCFW

Hi Katie,
 This is great and I am glad to hear that you already identified a replacement agency.
 It will be great if you provide a contact information. I think it would be best to have everybody involved in this transition TA process especially the incoming agency. Looking forward to your follow up.

Best,

Esther

From: Kathryn Kuennen <KKuennen@usccb.org>
Sent: Friday, February 22, 2019 4:48 PM
To: Park, Esther (ACF) <Esther.Park@acf.hhs.gov>; Veeraraghavan, Mimi (ACF) <Mimi.Veeraraghavan@acf.hhs.gov>
Cc: Lindsay Stepp <LStepp@usccb.org>
Subject: RE: call regarding URM program at CCFW

Hi Esther,

We actually have identified a replacement agency in Catholic Charities of Dallas. CC- Dallas is prepare to engage in the transition process as soon as possible and we have already had regular communication with them to explore this possibility and confirm their capacity and commitment to move forward. I'm sure they would be very open to any additional support and guidance from those who have been through a similar process. I will follow-up early next week with contact information.

Thank you,
Katie

From: Park, Esther (ACF) <Esther.Park@acf.hhs.gov>
Sent: Friday, February 22, 2019 4:36 PM
To: Veeraraghavan, Mimi (ACF) <Mimi.Veeraraghavan@acf.hhs.gov>
Cc: Lindsay Stepp <LStepp@usccb.org>; Kathryn Kuennen <KKuennen@usccb.org>
Subject: RE: call regarding URM program at CCFW

Hi Mimi,
 Finally, I got connected with PA SRC who is willing and will gladly share their experiences to aid in smooth transitioning. I have one question. It is my understanding that CCFW is transitioning out of the URM program, but USCCB hasn't found a replacement agency. For this transitioning, what is important is to have a new agency lined up and participate in this TA together would be better. It would be effective and save efforts. Luckily for PA, Peter Gottemoller, who was program director for the exiting agency LCFS, happened to be rehired by the new incoming agency BCS. So, he knows both transitioning out and to. To me, it's better to wait till an incoming agency is identified. In some way, learning by incoming agency would be more important than CCFW at this point. Additionally, until new agency identified, CCFW should not submit ORR-3 change of status report.
 Katie and Mimi: What do you think?

Thanks,

Esther

From: Veeraraghavan, Mimi (ACF) <Mimi.Veeraraghavan@acf.hhs.gov>
Sent: Thursday, February 21, 2019 3:14 PM
To: Park, Esther (ACF) <Esther.Park@acf.hhs.gov>
Cc: Lindsay Stepp <LStepp@usccb.org>; 'Kathryn Kuennen' <KKuennen@usccb.org>; 'afox@ccdofw.org' <afox@ccdofw.org>; 'danaspringer@ccdofw.org' <danaspringer@ccdofw.org>
Subject: RE: call regarding URM program at CCFW

Good Afternoon Esther,

I believe you are aware that Catholic Charities of Fort Worth is re-aligning their services with a newly streamlined mission, and thus is looking to transfer their children's services programming, including URM, to another local agency. Please scroll down for more information from USCCB.

USCCB, acting as the URM Replacement Designee for the state of Texas, would like to connect with their peers in Pennsylvania's State Refugee Coordinator's office, to learn from their experience with a similar transition a couple of years ago. Similarly, Catholic Charities of Fort Worth would like to connect with Bethany Christian Services staff who are knowledgeable about the transition of services from the former Pennsylvania URM provider.

Would you mind forwarding this message, by way of introduction, to the two agencies, so that the parties can connect directly? I've cc'd the following point of contacts for the Texas URM program above.

URM Replacement Designee for the state of Texas:

Katie Kuennen, MSW

Associate Director of Children's Services
USCCB | Migration and Refugee Services
202-541-3144
kkuennen@usccb.org

Catholic Charities of Fort Worth, current URM provider:

Angela M. Fox, MA
817.289.0466
afox@ccdofw.org

Dana Springer
(214) 500-0810
danaspringer@ccdofw.org

Thanks! I appreciate your assistance in making these important networking connections.

Mimi

Mimi Kleiner Veeraraghavan
URM Program Analyst
Office of Refugee Resettlement
Tel: 202-401-5860
Em: mimi.veeraraghavan@acf.hhs.gov

From: Kathryn Kuennen <KKuennen@usccb.org>
Sent: Tuesday, February 05, 2019 4:54 PM
To: Veeraraghavan, Mimi (ACF) <Mimi.Veeraraghavan@acf.hhs.gov>
Cc: Lindsay Stepp <LStepp@usccb.org>
Subject: RE: call regarding URM program at CCFW

Hi Mimi,

Thank you again for taking the time to speak with me earlier today. As I shared on the call, USCCB was recently informed that Catholic Charities of Fort Worth has made the decision to transition out all of its Children's Services programming. This will include the UC shelter program, transitional foster care, long-term foster care, and the URM program. We will be working closely with the program to develop a timeline and transition plan that will be as least disruptive as possible to the children in care, with the goal of identifying an alternative community-based provider in the same geographic region. The timeline for the transition is not yet final. However, the agency is prepared for the possibility of a longer transition for the URM program and is committed to sustaining placements and services for the children in care through the transition period. We will certainly keep you informed as this develops. Any additional guidance from ORR to support this transition is also welcomed and appreciated.

Thank you,

Katie Kuennen, MSW
Associate Director of Children's Services
USCCB | Migration and Refugee Services
3211 4th Street, NE
Washington, DC 20017
202-541-3144
202-722-8711 (f)
kkuennen@usccb.org

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Exhibit 32

Message

From: Kristyn Peck [KPeck@usccb.org]
Sent: 11/27/2016 11:15:55 PM
To: Veeraraghavan, Ms. Mimi (ACF) [mimi.veeraraghavan@acf.hhs.gov]
CC: Tosin Ogunyoku-King [TOgunyoku-King@usccb.org]; Ann Franken [AFranken@usccb.org]; Colon, Mr. Ramon L (ACF) [ramon.colon@acf.hhs.gov]; Mahar-Piersma, Colleen (ACF) [colleen.mahar-piersma@acf.hhs.gov]
Subject: Re: URD proposal - policy on faith based organizations

Hi Mimi,

Thanks for this. We will ensure its included.

Best,
 Kristyn

Sent from my iPhone

On Nov 25, 2016, at 12:04 PM, Veeraraghavan, Ms. Mimi (ACF) <Mimi.Veeraraghavan@acf.hhs.gov> wrote:

Hi Kristyn,

As mentioned in a message on Wednesday, ORR is still working on USCCB's request for more time for the URM portion of the proposal. I expect to get back to you early next week. In the meantime, please focus on your revisions for the RSIG component of your submission. The purpose of the remainder of this message is convey a need for the proposal to recognize/follow ACF's policy on faith based organizations.

Faith-based organizations have long been and will continue to be partners in our work and we are mindful that religious objections to providing certain kinds of services, including referrals may arise. We have developed policies that allow for organizations to partner with us even if they object to providing specific services on religious grounds while still providing the full range of legally permissible services to people who need them in a timely fashion. The entire policy on grants to faith-based organizations can be accessed here: <http://www.acf.hhs.gov/acf-policy-on-grants-to-faith-based-organizations>. **In accordance with that policy we recommend adding additional language to page 4 of your Texas URM and RSIG proposal:**

In addition, USCCB/MRS must ensure that services provided under this application are not contrary to the authentic teaching of the Catholic Church, its moral convictions, or religious beliefs. In instances where a client's needs or circumstances may require services, including referrals, that USCCB/MRS cannot provide due to religious conviction, USCCB/MRS will notify ORR of the client's needs. ORR will assume responsibility to ensure the client's needs are met including, if appropriate, transferring the case to another provider.

I am getting ready to send Tosin and Ann another message with some responses to their questions and notes on USCCB's URD submission, most of which we have discussed verbally.

I hope you are having a great holiday,

Mimi

From: Kristyn Peck [<mailto:KPeck@usccb.org>]
Sent: Tuesday, November 22, 2016 2:31 PM

To: Veeraraghavan, Ms. Mimi (ACF)
Cc: Tosin Ogunyoku-King; Ann Franken
Subject: RE: Information for revision of URD proposal, planning, etc.

Hi Mimi,

Sounds good—I sure will let you know.

With regards to contact info for RSIG sub-recipients—we have it and have been communicating with all of them except Amarillo, for whom no contact information was provided to us, and the chart indicated that they were not providing services.

Best,
Kristyn

From: Veeraraghavan, Ms. Mimi (ACF) [<mailto:Mimi.Veeraraghavan@acf.hhs.gov>]
Sent: Tuesday, November 22, 2016 2:30 PM
To: Kristyn Peck <KPeck@usccb.org>
Cc: Tosin Ogunyoku-King <TOgunyoku-King@usccb.org>; Ann Franken <AFranken@usccb.org>
Subject: RE: Information for revision of URD proposal, planning, etc.

Hi Kristyn,

Thank you for letting me know about your Director's call to Ken. I understand the complexity of the URM program and that not only is there a learning curve here, but that some elements are under development. I understand the timing concern; this all feels very fast to me too. I'll await an internal update re: any modifications to the deadline, and will circle back with you. If Ken provides your Director with a different target date, can you let me know? (With the holiday this week, I am not sure when I will be able to connect with Ken.)

Also — I was planning to send Tosin and Ann some bullets on items that we discussed plus a couple of additional items, but I won't be able to do so until the morning due to another deadline. Sorry for the delay. If they are out tomorrow, the message will be waiting for them on Monday morning.

Re: Contact information for RSIG sub-recipients — let me look into that and get back to you. Makes sense for you to get the contact information for all of them, not just Amarillo.

Thanks,

Mimi

Mimi Kleiner Veeraraghavan
URM Analyst
Office of Refugee Resettlement
Tel: 202-401-5860
Em: mimi.veeraraghavan@acf.hhs.gov

From: Kristyn Peck [<mailto:KPeck@usccb.org>]
Sent: Tuesday, November 22, 2016 1:18 PM
To: Veeraraghavan, Ms. Mimi (ACF)

Cc: Tosin Ogunyoku-King; Ann Franken

Subject: RE: Information for revision of URD proposal, planning, etc.

Hi Mimi,

Thank you for taking the time to talk through the requested changes to the proposal with Ann and Tosin this morning. They briefed me on your call and we are beginning to incorporate changes. We are also waiting for the remainder of the changes ORR is requesting which I understand you are sending by email today. We appreciate your patience with us as we navigate this new territory.

I have two areas for follow up:

- First, the communication we've received from ORR about RSIG does not include whether Amarillo plans on continuing (it says N/A in the "will services continue in FY17" column) and therefore, we assumed they were not participating. We will follow up with them to confirm that, however, we don't have their contact information. Do you mind sending that to us?
- Secondly, I wanted to let you know that Bill Canny, our Executive Director, left a message for Ken Tota about the submission deadline of Tuesday, November 29th. We are able to provide ORR the information requested for the RSIG grant, including the revisions to the ORR-1 form, the sub budgets, and the Annual Service Plans by next Tuesday at noon, however, we will need more time to make the revisions to the URM proposal. Given that the need to approve the URM piece of the proposal is less urgent, Bill is asking Ken if ORR is able to conditionally approve the proposal to allow it to process RSIG next week while allowing us more time to review and respond to the changes to the URM proposal. Tosin and I are out tomorrow through the rest of the week due to the Thanksgiving holiday so our time this week to work on this is limited.

Thank you again for your assistance and support. Knowing the full extent of what administering this program entails and our role as the replacement designee will allow us to successfully implement this program. We look forward to working with ORR as the Replacement Designee for the URM Program and RSIG.

Best regards,
Kristyn

Kristyn Peck, MSW
Associate Director, Children's Services
Migration and Refugee Services' Office of Special Programs
United States Conference of Catholic Bishops
3211 4th Street, NE
Washington, DC 20017

Office: 202-541-3039
Cell: 202-578-2844
Email: kpeck@uscgb.org

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<IMAGE003.JPG>

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From: Ann Franken
Sent: Tuesday, November 22, 2016 12:05 PM
To: Kristyn Peck <KPeck@usccb.org>
Cc: Tosin Ogunyoku-King <TOgunyoku-King@usccb.org>
Subject: FW: Information for revision of URD proposal, planning, etc.

From: Veeraraghavan, Ms. Mimi (ACF) [<mailto:Mimi.Veeraraghavan@acf.hhs.gov>]
Sent: Tuesday, November 22, 2016 9:02 AM
To: Tosin Ogunyoku-King <TOgunyoku-King@usccb.org>; Ann Franken <AFranken@usccb.org>
Subject: Information for revision of URD proposal, planning, etc.

Good Morning Tosin and Ann,

Here are some additional documents to assist with your URD application revision and program planning:

1. Texas Replacement Designee refugee program flowchart
2. FY16 3rd Trimester report for Texas; schedule D
3. FY17 Texas ORR1 Submission with narrative
4. Texas FY16 approved Refugee State Plan

I will call you in a couple of minutes.

Mimi

Mimi Kleiner Veeraraghavan
URM Analyst
Office of Refugee Resettlement
Tel: 202-401-5860
Em: mimi.veeraraghavan@acf.hhs.gov

Exhibit 33

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

FATMA MAROUF, *et al.*,

Plaintiffs,

V.

Xavier Becerra, in his official capacity as
Secretary of the UNITED STATES
DEPARTMENT OF HEALTH AND HUMAN
SERVICES, *et al.*,

Defendants.

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**FEDERAL DEFENDANTS' SECOND SUPPLEMENTAL OBJECTIONS AND
RESPONSES TO PLAINTIFFS' FIRST SET OF INTERROGATORIES**

Pursuant to Federal Rule of Civil Procedure 26(e)(1) and the Court’s January 18, 2022, Minute Order, Defendants United States Department of Health and Human Services (“HHS”), Administration for Children and Families (“ACF”); Office of Refugee Resettlement (“ORR”); Xavier Becerra, in his official capacity as Secretary of HHS; January Contreras, in her official capacity as Assistant Secretary for ACF; and Cindy Huang, in her official capacity as Director of ORR (collectively, “Federal Defendants”), hereby submit these second supplemental objections and responses to Plaintiffs’ First Set of Interrogatories.

OBJECTIONS TO DEFINITIONS AND INSTRUCTIONS

2. The terms “Federal Defendants,” “you,” and “your,” as used herein, refer to HHS; ACF; ORR; Alex Azar, in his official capacity as Secretary of HHS; Lynn Johnson, in her official capacity as Assistant Secretary for ACF; and Jonathan Hayes, in his official capacity as Director of ORR, including but not limited to directors, officers, owners, representatives, agents, servants, employees, members, or other persons acting or purporting to act on behalf of Federal Defendants, and any predecessors or successors.

- Providing strategic oversight and coaching to improve the quality and efficiency of care and releases at assigned shelter sites for unaccompanied children.
- Resolving regular program issues, including coordinating with the Department of Homeland Security, local officials and other stakeholders to resolve challenges.
- Reviewing and analyzing data (incidents, lengths of care, releases) regarding assigned shelters to identify improvement opportunities for programs, and developing and monitoring corrective action plans.
- Advising care providers on best practices based on experience, expertise and research.
- Developing policies, procedures and training for facilities to fulfill the needs and further the care of unaccompanied children.
- Assisting ORR in Field Operations related to influx operations or other types of emergencies related to the care of UC.

INTERROGATORY NO. 2:

[3] Please identify all child placing agencies in the State of Texas with a grant or sub-grant to directly or indirectly provide foster care or adoption-related services, including placing children with foster or adoptive parents or processing foster or adoptive parent applications.

[4] Include any child placing agency in the State of Texas with a pending grant or sub-grant application. For each of these agencies, please identify:

- a. its name;
- b. its location(s) (*i.e.*, the locality(ies) that it serves);
- c. the Program or Programs in which it participates;
- d. the number of children under each Program that it serves annually;
- e. the number of children under each Program that it serves annually who self-identify as LGB;
- f. the amount of its grant and the appropriation from which Federal Defendants expended or awarded federal funds with respect to the grant;
- g. its religious affiliation, if any; and
- h. [5] whether it discontinued participation in a Program, including the reason(s) therefor and any alternative arrangements that Federal Defendants made with respect to children formerly assigned to it or the foster or adoptive parents processed by it.

OBJECTIONS TO INTERROGATORY NO. 2:

Federal Defendants object to this interrogatory because it has three discrete subparts, identified by the bracketed numbering above, which numbering is incorporated in this objection by reference. This interrogatory calls for three separate inquiries by Federal Defendants, asking various questions about current grantees, grant applicants (*i.e.* potential future grantees), and past grantees that have discontinued participation in a Program in Texas (including Federal Defendants'

- (g) The Federal Government does not request information on the religious affiliation of subgrantees and does not have first-hand knowledge of the religious affiliation of subgrantees.

Grantee – USCRI

Federal Defendants do not concede that USCRI falls within the scope of Interrogatory No. 2, insofar as USCRI is not a “child placing agenc[y] in the State of Texas.” Nor do Federal Defendants concede that USCRI has “a grant or sub-grant to directly or indirectly provide foster care or adoption-related services.” Nevertheless, out of an abundance of caution, and in a good-faith effort to avoid disputes, Federal Defendants provide the following information:

- (a) United States Committee for Refugees and Immigrants.
- (b) USCRI is headquartered in Arlington, Virginia. As a Medical Replacement Designee (MRD) for the state of Texas since 2017, USCRI has provided ORR-funded medical assistance to URM clients in Dallas/Fort Worth and Houston who are ineligible for Medicaid or CHIP. In response to a request by ORR dated September 28, 2021, USCRI has agreed to also provide an intake and referral function for individuals and couples in the Dallas/Fort Worth area who are interested in fostering URM. Following intake, USCRI will refer such prospective foster parents to either Catholic Charities Dallas or Upbring for training and licensing in accordance with applicable Texas law. This new intake and referral function became operational on March 28, 2022.
- (c) USCRI provides ORR-funded medical assistance for Unaccompanied Refugee Minor clients, as described in Section 3.3.3 of the URM program policy guide. Starting in the second quarter of FY 2022, USCRI will also provide intake and referral of prospective foster parents in the Dallas/Fort Worth area, as indicated above.

Texas withdrew its participation in the Refugee Resettlement Program, including the URM program, as of January 31, 2017. *See* HHS00667. Federal Defendants refer to their response to Interrogatory No. 3(a) with respect to the URM program regarding alternative arrangements made following the State's withdrawal.

Catholic Charities of Fort Worth

Catholic Charities of Fort Worth discontinued participation in the URM and UC programs in Texas. Under Rule 33(d), Federal Defendants refer to HHS00216 for the reasons why this subgrantee discontinued its participation and refer to HHS00394–00395 for the alternative arrangements implemented to fulfill CCFW's role.

Recent Grants

LIRS

Lutheran Immigration and Refugee Service (LIRS) was approved to serve as a replacement designee in the URM program in Texas on May 29, 2020, providing long term foster care through Upbring, an entity based in Fort Worth/Dallas, Texas. *See* Exhibit C (May 29, 2020, Approval Letter). The localities that would be served by LIRS and Upbring are dependent upon any Texas law governing the proximity within which licensed foster parents must be located to child placing agencies in order to receive placements. LIRS anticipated having the capacity to serve 36 URM's by the end of FY2022. Federal Defendants do not request information on the religious affiliation of grantees and do not have first-hand knowledge of the religious affiliation of LIRS or Upbring.

The Texas USCRI Consortium

Federal Defendants' most recent production includes a September 28, 2021, letter from ORR to USCRI recognizing their commitment to implement the "Texas URM consortium" in partnership with USCCB and LIRS. *See* HHS_SUPP_000010.

those regarding same-sex couples parenting foster children, which is the only religious belief relevant to this case.

RESPONSE TO INTERROGATORY NO. 3:

Subject to their objections, Federal Defendants respond to Interrogatory No. 3 as follows:

URM Program

a. For URM programs run through the states, the states submit a state plan pursuant to 45 C.F.R. § 400.5. For states that withdraw, the Director has the authority to designate a replacement designee under 45 C.F.R. § 400.301. In that situation, ORR invites an entity to submit an application and provides a checklist of information in the application. A copy of such an invitation to apply and checklist is shown at HHS00150–00154. After the invited replacement designee submits an initial proposal, the Director determines whether to approve it. For subsequent years, ORR provides the replacement designee with a checklist to submit a yearly state plan. For FY2018, USCCB used the initial checklist at HHS00152–00154 again. Federal Defendants also refer to checklists for FY2019 (HHS00683–00685) and FY2020 (HHS00376–00379).

ORR does not review or approve applications from sub-grantees. As part of the replacement designee initial and yearly checklist, ORR requests information on the placement options available for URM, including through sub-grantees. The applicant provides this information to ORR.

When Texas announced its intent to withdraw from the refugee resettlement program as of January 31, 2017, ORR formed a “tiger team,” a special team constituted to determine which organizations should be chosen as replacement designees in Texas. It developed a set of considerations for replacement designees in each of four regions in Texas. These considerations

are Bates labeled HHS00396–00400. Following a review of agencies’ past work providing refugees assistance in Texas, ORR invited organizations to apply to serve as replacement designees, including USCCB.

b. Grantees are required to follow the state law of the state in which they are located in regard to licensing and approval of prospective foster parents, under the Refugee Act, 8 U.S.C. § 1522(d)(2)(B)(ii).

Further, in accordance with 45 C.F.R. § 400.117, a replacement designee provides services through a private child welfare agency licensed under state law. These child welfare agencies must follow state law, including on accepting applications from, screening, licensing, or processing prospective foster parents under state law.

ORR also requires that pursuant to the ORR regulations at 45 C.F.R. § 400.118, the grantee must develop an appropriate plan for the care and supervision of each unaccompanied child, including that the child is placed in a foster home or other setting approved by the grantee or sub-grantee. In accordance with 45 C.F.R. § 400.120, the grantee must provide an initial report within 30 days of the date of the minor’s placement in the state. The grantees submit form “ORR 3” within 30 days of a minor entering care or when the URM’s placement changes.

c. The response to this interrogatory is encompassed in the response to 3(b).

d(i). The Federal Government imposes terms and conditions on URM grantees, which govern how a grantee may run its grant program, including limits on allowable costs, eligibility, and reporting requirements. These terms and conditions were produced with Federal Defendants’ initial disclosures. *See* HHS00185–00209. If a grantee follows all the requirements in the terms and conditions, the Federal Government does not prohibit a grantee from providing services in line with its moral or religious convictions.

d(ii). The URM program must comply with the Age Discrimination Act of 1975, the Civil Rights Act of 1964, the Education Amendments of 1972, and the Rehabilitation Act of 1973. It must also comply with the HHS regulations related to non-discrimination. These include the non-discrimination regulations at: 45 C.F.R. Part 80, 45 C.F.R. Part 84, 45 C.F.R. Part 86, 45 C.F.R. Part 87, and 45 C.F.R. Part 91. The policies related to non-discrimination specifically in the URM program are:

- 8 U.S.C. § 1552(a)(5), which states that “assistance and services funded under this section shall be provided to refugees without regard to race, religion, nationality, sex, or political opinion.”
- 45 C.F.R. § 400.5(g), which provides that each state plan must provide an assurance that the replacement designee will provide services to refugees and ORR-served populations without regard to race, religion, nationality, sex, or political opinion.

e. ORR accommodates the religious beliefs of USCCB by permitting USCCB to include religious accommodation language in its state plan. *See* HHS00158, HHS00579, HHS00519

f. As laid out in 45 C.F.R. § 400.11(b)(1), states and replacement designees make yearly estimates of the reimbursable costs of the next fiscal year. Pursuant to 45 C.F.R. § 400.11(b)(3), the state or replacement designee may make adjustments on a quarterly basis to the estimate. As explained in 45 C.F.R. § 400.205, the Federal Government will reimburse grantees for all expenses provided in 45 C.F.R. §§ 400.115–400.120 for URM. Because costs vary depending on the number of children in the program, the amount of the grant will vary based on the number of URM in a grantee program.

g. The response to this interrogatory is encompassed in the response to 3(b).

Question regarding differences in Texas: Licensing requirements for foster placements are dependent on state law. Thus, Texas law will govern the licensing and placement for URM who reside in Texas. Texas law may be different from the laws governing these issues in other states.

UC Program

a. ORR issues Notices of Funding Opportunity (NOFOs) and accepts applications in response to each NOFO from potential grantees. Each NOFO identifies the necessary application and submission information, review criteria and selection process. After the application deadline a review panel is convened and trained on review using a “Panel Review Orientation” before evaluating the applications. ORR follows applicable Federal regulations, including those at 45 CFR §§ 75.203–75.206 and Appendix I which address requirements for NOFOs, applications and the competitive review process. ORR also follows ACF policies related to the grant review process, which can be found in the Grants Policy Administration Manual (GPAM), Part G, Chapter 1 entitled “Pre-Award Activities.” See HHS00668–00682. ORR evaluates proposals from applicants for grants, but any sub-grantees are selected by the prime grantee, not ORR.

b. This information would be reflected in each applicable NOFO and cooperative agreement between a grantee and ORR, as well as the *Flores* settlement agreement and UC Policy Guide at Section 3. Under Rule 33(d), Federal Defendants cite the UC Long Term Foster Care FOA under which USCCB was awarded in 2016 (HHS00600–00666), the Cooperative Agreement between ORR and USCCB for LTFC between 2017 and 2020 (HHS00115–00146), the *Flores* settlement agreement (HHS00401–00451), and the UC Policy Guide at Section 3 (HHS00358–00375).

c. The response to this interrogatory is encompassed in the response to 3(b).

d. This information would be reflected in each applicable FOA and cooperative agreement between a grantee and ORR. Under Rule 33(d), Federal Defendants cite the UC Long Term Foster Care FOA under which USCCB was awarded in 2016 (HHS00600–00666) and the Cooperative Agreement between ORR and USCCB for LTFC between 2017 and 2020 (HHS00115–00146). Federal Defendants also refer to applicable regulations at 45 C.F.R. Part 87 and the Public Policy Requirements in Chapter II of the HHS Grants Policy Statement (GPS). See <https://www.hhs.gov/sites/default/files/grants/grants/policies-regulations/hhsgps107.pdf>. The award notices in the UC LTFC program also each include a section entitled “Standard Terms and Conditions” that require grantees to comply with both 45 C.F.R. Part 75 and the GPS, and include a link to the HHS website page that includes links to both Part 75 and the GPS. See <https://www.hhs.gov/grants/grants/grants-policies-regulations/index.html>. An example of one such UC LTFC award provided to USCCB is shown at HHS00355–00357.

e. This information would be reflected in each applicable FOA and cooperative agreement between a grantee and ORR. Under Rule 33(d), Federal Defendants cite the UC Long Term Foster Care FOA under which USCCB was awarded in 2016 (HHS00600–00666) and the Cooperative Agreement between ORR and USCCB for LTFC between 2017 and 2020 (HHS00115–00146).

f. This information would be reflected in each applicable FOA. Under Rule 33(d), Federal Defendants cite the UC Long Term Foster Care FOA under which USCCB was awarded in 2016 (HHS00600–00666) and the Cooperative Agreement between ORR and USCCB for LTFC between 2017 and 2020 (HHS00115–00146).

g. The response to this interrogatory is encompassed in the response to 3(b).

Additional information responsive to this interrogatory, to the extent not privileged, may be derived from Federal Defendants' ongoing collection and review of relevant documents in response to Plaintiffs' discovery requests. Federal Defendants may supplement this response under Rule 26(e), including by reference to documents under Rule 33(d) as appropriate.

d. Federal Defendants are not aware of any responsive information concerning the number of couples or individuals who were approved to serve as foster parents under a Program with whom a child was not placed for any reason concerning the religious beliefs of a grantee or sub-grantee. In both the URM and UC programs, it is the responsibility of grantees to make appropriate placements. To the extent this information exists, it would be in the possession of ORR's grantees and sub-grantees. Federal Defendants are not otherwise aware of any other examples responsive to this request.

Federal Defendants are also not aware of any responsive "response, decision, or action" by them.

e. Federal Defendants are not aware of any responsive information concerning the number of couples or individuals who were approved to serve as foster parents under a Program with whom a child was not placed for any reason concerning the religious beliefs or views about sexual orientation of a grantee or sub-grantee. In both the URM and UC programs, it is the responsibility of grantees to make appropriate placements. To the extent this information exists, it would be in the possession of ORR's grantees and sub-grantees. Federal Defendants are not otherwise aware of any other examples responsive to this request.

Federal Defendants are also not aware of any responsive "response, decision, or action" by them.

INTERROGATORY NO. 5:

Please describe all communications and related documents related to:

- a. [23] [24] any statement (including in any grant or sub-grant application) by any grantee or sub-grantee, including USCCB or any of its sub-grantees (including CCFW or CCD), that it intends to administer a grant or sub-grant in a manner consistent with the grantee's or sub-grantee's religious beliefs (including any communications related to what it means to administer a grant in such a manner);
- b. [25] [26] a grantee's or sub-grantee's, including USCCB's or any of its sub-grantee's (including CCFW's or CCD's) willingness or ability to place children with foster or adoptive parents who are same-sex couples, whether married or unmarried, or LGB individuals or to process foster or adoptive parent applications submitted by such couples or individuals; or
- c. [27] [28] a grantee's or sub-grantee's, including USCCB's or any of its sub-grantee's (including CCFW's or CCD's) religious beliefs related to parenting of children by same-sex couples, whether married or unmarried, or LGB individuals; marriage of same-sex couples; other same-sex domestic partnerships; LGB people; or homosexuality, bisexuality, or sexual orientation.

For each such communication or related document, please identify (a) the individuals or entities involved; (b) the date of the communication or document; and (c) [29] a description of any investigation or other follow-up that resulted from such communication or document.

OBJECTIONS TO INTERROGATORY NO. 5:

Federal Defendants object to this interrogatory because it has seven discrete subparts, identified by the bracketed numbering above, which numbering is incorporated in this objection by reference. This interrogatory calls for seven separate inquiries by Federal Defendants. First, as to the three lettered sub-paragraphs, Plaintiffs ask Federal Defendants to describe various communications only related by the fact that the questions are begun by the phrase "Please describe." That minimal relationship is insufficient to properly join these questions as one interrogatory. Plaintiffs separately ask Federal Defendants to describe actions they have taken "that resulted from" these communications. Requests for information about government action responsive or related to an incident is not the same thing as a request for information about the incident itself. See *Objection to Interrogatory No. 4* (citing *Willingham*, 226 F.R.D. at 59–60). Finally, Plaintiffs make three separate requests for documents, which each constitute discrete requests. *Smith*, 256 F.R.D. at 254. This interrogatory constitutes seven interrogatories for purposes of the limit of 25 interrogatories. See Fed. R. Civ. P. 33(a)(1). The document component

regardless of whether it is duplicative or relevant to the claims or defenses in this case. The scope of discovery is limited to that which is proportionate to the needs of this case.

RESPONSE TO INTERROGATORY NO. 5:

Subject to the foregoing objections, Federal Defendants state as follows:

Federal Defendants anticipate that information responsive to sub-paragraphs (a) and (b) of this interrogatory, to the extent that it is not privileged, may be derived from a review of certain documents that will be provided to Plaintiffs in upcoming document productions. Federal Defendants will supplement this interrogatory response, as needed, following such productions.

Federal Defendants will not answer these questions as to any communications or documents beyond the scope of discovery in this case, as described in the foregoing objections (including, without limitation, questions about grantees other than USCCB, services other than long term foster care in Texas, or religious beliefs other than those concerning parenting by same-sex couples).

Federal Defendants further state as follows.

a. USCCB has made statements in its applications for grant funding to ORR that it will “ensure that services provided under this application are not contrary to the authentic teaching of the Catholic Church, its moral convictions, and religious beliefs.” See HHS00062 (USCCB application for FY2017 funding to provide UC LTFC); HHS00158 (USCCB application to become Replacement Designee for the URM program in Texas). USCCB also attached as appendix A-8 to its FY2017 application for 2017 UC LTFC funding a sample agreement between sub-recipients and USCCB stating USCCB’s “expect[ation]” that sub-recipients “will provide services under this Agreement within certain parameters” in light of USCCB’s religious beliefs.

Additional information responsive to this interrogatory, to the extent not privileged, may be derived from Federal Defendants' ongoing collection and review of relevant documents in response to Plaintiffs' discovery requests. Federal Defendants may supplement this response under Rule 26(e), including by reference to documents under Rule 33(d) as appropriate.

b. Federal Defendants are only aware of three responsive episodes with respect to grantees or sub-grantees in the URM and UC programs.

First, in response to ORR questions, BCFS Health and Human Services and LIRS have stated to ORR that they have no objection to placing children with same-sex foster parents. These inquiries were made by ORR staff in 2018 and 2019 during their efforts to establish an alternative foster care provider in the Dallas-Fort Worth area of Texas with which Plaintiffs may work. *See, e.g.*, HHS09292 ("LIRS confirms that we do not have a religious objection to facilitating applications of same-sex couples to become foster parents.").

Second, USCCB associate director Kristyn Peck informed ORR employee Mimi Veeraraghavan by email on March 2, 2017, that CCFW told Fatma Marouf that it does not recruit or assist with licensure of same-sex foster parents for religious reasons. USCCB further stated that it "also believes that marriage is between one man and one woman." *See, e.g.*, HHS14399.

Third, ORR has been told by USCRI that it has no objection to working with same-sex couples seeking to foster children through the URM program. Federal Defendants do not concede that communications with USCRI fall within the scope of Interrogatory No. 5, insofar as USCRI does not "place children with foster or adoptive parents." Nevertheless, Federal Defendants are willing to convey this information out of an abundance of caution, and in a good-faith attempt to avoid discovery disputes.

Federal Defendants object to this interrogatory because it is misidentified as Plaintiffs' thirteenth interrogatory. The correct number calculated per Fed. R. Civ. P. 33(a)(1) is identified by the bracketed numbering above, which numbering is incorporated in this objection by reference. Because this interrogatory is beyond the limit of 25 permitted by Fed. R. Civ. P. 33(a)(1), Federal Defendants will not answer.

Dated: April 1, 2022

Respectfully,

As to objections:

BRIAN M. BOYNTON
Principal Deputy Assistant Attorney General

MICHELLE BENNETT
Assistant Branch Director

/s/ Jason C. Lynch
JAMES R. POWERS
JASON C. LYNCH (DC Bar No. 1016319)
Trial Attorneys
Federal Programs Branch
U.S. Department of Justice, Civil Division
1100 L Street, NW
Washington, DC 20005
Telephone: (202) 514-1359
Email: Jason.Lynch@usdoj.gov

Counsel for Federal Defendants

VERIFICATION OF INTERROGATORIES

For the URM Program:

I, Kenneth Tota, Deputy Director of Refugee Programs at ORR, hereby certify under penalty of perjury that the foregoing responses to interrogatories that concern the URM program are true and correct to the best of my information, knowledge, and belief.

Executed on April 1, 2022, in Washington, D.C..

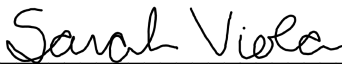


Kenneth Tota

For the UC Program:

I, Sarah Viola, Central Branch Supervisor in the Division of Unaccompanied Children Operations, hereby certify under penalty of perjury that the foregoing responses to interrogatories that concern the UC program are true and correct to the best of my information, knowledge, and belief.

Executed on April 1, 2022, in Washington, D.C.



Sarah Viola

Exhibit 34

Exhibit C



ADMINISTRATION FOR
CHILDREN & FAMILIES

Office of Refugee Resettlement | 330 C Street, S.W., Washington, DC 20201
www.acf.hhs.gov/programs/orr

May 29, 2020

Kay Bellor
Vice President
Lutheran Immigration and Refugee Service
700 Light Street
Baltimore, MD 21230

Dear Ms. Bellor:

Thank you for your application to be a Replacement Designee for the Unaccompanied Refugee Minors (URM) Program in Texas. Your application included a proposal for services and an ORR-1 Cash and Medical Assistance Program Estimate Form for federal fiscal year (FY) 2020.

As you know, the regulations at 45 C.F.R. § 400.301 allow the Director of the Office of Refugee Resettlement (ORR) to authorize replacement designees (RDs) to administer the provision of assistance and services to refugees when a state withdraws from the refugee resettlement program. I am pleased to inform you that based on our review of your application, the Lutheran Immigration and Refugee Service (LIRS) has been approved as a URM RD for Texas, effective June 1, 2020.

Your FY 2020 proposal for services for the URM Program in Texas is in compliance with the ORR regulations at 45 C.F.R. Part 400 and is therefore approved. Please note that your ORR-1 is an estimate of costs, and adjustments may be necessary during the year.

Please direct any questions about this letter to Anne Mullooly, URM Supervisor, at Anne.Mullooly@acf.hhs.gov or (202) 401-5369.

Thank you for accepting the critical responsibility of administering child welfare benefits and services in Texas through the URM Program. I look forward to our partnership.

Sincerely,

Kenneth Tota
Deputy Director
Office of Refugee Resettlement

CONFIDENTIAL

Exhibit 35

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

FATMA MAROUF AND BRYN ESPLIN,

Plaintiffs,

v.

ALEX AZAR, in his official capacity as
Secretary of the United States Department of
Health and Human Services, et al.,

Defendants.

Case No. 1:18-cv-378 (APM)

**DEFENDANT U.S. CONFERENCE OF CATHOLIC BISHOPS' SUPPLEMENTAL
OBJECTIONS AND RESPONSES TO PLAINTIFFS' FIRST SET OF
INTERROGATORIES**

Pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure and Local Civil Rule 26.2(d) of the United States District Court for the District of Columbia, Defendant United States Conference of Catholic Bishops ("USCCB") provides the following supplemental objections and responses to Plaintiffs Fatma Marouf and Bryn Esplin's First Set of Interrogatories.

PRELIMINARY STATEMENT

This case involves a legal dispute about whether USCCB, a nonprofit organization added as a nominal defendant to Plaintiffs' underlying challenge to the Federal Defendants' actions, can receive federal grants to help fund the provision of specified social services during a specific time period without taking certain actions in violation of its sincerely held religious beliefs. Because the essential facts of this case are undisputed, USCCB has proposed factual stipulations at the outset of discovery that would obviate the need for the interrogatories below. USCCB has crafted the proposed stipulations in neutral terms without resort to controversial legal characterizations, and has accepted revisions and additions from Plaintiffs. (See Ex. A to

RESPONSE: Subject to and without waiving its objections, USCCB refers Plaintiffs to documents that will be produced in response to Request No. 5 of Plaintiffs' First Request for Production of Documents to USCCB. USCCB also refers Plaintiffs to HHS00062-00091 and HHS00155-00175, which have already been produced by Federal Defendants. Except as specifically stated immediately above, USCCB stands on its objections and will not produce any additional information in response to this interrogatory.

INTERROGATORY NO. 11: Please identify and describe all formal or informal complaints, investigations, reviews, sanctions, or enforcement or other disciplinary actions involving USCCB or any of its sub-grantees (including CCFW or CCD) based on actual or alleged discrimination by USCCB or the sub-grantee on the basis of its religious beliefs or on the basis of sexual orientation, sex, or marriage to another individual of the same sex in the administration of a grant or sub-grant; describe the circumstances and disposition of any such complaints, investigations, or reviews; and describe all actions taken as a result, including any actions taken by Federal Defendants.

OBJECTION: USCCB objects to this interrogatory on the grounds that it seeks information not relevant to any party's claim or defense, *i.e.*, it is not limited to reviews of USCCB and/or CCFW, but instead refers to all of USCCB's grantees, is not limited to the policy at issue in this suit (*i.e.*, USCCB's unwillingness, due to its religious beliefs, to allocate funds to a sub-grantee that would use those funds to license or place children with same-sex foster couples), and is not limited to the time frame relevant to Plaintiffs' claims (*i.e.*, Fiscal Year 2017); that it would impose on USCCB an undue burden to compile and provide the extensive information and detail sought, the vast majority of which would be entirely irrelevant to Plaintiffs' claims; that it would, accordingly, impose on USCCB a burden that is not proportional

to the needs of this case; that it seeks documents that Plaintiffs can more readily obtain from the Federal Defendants; and that it calls for information protected by the attorney-client and/or work-product privilege, or any other applicable privilege.

USCCB further notes that that it has agreed to stipulate that it was USCCB's policy, during Fiscal Year 2017, not to disburse funds to any sub-grantee that would use those funds to provide services that are "contrary to the authentic teaching of the Catholic Church, its moral convictions, [and/or] religious beliefs," including placement of children with foster parents who are same-sex couples, that CCFW declines to license or place children with same-sex foster parents on the basis of its and USCCB's sincerely held religious beliefs, and that CCFW declined to license or place children with Plaintiffs for such reasons. There is, therefore, no need for further discovery into whether USCCB or any of its sub-grantees has been investigated for failure to comply with any non-discrimination policy.

RESPONSE: Subject to and without waiving its objections, USCCB represents that, other than the instance at issue in this case, it is unaware of any communications between USCCB and the Federal Defendants regarding formal or informal complaints, investigations, reviews, sanctions, or enforcement or other disciplinary actions involving USCCB, or any of its subgrantees, based on actual or alleged discrimination against actual or prospective foster parents in the UAC and URM programs. USCCB is also unaware of any other circumstance in which the specific question of how its religious beliefs applied to the placement of children with foster parents who are same-sex couples arose in communications with the Federal Defendants.

INTERROGATORY NO. 12: Please identify and describe all communications, documents, or other actions or activities involving USCCB or any of its sub-grantees (including CCFW or CCD) related to Plaintiffs—including but not limited to by identifying and describing any

Exhibit 36

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF COLUMBIA

3 -----X
4 FATMA MAROUF, et al.,

5 Case No.
6 Plaintiffs, 1:18-CV-378(APM)

7 - v. -

8 ALEX AZAR, in his official capacity as Secretary
9 of the UNITED STATES DEPARTMENT OF HEALTH AND
10 HUMAN SERVICES, et al.,

11 Defendants.

12 -----X

13 DEPOSITION VIA ZOOM VIDEOCONFERENCING

14 OF

15 KRYSTIN PECK

16 Friday, October 2, 2020

17
18
19
20
21
22
23 Reported By:

24 LINDA J. GREENSTEIN

25 JOB NO. 319575

1 KRYSTIN PECK

2 services that we outlined that we'd be providing
3 in our contract, in our cooperative agreements.

4 Q. I certainly understand that USCCB
5 wasn't contracted to advance religious beliefs.

6 My question is, did ORR specifically
7 monitor to assure that USCCB was not advancing
8 religious beliefs.

9 MR. GOETZ: Objection.

10 Asked and answered.

11 A. ORR would monitor USCCB annually. We
12 never received -- USCCB never received a finding
13 that we were advancing our religious beliefs.

14 I -- we never received a finding
15 about funds being used for that purpose.

16 Q. Did ORR ever specifically monitor the
17 use of funds to advance religious beliefs?

18 MR. GOETZ: Object to the form of the
19 question. Asked and answered.

20 A. The use of funds was very clearly
21 outlined and ORR would have been able to identify
22 that from their review of our use of funds.

23 Q. How would ORR have been able to
24 identify that USCCB advanced religious beliefs by
25 reviewing the use of funds?

Exhibit 37

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Case No. 1:18-cv-378 (APM)

- - - - -X

FATMA MAROUF, et al.,
Plaintiffs

VS

ALEX AZAR, in his official
capacity as Secretary of the
UNITED STATES DEPARTMENT OF
HEALTH AND HUMAN SERVICES, et al.,
Defendants

- - - - -X

Videotaped deposition of KENNETH TOTA
taken via videoconference before Clifford Edwards,
Certified Shorthand Reporter and Notary Public, on
September 28, 2020, at 9:12 a.m.

1 the record.

2 BY MR. QUINN:

3 Q Welcome back, Mr. Tota.

4 A Thank you.

5 Q I want to talk now about the -- the

6 Unaccompanied Refugees Minor Program.

7 A Okay.

8 Q So if I say "URM," you'll understand that

9 I mean that program?

10 A Yes.

11 Q Okay. What is the URM Program?

12 A It's -- it's a program ORR administers
13 for -- to provide services through State foster care
14 systems for unaccompanied refugee minors referred by
15 the State Department or for other minors who meet
16 other eligibility categories for referral or
17 placement into the URM Program, into those foster
18 care programs for a host of some basically services
19 that would include certainly education and
20 orientation, with a focus certainly on stability
21 and -- and permanency within those programs.

22 Q Any -- and ORR means the Office of
23 Refugee Resettlement?

24 A Yes. Sorry. Yes.

25 Q So you described two sort of streams.

1 There's a State side and then referrals into the
2 program.

3 Could you talk about the State half?

4 A State -- when you say "State half," the
5 State Department half?

6 Q Yes.

7 A I believe that I --

8 Q Yes.

9 A Okay. Sorry.

10 Yes. So for refugee populations, which
11 is really kind of the longstanding cohort of the
12 program. The program started in about 1975.
13 Initially, it was for minors from Southeast Asia,
14 and certainly we've had a number of populations over
15 the years since then.

16 But those were children identified by the
17 High Commissioner for Refugees, UNHCR, as being
18 unaccompanied. They're then referred to the State
19 Department. And then, the State Department works on
20 a referral through two of their primary resettlement
21 agencies that work on URM -- on the URM program.
22 One is USCCB. The other one is LIRS, Lutheran
23 Immigration and Refugee Services.

24 And then that -- that minor is actually
25 referred through their -- their network to a foster

1 care program based on the appropriate needs and
2 identified -- identified for that -- that particular
3 minor. And then that minor is actually placed in
4 that program.

5 And those programs are administered
6 through a -- a State network, which is actually
7 funded and -- and oversight provided to by ORR.

8 Q Okay. And what's the referral stream?

9 A The referral stream directly for minors
10 coming out of the -- the refugee program directly
11 from the State Department is State Department to one
12 of the two URM foster care placement agencies.
13 Foster care placement agencies work directly with
14 their foster care providers or affiliate offices.
15 And -- and that placement is -- is secured really
16 directly through that relationship.

17 We're notified of the placement, but the
18 placement is actually made directly through their
19 direct coordination.

20 Q Okay. And so was there another, like,
21 stream that was minors who meet other eligibility
22 categories for referral?

23 A Yes.

24 Q Is that the second --

25 A Yeah.

1 Q Is that what you're talking about?

2 A And so the -- the other stream is those
3 who are technically eligible for the URM Program.
4 So it could be Cuban/Haitian entrants or those who
5 get refugee status in the U.S. So those who are
6 granted asylum, and then also get special -- special
7 juvenile -- SIJS, or special juvenile visas, would
8 also be eligible for the program, or children
9 identified as victims of trafficking.

10 And those children are usually in the
11 care of the Unaccompanied Alien Children's Program,
12 the other side of ORR. So having crossed the border
13 seeking one of those statuses.

14 And if they get that status while in
15 Unaccompanied Alien Children care, that -- that
16 shelter could -- working through the Unaccompanied
17 Alien Children kind of field specialist, working in
18 coordination with them, could refer those minors to
19 the URM Program if they meet one of those
20 eligibility categories.

21 Q So there's possibility that unaccompanied
22 alien children, which -- if I say "UAC," you'll
23 understand --

24 A UAC, right.

25 Q So UAC children can move into the URM

1 Program?

2 A Correct. If they meet one of those
3 eligibility statuses, correct.

4 Q Okay. So I take it then that you're
5 familiar with the Unaccompanied Alien Children
6 Program?

7 A To the --

8 MR. LYNCH: Object to form.

9 A So I work very specifically on the
10 refugee side of the house, but certainly am aware of
11 the referrals from our program coming into the
12 program, yes.

13 BY MR. QUINN:

14 Q Have you worked on the UAC Program?

15 A I have, yes, when -- yes. When -- at --
16 at -- at DOJ, while I was at INS, I worked
17 specifically in that program, as well the
18 Cuban-Haitian Entrant Program. And then, when I
19 first came to ORR, my portfolio was primarily the
20 UAC program.

21 When we split in 2012, my focus became
22 the refugee side of the house.

23 Q What's then the relationship between the
24 URM Program and the UAC Program?

25 A Primarily -- I mean, we work --

1 A The -- yes. So the custody of
2 Unaccompanied Alien Children Program is directly
3 maintained by -- maintained by ORR, but refugees or
4 certainly unaccompanied refugees minors are in the
5 custody of the State or their private entity.

6 Q So does the decision -- it -- it -- I'm
7 trying to understand just on ORR's side -- is the
8 decision-making regarding foster parent issues, for
9 example, is it similar or different depending on the
10 program?

11 A Can you -- can you repeat that, Brandon?
12 I'm not sure I'm following.

13 Q Yup. Sure.

14 So is the decision-making regarding
15 foster parent matters, is it similar in both
16 programs?

17 MR. LYNCH: Object to form.

18 MR. CELLIER: Object to form.

19 A No. No. It is a different process in
20 the referral depending in which -- which program
21 you're going to go into.

22 BY MR. QUINN:

23 Q That's -- let's back it up a little bit.

24 A Sure.

25 Q What services are provided to minors in

1 the URM Program?

2 A So they do attend public school, but a --
3 a -- certainly it's -- it's placing them in -- in
4 the appropriate level of care. It could be with a
5 foster family. It could be in a group home. Could
6 be in a -- a residential treatment facility. Could
7 be in a therapeutic foster care.

8 So we have different types of care really
9 developed to meet the different types of needs
10 and -- and really providing that foster care,
11 providing a -- a level of stability within that,
12 providing orientation, helping meet their
13 educational or certainly vocational needs. Some
14 actually want to go and -- some do work part time.
15 So there certainly is an element to help them do
16 that.

17 Really trying to maintain certainly
18 community connections. A lot of the programs have a
19 lot of mentoring capacity, really trying to help
20 provide a -- a stable certainly progression into the
21 URM Program to really help them, you know, succeed.

22 Q Uh-huh.

23 So are minors in the URM Program entitled
24 to placement with foster families based on their
25 best interests?

1 A Their -- yes. So it -- depending on the
2 need of the child, they would be -- they could be
3 placed with -- in a -- in a foster care family
4 arrangement. I think about 50 or -- 50 percent or
5 so are usually placed in a foster care arrangement.
6 And then the remainder would be in some of those
7 other types of -- other types of care -- care.

8 Q And could you repeat what the other types
9 of care are?

10 A So it could be a group home, independent
11 living, residential treatment or therapeutic foster
12 care.

13 Q Are any URM services provided to those
14 who are not minors in the program?

15 A No. No.

16 Q Does ORR need to arrange for the
17 recruitment of foster parents for the URM Program?

18 A That's not -- no. That's done at the
19 provider level.

20 Q Does ORR need to arrange for the
21 screening of foster parents?

22 A It's all done through the -- basically
23 through the State and their provider. It's
24 coordinated directly through them.

25 Q And training of foster parents is also

1 done at that level?

2 A Correct.

3 Q So you mentioned the states operating the
4 program. Would -- does every state participate in
5 this program?

6 A No. Only 15 states. So it's not -- it's
7 not throughout ORR's entire resettlement network.

8 Q How many states did you say?

9 A Fifteen.

10 Q Fifteen? One, five?

11 A Right.

12 Q So doing some math, 35 states don't
13 participate in the URM Program?

14 A Correct.

15 Q And in the states where the State does
16 not participate in the URM Program, who runs the URM
17 Program?

18 A It -- in the State that does not
19 participate?

20 Q If the State itself is not participating
21 in the URM Program, what happens?

22 A They -- so we're -- there wouldn't be
23 referrals to those particular State foster care
24 systems.

25 Q Could you repeat that?

1 A There -- there -- we would -- we would
2 only -- there would only be referrals to states that
3 have specific Unaccompanied Refugee Minor Programs.

4 Q So not every State has an Unaccompanied
5 Refugee Minor Program?

6 A Correct.

7 Q How many states have Unaccompanied
8 Refugee Minor Programs?

9 A It would be that -- just the 15.

10 Q Okay. So are you familiar with the term
11 "replacement designee"?

12 A Yes.

13 Q So are there only 15 states that have
14 replacement designees?

15 A That -- so there -- there are more -- we
16 have added additional replacement designees over the
17 past few years as states have backed out of the
18 program.

19 Q So are there 35 replacement designees?

20 A No. So we -- we have a combination of
21 programs that are administered directly -- directly
22 by the State.

23 Q Uh-huh.

24 A And then in instances where the states
25 have withdrawn from the program, we have -- we have

1 designated them replacement designees. And they
2 operate the program on behalf of ORR to continue
3 resettlement services in those states.

4 Q So just so that I make sure that I'm
5 clear.

6 A Sure.

7 Q Thirty-five states just don't participate
8 at all?

9 A They -- in the URM Program.

10 Q In the URM Program?

11 A They do participate in the Refugee
12 Resettlement Program, except Wyoming.

13 Q Okay.

14 A Yeah.

15 Q And then of the 15 that do participate in
16 the URM Program, not all of those 15 states are
17 actually operated by the State?

18 A Correct. There are -- of that group,
19 Texas is a replacement designee.

20 Q Is Texas the only State with a
21 replacement designee?

22 A No. There are additional States that
23 are.

24 Q What are those other states?

25 A Can I write them down for a second?

1 and their capacity. That's correct.

2 Q Okay. So Texas aside, how does the URM
3 Program sort of generally work?

4 A So it is -- for ORR, it's administered
5 through our -- basically our -- our -- our State --
6 kind of our -- through our State -- what we're
7 calling our State-administered program.

8 So each state or replacement designee
9 submits a State plan, which outlines their plan for
10 services. And they write -- they do that annually.
11 So we usually request the State plan or its
12 submitted to us usually by August 15 each year.

13 That State plan, you know, has kind of a
14 whole sort of checklist of areas that need to be
15 identified in that State plan and that really
16 outlines their service components. So it would
17 not -- not -- and it would outline all components.
18 So certainly the URM Program, if they have a
19 program, so only -- only those 15 states, or
20 certainly the replacement designees, outline cash
21 and medical assistance, medical screening, and then
22 our social service provisions.

23 So it's -- usually that's how the best
24 services are outlined, and then those services are
25 carried out at the State level or the replacement

1 designee level.

2 Q And for the replacement designees, you
3 said that the states can pick and choose which
4 aspects they want to remain in the program -- the
5 State-operating program -- sorry. Strike that.

6 The states get to decide which aspects of
7 the URM Program they would like to administer
8 themselves and which they no longer wish to operate?

9 A So it's a -- if you could repeat that
10 again. Sorry.

11 Q So you said earlier that the states sort
12 of pick and choose which aspects of the program they
13 want to continue administering by the State
14 government?

15 MR. LYNCH: Object to the form of
16 the question.

17 A So some states have -- yeah, I --
18 there -- there are some different combinations in
19 what the State -- the State has decided to fully
20 administer. And when they have decided not to fully
21 administer, that's when we designate a replacement
22 designee to carry out that particular service.

23 Texas is the -- and Texas, in particular,
24 the -- the -- the withdrawal was for all level of
25 services to include the URM Program.

1 Q Does ORR fund foster parent activities?

2 MR. LYNCH: Object to form.

3 MR. CELLIER: Object to form.

4 A Do you mean -- can you clarify that?

5 BY MR. QUINN:

6 Q Sure.

7 How does ORR fund the URM Program?

8 MR. LYNCH: Object to the form of
9 the question.

10 A We fund the -- the program. So if -- if
11 a State includes in their proposal that they want
12 to -- or a State plan that they want to carry out a
13 URM program -- which most of these programs have
14 been going -- ongoing for decades actually -- they
15 would include that in their State plan with a cost
16 estimate of what it would be to carry out that
17 program.

18 We review that cost estimate and then
19 allocate funds to -- to cover those costs as part of
20 an overall allocation that would include cash and
21 medical assistance as well. And so we provide
22 those -- the funds to the State on a -- on a -- a
23 quarterly basis based on the -- their initial
24 estimate, but then also if arrival trends change,
25 there could be some fluctuation in what their actual

1 allocation is. And then the states have two years
2 to spend down those funds.

3 BY MR. QUINN:

4 Q So where does the money for the URM
5 Program from?

6 A So it's the Office of Refugee
7 Resettlement. It's the -- our appropriation.

8 Q And could you describe the appropriation?

9 A So it comes -- so we have our TAM,
10 transitional medical assistance services. It's a --
11 it's a line item within our appropriation from the
12 Office of Refugee Resettlement, and the URM Program
13 is part of that appropriation.

14 Q So does Congress allocate how much money
15 should go to the URM Program?

16 A They -- they allocate a -- a -- a top
17 line for transitional medical assistance, and then
18 URM is one of the line items within that. So it's
19 part of our -- it's part of our general estimate or
20 requests, but the top line is called TAMS or
21 transitional medical assistance Services.

22 Q But who makes the decision of how much of
23 that line item gets directed to the URM Program?

24 A So with -- well, it's -- it's a -- so we
25 have our budget -- our -- our budget request divides

1 MR. LYNCH: Sorry. Object to the
2 form.

3 I don't think we got to the end of
4 the question, but object to the form of
5 the question.

6 MR. CELLIER: Object to form.

7 (Whereupon, the court reporter
8 requests clarification.)

9 BY MR. QUINN:

10 Q Okay. So ORR would reimburse the
11 replacement designee, who would then reimburse the
12 sub-replacement designee who engaged in those
13 activities?

14 A Yes, that's my understanding.

15 Q Okay. So if this model is
16 reimbursement-based, would it be feasible for ORR to
17 process foster parent applications for a replacement
18 designee if the replacement designee or its
19 sub-recipient objected to performing that service?

20 MR. LYNCH: Object to form.

21 MR. CELLIER: Object to form.

22 A Because the -- those activities are all
23 coordinated within the State licensing, it -- it
24 really needs to happen at the local level. So ORR
25 wouldn't have a role in that process.

1 BY MR. QUINN:

2 Q But ORR is reimbursing for those
3 activities?

4 A Correct. But we're --

5 Q You can continue.

6 A But -- but we're subcontracting -- or
7 contracting, and then those -- those contract
8 activities are subcontracted out with the
9 requirement that they be coordinated with the State
10 licensing entity. So the State licensing entity
11 oversees all of that process.

12 Q But does ORR have any say on this process
13 in terms of --

14 MR. LYNCH: Object to form.

15 A Our -- our role is to make sure that
16 they're following State licensing standards within
17 that state, and they could vary from state to state.

18 BY MR. QUINN:

19 Q Uh-huh.

20 A But the requirement is they follow the
21 standards within that state.

22 Q And ORR -- but ORR does not --

23 A We don't have a role in what -- how those
24 are implemented, except that they be implemented in
25 accordance with the -- with the State.

1 Q Even though the State -- even though ORR
2 is paying for it?

3 A We are paying -- correct.

4 Q So could you walk me through how
5 replacement designees recruit foster parents?

6 MR. CELLIER: Object to form of the
7 question.

8 MR. LYNCH: Object to form.

9 A It -- it would depend on the -- basically
10 the standard set by the State licensing within that
11 state.

12 I -- I don't know the particular process
13 for recruitment of foster parents. We don't have a
14 role in that process.

15 BY MR. QUINN:

16 Q But your role is to fund that -- those
17 activities -- correct? -- or reimburse the
18 replacement designees for those activities?

19 MR. LYNCH: Object to form.

20 A To reimburse the --

21 MR. CELLIER: Object to form.

22 A To reimburse the designee to follow State
23 licensing standards. So they could vary by state to
24 state.

25

1 designees are recruiting foster parents in
2 compliance with State law?

3 A Can you repeat that again? Sorry.

4 Q Sure.

5 So how does ORR ensure that replacement
6 designees recruit foster parents in compliance with
7 State law?

8 A And so it's something that we would
9 certainly require USCCB to -- who works and
10 sub-grants directly with those providers to provide
11 -- provide oversight of that process.

12 Q How does ORR ensure the replacement
13 designees recruit foster parents in compliance with
14 federal law?

15 A And then we -- we would in turn would
16 provide oversight of that process as well --

17 Q And what oversight --

18 A -- through our -- through our -- through
19 our monitoring.

20 Sorry.

21 Q You said through your monitoring?

22 A Correct.

23 Q And what would that look like?

24 MR. LYNCH: Object to form.

25 A So the monitoring -- on a sort of regular

1 basis, we have staff that go out and monitor --
2 monitor and sort of review processes around
3 certainly recruitment and training, service
4 provision, those kinds of things, in accordance with
5 our regulations.

6 BY MR. QUINN:

7 Q And do ORR requirements -- or excuse
8 me -- regulations encompass foster parent-related
9 activities?

10 A They -- they -- the requirement would be
11 that they make sure that they're following State
12 licensing standards around probably recruitment and
13 selection.

14 And so we would want to make -- you know,
15 follow up and -- and ensure that they're following
16 those sort of State standards.

17 Q But are there any federal standards that
18 are involved?

19 A In -- not -- to my knowledge, not
20 directly in the ORR program, no.

21 Q But are there any HHS-wide policies that
22 may apply?

23 A I'm -- I'm not aware specifically.

24 Q Could you go to the binder and turn to
25 tab 31?

Exhibit 38

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF COLUMBIA

- - - - -X

FATMA MAROUF, et al., :

Plaintiffs, : Case No.

vs. : 1:18-cv-378 (APM)

ALEX AZAR, in his official :

capacity as Secretary of the :

UNITED STATES DEPARTMENT OF :

HEALTH AND HUMAN SERVICES, :

et al., :

Defendants. :

- - - - -X

Remote Videotape Deposition Of JALLYN N. SUALOG

Wednesday, August 26, 2020

9:05 a.m. (EDT)

Job No. 314851

Pages: 1 - 269

Reported by: Dana C. Ryan, RPR, CRR

1 at ORR?

2 A Yes.

3 Q What were they?

4 A Prior to becoming the deputy director
5 for the unaccompanied children's programs, I was
6 the division of unaccompanied children's
7 operator -- operations director.

8 Q And, approximately, what time frame did
9 you hold that position?

10 A 2013 to 2018.

11 Q And where did you work before joining
12 ORR?

13 A I worked at a nongovernmental child
14 welfare organization called Child and Family
15 Services in Hawaii.

16 Q Okay. Did you ever work at USCCB?

17 A No.

18 Q Any of USCCB's subgrantees?

19 A No.

20 Q You can put that first document aside
21 for now. We might come back to it later.

22 We talked a little bit about the UAC
23 program. That stands for the Unaccompanied Alien
24 Children program; is that correct?

25 A That is correct.

1 Q Or the UC program?

2 A Yes.

3 Q What is -- what is that program?

4 A What is the UAC program?

5 Q Yes.

6 A The Unaccompanied Alien Children's
7 program is a program within the Office of Refugee
8 Resettlement that has the responsibility for the
9 care and placement of unaccompanied alien children
10 referred to ORR from other federal entities,
11 primarily Department of Homeland Security.

12 Q And what is ORR's role in administering
13 that program?

14 A ORR is the -- has guardianship or
15 physical custody of those children while they're
16 in -- with us, and our primary goal is to provide
17 for safe care and to provide for timely release of
18 children with an appropriate sponsor within the
19 United States that we can appropriately vet and
20 then send to.

21 Q And what is ACF's role? Is it any
22 different?

23 A Do you mean the Administration for
24 Children and Families?

25 Q Right.

1 document?

2 A This is a public document that is
3 available on the Web site -- the ORR Web site.

4 Q And is it intended for the press, the
5 public or foster parents or children's families,
6 all of the above?

7 A It is available to all of the above and
8 any other individual with access to the Internet
9 that can go on the Web site.

10 Q But when ORR publishes this document,
11 it doesn't have a specific intended audience in
12 mind?

13 A No.

14 Q Will you turn to page 2, please? In
15 the third full paragraph on that page, the third
16 sentence, the one that starts, While ORR programs,
17 do you see that?

18 A In the third paragraph?

19 Q The third complete paragraph, yeah. So
20 the fourth paragraph.

21 A Okay.

22 Q And the third sentence.

23 A Yeah.

24 Q Can you read that sentence please?

25 A While ORR programs are looking for

1 sponsors, children are provided age-appropriate
2 care and wraparound services in one of the
3 approximately 195 facilities and programs in 23
4 states funded by ORR.

5 Q Is that an accurate statement?

6 A Yes.

7 Q What does ORR programs mean in this
8 context?

9 A (Witness reviews document.)

10 ORR programs refers to the facility or
11 program that the child is located.

12 Q ORR programs refers to one of the
13 approximately 195 facilities and programs?

14 A That is correct.

15 Q And are those -- what are those,
16 approximately, 195 facilities and programs?

17 A They are shelters and other residential
18 facilities.

19 Q Are they owned by ORR?

20 A No.

21 Q They're owned by grantees; correct?

22 A Grantees and contractors.

23 Q What's the -- what is the difference?

24 A It's just the funding -- the difference
25 is funding stream. ORR funds primarily grants --

1 through grants -- the grant's mechanism and
2 sometimes through a contract for services.

3 Q And in the funding streams, are there
4 any differences?

5 A It depends on, also, the -- the -- the
6 services that are -- that are -- that falls within
7 those awards.

8 Q How does it depend on the services that
9 fall within those awards?

10 A Well, we have awards that has to do
11 with residential services. We have separate
12 awards that just has to do with legal services,
13 child advocate services.

14 So depending on what those services
15 are, that kind of governs what those particular
16 contractors or grantees do.

17 Q What is -- is there a difference
18 between facilities and programs?

19 A Yes.

20 Q What is the difference?

21 A Facilities are hard residential
22 facilities that directly care for the children
23 within those facilities, and programs refers to
24 other types of care that are provided such as
25 foster care where there is not a central kind of

1 hard-walled facility.

2 Q And you say there are approximately 195
3 facilities and programs. Is that referring to 195
4 hard-walled facilities, or is it fewer?

5 A I believe it's -- it's -- 195
6 encompasses both facilities and programs.

7 Q And do grantees run both facilities and
8 programs?

9 A Yes.

10 Q Do contractors run both facilities and
11 programs?

12 A Contractors primarily run facilities.

13 Q What does the term "wraparound
14 services" mean?

15 A Wraparound services refers to the
16 services provided by the facilities and programs
17 that are not directly related to the direct care,
18 physical care of children.

19 Q Can you give me an example?

20 A Case management is one. Post-release
21 services is another.

22 Q Can you repeat that? What was that?
23 It just didn't pick up on the transcript.

24 A Oh, I said case management is one and
25 post-release services is another example.

1 THE WITNESS: You mean --

2 BY MR. GENDALL:

3 Q Could ORR run these facilities itself?

4 A You mean could ORR operate these
5 facilities?

6 Q Sure.

7 A No.

8 Q Why not?

9 A ORR does not have the infrastructure --
10 it would require thousands. And ORR is a
11 small-staff program. It could not have direct
12 operational responsibility for these facilities.

13 Q If you'll turn to page 6 of that same
14 Exhibit 3, please. Near the bottom of that page,
15 there's a question that says, Can I foster. It
16 says, Can I foster or adopt one or more of the
17 unaccompanied alien children.

18 Do you see that question?

19 A Yes.

20 Q And then there's an answer there. Can
21 you just read starting with the second sentence,
22 please. It starts, ORR requires.

23 A ORR requires that all foster care
24 parents are fully licensed by their state.

25 Q And the next sentence, too, please.

1 A If you are not already licensed, you
2 could begin by contacting one of the foster care
3 providers who care for unaccompanied alien
4 children, such as the United States Conference of
5 Catholic Bishops and the Lutheran Immigration and
6 Refugee Service, who have provided foster care for
7 unaccompanied refugees and immigrant children for
8 many years.

9 Q Why is ORR directing prospective foster
10 parents to USCCB and Lutheran Immigration and
11 Refugee Service?

12 MR. POWERS: Objection: form.

13 THE WITNESS: Because they are our
14 primary providers or has been historically primary
15 providers of long-term foster care or foster care
16 services.

17 BY MR. GENDALL:

18 Q But there are other providers; correct?

19 A That is correct.

20 Q And do you know why those are the two
21 that -- that are the only two that are referred to
22 here?

23 MR. POWERS: Objection: form.

24 THE WITNESS: I do not.

25 BY MR. GENDALL:

Page

1 A Yeah. In my limited view of
2 applications, I have not seen it.

3 Q You can put that document aside,
4 please.

5 I want to -- we touched on this before,
6 but I want to ask a few more questions about how
7 unaccompanied alien children are placed with
8 foster families.

9 What considerations go into that
10 placement decision?

11 A So are we speaking specifically in
12 terms of long-term foster care or foster care in
13 general?

14 Q Let's start with long-term foster care.

15 A Okay. There needs to be -- there is
16 determination at the field that the child is
17 eligible for a long-term foster care placement, so
18 there is a summary of their information, kind of a
19 determination on what specific needs they have in
20 terms of the placement.

21 And it's basically been a referral to
22 the long-term foster care providers. They look at
23 it. So foster care is kind of a -- a little bit
24 more complex than a regular -- any other types of
25 capacity because there needs to be a direct

Page
1 matching between the child and the specific home.

2 So, you know -- so technically it could
3 be that you have quite a bit of capacity that's
4 available, but let's say a certain provider will
5 look at the specific needs of that one child and
6 there's not a specific home in their -- in their
7 cadre that can accommodate the child's needs, so
8 they wouldn't be able to offer a placement.

9 So it can take a little bit of time to
10 make sure that there is exact matching between the
11 child's specific needs and the -- the ability of
12 any specific foster home to be able to meet those
13 needs.

14 Q Now, one follow-up question. I'm sorry
15 to go back out of order.

16 A Uh-huh.

17 Q But given that you had an understanding
18 that USCCB would administer a grant consistent
19 with its religious beliefs, what safeguards did
20 ORR put in place?

21 MR. POWERS: Object to form.

22 MR. CELLIER: Object to form.

23 THE WITNESS: What do you mean by
24 "safeguards"?

25 BY MR. GENDALL:

Exhibit 39

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF COLUMBIA

3 -----X
4 FATMA MAROUF and BRYN ESPLIN,
5 a Married Couple,

6 PLAINTIFFS,

7 -against-

8 Case No.:
9 1:18-cv-378
10 (APM)

11 ALEX AZAR, in his official capacity
12 as Secretary of the UNITED STATES
13 DEPARTMENT OF HEALTH AND HUMAN
14 SERVICES,

15 DEFENDANT.
16 -----X

17 DATE: December 3, 2020

18 TIME: 9:02 A.M

19 REMOTE VIDEOTAPED DEPOSITION of

20 SARAH VIOLA, taken by the Plaintiffs,
21 pursuant to a notice and to the Federal
22 Rules of Civil Procedure, held remotely via
23 Zoom Videoconference, before Suzanne
24 Pastor, a Notary Public of the State of New
25 York.

1 list of which programs were in Texas at the
2 time that would be giving -- that either
3 did our long-term foster care program or
4 our transitional program.

5 Q. What programs are those?

6 A. I'd have to go look at the list
7 to see. USCCB does have programs for our
8 UAC program in that area. But we have over
9 100 and some, so I would have to go look at
10 our list and I could provide it for you for
11 that year if needed.

12 Q. So USCCB is a grantee for the
13 UAC program in Texas in 2017, right?

14 A. The way -- yes, but the way
15 that the USCCB program for the UAC program
16 works is they have their national
17 headquarter staff that's based in
18 Washington, D.C.

19 And then they have a network of
20 subcontractors. So the network of
21 subcontractors are across the country. So
22 the subcontractors are in Texas.

23 Q. So when you said you have a
24 hundred or so programs for your UAC program
25 in Texas, what does that mean?

1 A. So not just in Texas. The UAC
2 program is across the country and there's
3 about 120 of them with different levels of
4 care for the children. It ranges from
5 shelter in a transitional foster care
6 model, which we consider our least
7 restrictive. And it moves up the spectrum
8 from staff secure to secure to
9 therapeutic -- sorry, therapeutic group
10 homes and residential treatment centers,
11 and then long-term foster care.

12 And depending on the level of
13 the needs of the children, they will be
14 placed in the appropriate care. Throughout
15 the country, there's more now, there's
16 about 120 programs that can provide this
17 care.

18 Q. And just so I understand, is
19 USCCB one of those 120?

20 A. So USCCB, yes, is one of the
21 grantees. And then within the USCCB grant,
22 they have multiple locations. And it's --
23 yes.

24 Q. You testified earlier the UAC
25 program is across the country and there's

1 about 120 of them with different levels of
2 care for the children. I'm just trying to
3 understand, what is "them" in that
4 sentence?

5 A. I'm sorry, the shelter -- the
6 120 programs. There's 120 programs across
7 the country. USCCB is one grantee who
8 provides services within the 120 programs.

9 Q. Okay. How many of those 120
10 programs provide long-term foster care
11 services?

12 A. Long-term foster care services,
13 we -- before I try to answer all this, do
14 you want to know currently? Because our
15 grants go on three-year grant cycles. So
16 they've evolved.

17 Q. Sure, let's start currently.

18 A. Currently. So we have
19 long-term foster care providers, we have
20 about approximately about 10 to 15. And
21 it's about -- overall then, they provide
22 about 500 beds for long-term foster
23 care for kids who qualify for long-term
24 foster care. There's a separate set of
25 criteria for the UAC children to enter

1 long-term foster care.

2 Q. So UAC program currently
3 contracts with about 10 to 15 long-term
4 foster care providers?

5 A. Yes. I can get the exact
6 numbers for you if you'd like those.

7 Q. And is USCCB one of those 10 to
8 15 long-term foster care providers?

9 A. Yes.

10 Q. Who are some of the others?

11 A. Some of the others for
12 long-term foster care, we have LSS Upbring,
13 we have the Lutheran Immigration Refugee
14 Services Program, the Baptist Children
15 Family Services Program, Vision Quest,
16 Friends of Youths, Youths For Tomorrow. I
17 know I'm missing some, but that's a few of
18 them.

19 Q. And do each of these programs
20 provide long-term foster care nationwide?

21 A. They are across the country.
22 It's not in every single state. The UAC --
23 the difference between a UAC long-term
24 foster care program and a URM program, a
25 UAC child still does not have legal relief.

1 So they've been vetted by the legal service
2 provider to potentially be able to qualify
3 for legal relief. And the children will be
4 placed in a foster home or a group home,
5 depending on the child's needs, in a state
6 that they may be able to achieve that legal
7 service provider -- or legal service
8 status.

9 So there's different levels.
10 In New York, we have programs in New York,
11 Virginia, Washington State, Texas,
12 California. It just depends on the
13 population and the type of child. But the
14 big difference here is that a UAC child at
15 that time of transfer still is not -- is
16 still considered without legal status.

17 Q. How many long-term foster care
18 providers does the UAC program contract
19 with in Texas currently?

20 A. I want to say four to five.
21 But I would like to be able to check to
22 give you the definite numbers.

23 Q. How would you check that?

24 A. I have a capacity spreadsheet
25 that shows me every single program, their

1 during a monitoring trip, or if someone
2 contacts the federal government to say that
3 I'm a foster parent or something. But we
4 don't -- that's not part of the role of the
5 federal government for the UAC side.

6 Q. And on those monitoring trips,
7 the federal government would see who are
8 currently foster parents, right?

9 A. Yes. So when we do monitoring
10 to ensure that the grantees are following
11 all the regulations and procedures, the
12 monitors would be able to visit and see
13 records of foster parents if needed.

14 Q. Of the foster parents that have
15 been licensed, right?

16 A. Who have been licensed to
17 accept UAC children.

18 Q. The government doesn't monitor
19 foster parents that were not licensed by
20 its grantees, right?

21 A. No. We wouldn't have any
22 information about them.

23 Q. I want to go back to the
24 conversation you were referring to when
25 Ms. Mullooly reached out to the UAC

1 taken.)

2 THE VIDEOGRAPHER: The time is

3 4:16 and we're back on the record.

4 EXAMINATION

5 BY MR. SALLMEN:

6 Q. Okay, hello, Ms. Viola. My
7 name is Josh Sallmen, and I'm an attorney
8 for USCCB, United States Conference of
9 Catholic Bishops. Thanks very much for
10 your time and patience today. We
11 appreciate it.

12 I have a couple of questions
13 for you. For starters, in the government's
14 view, what is the purpose of the UAC
15 program?

16 A. The purpose of the UAC program
17 is to provide care and services to
18 unaccompanied alien children who are
19 apprehended by the Department of Homeland
20 Security and then referred as they are
21 following the three stipulations. One,
22 they're under the age of 18, they've
23 arrived without a parent or guardian and
24 they do not have legal status in the United
25 States. They're transferred to the ORR

1 network for care and placement until they
2 can be released to foster care.

3 Q. What group of people is the UAC
4 program geared towards assisting?

5 A. The type of children?

6 Q. What group generally.

7 A. Typically it's children 17 and
8 under, male and female, and the country of
9 origin is pretty much almost anywhere
10 outside of the United States. But the
11 majority of them are Central American,
12 Mexican children.

13 Q. So I'm correct in saying that
14 the children are the focus of the UAC
15 program?

16 A. Yes, they are. Care and
17 custody, best interests of the child.

18 Q. Great. Thank you. And is the
19 government aware of any case in the UAC
20 program where USCCB declined to serve or
21 otherwise discriminate against an LGBTQ
22 child on the basis of their sexual
23 orientation or gender identity?

24 A. Not for the children.

25 Q. That's all I have for you

Exhibit 40

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF COLUMBIA

3 -----X
4 FATMA MAROUF and BRYN ESPLIN,
5 a Married Couple,

6 PLAINTIFFS,

7 -against-

8 Case No.:
9 1:18-cv-378
10 (APM)

11 ALEX AZAR, in his official capacity
12 as Secretary of the UNITED STATES
13 DEPARTMENT OF HEALTH AND HUMAN
14 SERVICES,

15 DEFENDANT.
16 -----X

17 DATE: December 8, 2020
18 TIME: 9:02 A.M

19 REMOTE VIDEOTAPED DEPOSITION of

20 ANNE MULLOOLY, taken by the Plaintiffs,
21 pursuant to a notice and to the Federal
22 Rules of Civil Procedure, held remotely via
23 Zoom Videoconference, before Suzanne
24 Pastor, a Notary Public of the State of New
25 York.

1 and replacement designee, which the cash
2 and medical assistance from the grants is
3 what funds the URM program, any time we
4 issue an award they -- by accepting the
5 award -- in the notice of award I think it
6 says -- it mentions these terms and
7 conditions and that they are agreeing to
8 comply with the requirements.

9 Q. Does the government expect both
10 URM grantees and subgrantees or
11 subrecipients to comply with the ACF
12 general terms and conditions?

13 A. Yes.

14 Q. What actions does the
15 government take to ensure compliance with
16 these general terms and conditions by URM
17 programs?

18 MR. POWERS: Object to form.
19 Vague.

20 MR. SALLMEN: Same objection.

21 A. So ORR's monitoring of the URM
22 programs to States that administer URM
23 programs including replacement designees is
24 focused more on programmatic monitoring and
25 compliance with ORR regulations and policy

1 guidance, which is quite extensive. We,
2 ORR does not necessarily monitor for
3 compliance with all of these federal
4 regulations and these terms and conditions.

5 Now, the Office of Grants
6 Management, I know that they have done some
7 monitoring of ORR grantees, and so it's
8 possible that they look at some of this in
9 their monitoring. Although their
10 monitoring is not as frequent as ORR's
11 monitoring of its grantees.

12 Q. I want to break that answer
13 down and ask a number of questions.

14 Does ORR monitor URM program
15 grantees and subgrantees with respect to
16 paragraph numbered 7, same sex marriage
17 provisions?

18 A. No.

19 Q. Does HHS monitor URM program
20 grantees and subgrantees with respect to
21 paragraph 7 -- numbered 7, same sex
22 marriage provisions?

23 A. No. Not that I'm aware of.

24 Q. And when you say "not that I'm
25 aware of," not that the government is aware

Exhibit 41

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Case No. 1:18-cv-378 (APM)

FATMA MAROUF, et al.,)

Plaintiffs)

VS)

ALEX AZAR, in his)
official capacity as)
Secretary of the UNITED)
STATES DEPARTMENT OF)
HEALTH AND HUMAN)
SERVICES, et al.,)

Defendants)

ORAL AND VIDEOTAPED DEPOSITION OF

BRYN S. ESPLIN

APPEARING REMOTELY

NOVEMBER 6, 2020

ORAL AND VIDEOTAPED DEPOSITION OF BRYN S. ESPLIN, produced as a witness at the instance of the DEFENDANT, U.S. CATHOLIC CONFERENCE OF BISHOPS, and duly sworn, was taken in the above-styled and numbered cause on NOVEMBER 6, 2020, from 12:29 p.m. to 3:03 p.m., before Donna L. Garza, CSR, in and for the State of Texas, reported by machine shorthand and appearing remotely from Polk County, Texas, pursuant to the Federal Rules of Civil Procedure and the provisions stated on the record or attached hereto; that the deposition shall be read and signed before any notary public.

No.	Operation/Caregiver Name	Operation Number	Address	City	State	Zip	County	Phone
1	A World for Children	526950-428-2	6440 N Central Expy Ste 200	Dallas	TX	75206	Dallas	972-616-0095
2	ACH Child and Family Services	236098	3712 Wichita St	Fort Worth	TX	76119	Tarrant	817-335-4673
3	ACH Child and Family Services (SSCC)	1536133	7700 AWG Way	Fort Worth	TX	76140	Tarrant	817-566-7192
4	Adoption Works	18309	5440 Harvest Hill Rd Ste 140	Dallas	TX	75230	Dallas	972-960-9981
5	Advantage Adoptions - OCO	854107	6833 Dan Danciger Rd	Fort Worth	TX	76133	Tarrant	682-708-7375
6	Agape Manor Home CPA	860964	3200 Broadway Blvd Ste 360	Garland	TX	75043	Dallas	972-840-8130
7	Amazing Grace Child and Family Services	1274286	402 W Wheatland Rd Ste 120	Duncanville	TX	75116	Dallas	972-709-7527
8	Angelheart, Inc.	868615-2574-1	9141 Belshire Dr	North Richland Hills	TX	76182	Tarrant	817-893-5420
9	Arrow Child and Family Ministries of Texas	856145-58-12	524 E Lamar Blvd Ste 320	Arlington	TX	76011	Tarrant	817-672-2300
10	Assuring Love Child Placement Agency	1387226	1636 N Hampton Rd Ste 220	DeSoto	TX	75115	Dallas	214-837-6950
11	Azleway Children's Services Grand Prairie	510293-132-1	1201 W North Carrier Pkwy Ste 101	Grand Prairie	TX	75050	Tarrant	972-206-2885
12	Benchmark Family Services	860008-3570-7	663 Oriole Blvd	Duncanville	TX	75116	Dallas	214-575-5145
13	Buckner Baptist Children's Home	237929	5200 S Buckner Blvd	Dallas	TX	75227	Dallas	214-328-3141
14	Caregivers Youth and Transitional Living Services	1556161	1506 W Pioneer Pkwy Ste 214	Arlington	TX	76013	Tarrant	817-801-8844
15	Catholic Charities Fort Worth	n/a	249 Thornhill Drive	Fort Worth	TX	76115	Tarrant	817-289-3871
16	Children and Adoption Services	423	1421 W Mockingbird Ln	Dallas	TX	75247	Dallas	214-526-2772
17	Children's Hope Residential Services, Inc. - CPA	1498650-8291-11	2100 N State Highway 360 Ste 1104	Grand Prairie	TX	75050	Tarrant	682-248-3276
18	Covenant Kids, Inc.	811894	320 Westway Pl Ste 530	Arlington	TX	76018	Tarrant	817-516-9100
19	Covenant Kids, Inc.	811894-641-5	2550 Beckleymeade Ave Ste 100	Dallas	TX	75237	Dallas	214-888-4829
20	FaithWorks Inc	867939	1010 E Parkerville Rd Ste 102	Cedar Hill	TX	75104	Dallas	972-293-2500
21	Hope Cottage, Inc.	42	609 Texas St	Dallas	TX	75204	Dallas	214-526-8721
22	Jonathan's Place Foster Family Program	861948-3751-1						682-267-0445

Bryn Esplin

Exhibit 3

DG - 11.06.20.

23	Jonathan's Place Foster Family Program	861948						972-303-1335
24	Kids First, Inc.	1162646	4900 SE Loop 820 Ste 100	Fort Worth	TX	76140	Tarrant	682-200-1888
25	Kingdom Kids Child Placing Agency	1544555	9709 C F Hawn Fwy Ste P	Dallas	TX	75217	Dallas	469-347-3143
26	Lifeline Children & Family Services	861745-3730-6	1229 E Plesant Run Rd Ste 212	DeSoto	TX	75115	Dallas	817-200-7453
27	Lutheran Social Services of the South, Inc.	25-25-8	6300 Ridglea Pl Ste 100	Fort Worth	TX	76116	Tarrant	817-731-3737
28	Lutheran Social Services of the South, Inc.	25-25-6	275 W Campbell Rd Ste 600	Richardson	TX	75080	Dallas	972-620-0581
29	Methodist Children's Home	11-11-4.	8820 N MacArthur Blvd	Irving	TX	75063	Dallas	972-480-8772
30	Open Hearts Children and Family Services	1553281	1111 W Mockingbird Ln # 1030	Dallas	TX	75247	Dallas	469-730-3284
31	Passage of Youth Family Center	1079686	4024 Elm St Ste A	Dallas	TX	75226	Dallas	214-928-9292
32	Pathways Youth And Family Services, Inc.	516564-196-10	888 S Greenville Ave Ste 127	Richardson	TX	75081	Dallas	972-776-6684
33	Perfection Children Services	895089	804 Dalworth St Ste A	Grand Prairie	TX	75050	Dallas	817-715-7052
34	Promise House Inc	535329	224 W Page Ave	Dallas	TX	75208	Dallas	214-941-8578
35	Refuge House	859955	5301 Alpha Rd Ste E80	Dallas	TX	75240	Dallas	972-662-5112
36	Rise Services Texas, Inc.	1680121	1230 Lace Bark Way	Arlington	TX	76005	Tarrant	817-612-4780
37	Specialized Alternatives for Families	505936	1200 E Copeland Rd Ste 550	Arlington	TX	76011	Tarrant	512-306-9241
38	Texas Baptist Home for Children	197760-244-2	2350 Airport Fwy Ste 100	Bedford	TX	76022	Tarrant	817-355-1700
39	Texas Dep't of FPS Reg. 03	66405	1200 E Copleand Rd	Arlington	TX	76011	Tarrant	817-792-4400
40	The Giocosa Foundation	844778-356-4	1241 Southridge Ct Ste 102	Hurst	TX	76053	Tarrant	817-545-5300
41	The Gladney Center For Adoption	30	6300 John Ryan Dr	Fort Worth	TX	76132	Tarrant	817-922-6000
42	The Grandberry Intervention Foundation (TGIF)	830623	4109 Mansfield Hwy	Forest Hill	TX	76119	Tarrant	817-561-4149
43	Therapeutic Family Life Urban Neighborhood Initiative For Families and	256263-105-2	1112 E Copeland Rd Ste 420	Arlington	TX	76011	Tarrant	817-265-2328
44	Youth (UNIFY)	851913	804 Dalworth St Ste C	Grand Prairie	TX	75050	Dallas	972-262-9600

			1510 N Hampton Rd Ste 120					
45	Youth in View	852248		DeSoto	TX	75115	Dallas	214-484-9280

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

FATMA MAROUF, *et al.*,

Plaintiffs

V.

XAVIER BECERRA, *et al.*,

Defendants.

Civil Action No. 1:18-cv-00378 APM

**[PROPOSED] ORDER GRANTING DEFENDANT’S
MOTION FOR SUMMARY JUDGMENT**

Before the Court is Defendant United States Conference of Catholic Bishops' Motion for Summary Judgment. Upon consideration of the Motion and supporting papers, as well as any responses or replies thereto, that Motion is hereby GRANTED. Plaintiffs' Amended Complaint is therefore DISMISSED WITH PREJUDICE.

IT IS SO ORDERED.

Dated: _____

THE HONORABLE AMIT P. MEHTA
United States District Judge