



One Hundred Eighteenth Congress
Committee on Homeland Security
U.S. House of Representatives
Washington, DC 20515

September 26, 2024

The Honorable Xavier Becerra
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Dear Secretary Becerra:

To assist the Committee on Homeland Security (Committee) with its oversight of the U.S. government's screening and vetting of potential sponsors of unaccompanied alien children (UAC), enclosed is a subpoena compelling the production of outstanding documents and information previously requested by the Committee.

On August 12, 2024, the Committee requested specific documents and information related to the vetting, screening, and monitoring of UAC sponsors by the Office of Refugee Resettlement (ORR) within the Department of Health and Human Services (HHS).¹ The available statistics and data regarding UACs are extremely disconcerting and represents a growing humanitarian crisis. Heartbreakingly, media reports indicate that ORR lost contact with more than 85,000 UACs processed by ORR between 2021 and 2023.² The nearly 520,000 UACs encountered by U.S. Customs and Border Protection (CBP) along the Southwest border just from February 2021 through August 2024,³ with more UACs entering our country every day, remain vulnerable as victims of the unthinkable and devastating horrors of child trafficking.

The exigency of this matter related to the youngest among us demands swift solutions based in evidence and facts. The 31 days of inexcusable delinquency in providing the Committee the documents and information requested on August 12 is unacceptable. Additionally, at a September 19 briefing, Committee Members asked ORR Deputy Director Jenifer Smyers about the status of the Committee's August 12 requests only to receive unsatisfactory responses.⁴

¹ Letter from Hon. Mark Green, Chairman, H. Comm. on Homeland Sec., et. al, to Robin Dunn Marcos, Dep. Asst. Sec. for Humanitarian Services and Dir., Off. of Refugee Resettlement (Aug. 12, 2024).

² Hanna Dreier, *Alone and Exploited, Migrant Children Work Brutal Jobs Across the U.S.*, THE N.Y. TIMES, Feb. 25, 2023, <https://www.nytimes.com/2023/02/25/us/unaccompanied-migrant-child-workers-exploitation.html>.

³ *Southwest Land Border Encounters*, U.S. Customs and Border Protection, <https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters> (last visited Sept. 25, 2024).

⁴ *Subcommittee Briefing on The Surge of Unaccompanied Alien Children (UACs) Arriving at the Southwest Border Being Trafficked by Transnational Criminal Organizations Throughout the United States: Briefing Before the Subcomm. on Border Sec. and Enf't and the Subcomm. on Oversight, Investigations and Accountability of the H. Comm. on Homeland Sec.* 118th Cong. (Sept. 19, 2024).

Subcommittee Chairmen Clay Higgins and Dan Bishop also requested that Deputy Director Smyers provide a date by which HHS would satisfy production,⁵ but she refused to commit to any date or even an estimated timeline.⁶ Similarly, during the briefing, Deputy Director Smyers failed to answer questions from Committee Members about the number of UACs that had entered a sponsor's custody that HHS considered missing or lost, indicating potentially low awareness of the issue.

Deputy Director Smyers' inability or refusal to answer such questions is troubling, and the questions posed to her should not have come as a surprise. The day before the briefing, Committee staff e-mailed HHS' Office of the Assistant Secretary for Legislation (HHS-ASL) to request the status of the document production to satisfy the Committee's August letter.⁷ HHS-ASL staff responded that they did not have a timeline for production.⁸ Committee staff then proposed two times for a telephone call to discuss HHS' production schedule.⁹ After not receiving any further response prior to or during the period of time proposed for a call, Committee staff sent an additional e-mail to HHS-ASL on September 19 reiterating its telephone call request for a September 20 conversation to discuss the production schedule.¹⁰ HHS-ASL staff rebuffed the request and merely stated that they would "circle back" and provided no dates or times to discuss a production schedule.¹¹

Committee staff again e-mailed HHS-ASL two times¹² before finally receiving a positive response regarding the potential for a telephone call.¹³ Committee staff also requested from HHS-ASL via four separate e-mails to confirm the individual authorized to accept service, which raised further concerns of HHS' potential tactics to protract production by evading service.¹⁴ On September 24, HHS finally confirmed that the ASL can accept service.

⁵ *Id* (Statements of Hon. Clay Higgins, Chairman, Subcomm. on Border Sec. and Enf't and Hon. Dan Bishop, Chairman, Subcomm. on Oversight, Investigations, and Accountability of the H. Comm. on Homeland Sec.).

⁶ *Id* (Statement of Jenifer Smyers, Dep. Dir., Off. of Refugee Resettlement).

⁷ E-mail from Staff, H. Comm. on Homeland Sec., to Off. of the Asst. Sec. for Legislation, Dep't of Health and Human Serv. (Sept. 18, 2024 at 17:16 EDT) (on file with author).

⁸ E-mail from Off. of the Asst. Sec. for Legislation, Dep't of Health and Human Serv., to Staff, H. Comm. on Homeland Sec. (Sept. 18, 2024 at 20:12 EDT) (on file with author).

⁹ E-mail from Staff, H. Comm. on Homeland Sec., to Off. of the Asst. Sec. for Legislation, Dep't of Health and Human Serv. (Sept. 18, 2024 at 20:34 EDT) (on file with author).

¹⁰ E-mail from Staff, H. Comm. on Homeland Sec., to Off. of the Asst. Sec. for Legislation, Dep't of Health and Human Serv. (Sept. 19, 2024 at 15:47 EDT) (on file with author).

¹¹ E-mail from Off. of the Asst. Sec. for Legislation, Dep't of Health and Human Serv., to Staff, H. Comm. on Homeland Sec. (Sept. 19, 2024 at 16:54 EDT) (on file with author).

¹² E-mail from Staff, H. Comm. on Homeland Sec., to Off. of the Asst. Sec. for Legislation, Dep't of Health and Human Serv. (Sept. 19, 2024 at 17:01 EDT) (on file with author); E-mail from Staff, H. Comm. on Homeland Sec., to Off. of the Asst. Sec. for Legislation, Dep't of Health and Human Serv. (Sept. 23, 2024 at 11:59 EDT) (on file with author).

¹³ E-mail from Off. of the Asst. Sec. for Legislation, Dep't of Health and Human Serv., to Staff, H. Comm. on Homeland Sec. (Sept. 23, 2024 at 16:54 EDT) (on file with author).

¹⁴ E-mail from Staff, H. Comm. on Homeland Sec., to Off. of the Asst. Sec. for Legislation, Dep't of Health and Human Serv. (Sept. 23, 2024 at 11:59 EDT) (on file with author); E-mail from Staff, H. Comm. on Homeland Sec., to Off. of the Asst. Sec. for Legislation, Dep't of Health and Human Serv. (Sept. 23, 2024 at 17:56 EDT) (on file

Yesterday evening, HHS responded¹⁵ to the Committee's August 12 letter and produced 717 pages of documents. 400 pages of that production, however, contain nothing more than publicly available information. For example, sections of the ORR Unaccompanied Children Program Policy Guide – a document already referenced in the Committee's August 12 letter – accounted for 166 pages of HHS' production. HHS also unnecessarily reproduced the entirety of Part 410 of Title 45 of the Code of Federal Regulations, accounting for 234 pages of the agency's production. Absurdly, HHS stamped all these publicly available pages with a disclaimer stating, "Produced to Homeland Security Committee Pursuant to Oversight Request[;] Do Not Disclose Without Permission from Department of Health and Human Services."

The remainder of the production was comprised of three sections of the UC Manual of Procedures for ORR staff, contractors, and grantees. While very few of these pages are topically relevant to one of the categories of requests made in the Committee's August 12 letter, none of the pages sufficiently complies with any of the requests. HHS' protracted response and wholly insufficient production constitute a clearly deliberate effort to unnecessarily expend Committee staff time, waste limited government resources, and frustrate legitimate congressional oversight.

The Committee requires the documents, information, and data compelled by the attached subpoena to fully evaluate potential legislation to improve the capabilities and standards for information sharing between and among CBP, U.S. Immigration and Customs Enforcement (ICE), and ORR, especially regarding the vetting of potential UAC sponsors. Thus far, HHS has denied the Committee access to this vital information, refusing to provide even an indication of the scope of the issue. ICE is responsible for repatriating UACs who are ordered removed from the United States, and the Department of Homeland Security must know where and in what conditions ORR has placed UACs. Therefore, the monitoring and vetting of potential sponsors by HHS are issues within the purview of the Committee's special oversight authorities.

Per Rule X of the U.S. House of Representatives, the Committee on Homeland Security is the principal committee of jurisdiction for overall homeland security policy, and has special oversight functions of "all Government activities relating to homeland security, including the interaction of all departments and agencies with the Department of Homeland Security."

with author); E-mail from Staff, H. Comm. on Homeland Sec., to Off. of the Asst. Sec. for Legislation, Dep't of Health and Human Serv. (Sept. 24, 2024 at 10:27 EDT) (on file with author); E-mail from Staff, H. Comm. on Homeland Sec., to Off. of the Asst. Sec. for Legislation, Dep't of Health and Human Serv. (Sept. 23, 2024 at 10:30 EDT) (on file with author).

¹⁵ Letter from Melanie Anne Egorin, Asst. Sec. for Legislation, Dep't of Health and Human Serv., to Hon. Mark Green, Chairman, H. Comm. on Homeland Sec. (Sept. 25, 2024).

Secretary Becerra
September 26, 2024
Page 4

Sincerely,

A handwritten signature in black ink that reads "Mark E. Green". The signature is written in a cursive, slightly slanted style.

MARK E. GREEN, M.D.
Chairman
Committee on Homeland Security

Encl.

cc: The Honorable Bennie Thompson, Ranking Member
Committee on Homeland Security