

ones affected by the merger.⁶ Most of the bases for imposing out-of-market remedies are not met here—for example, if “the *relevant market alleged* is already concentrated or has seen significant consolidation in the previous ten years” (emphasis added).⁷ The Complaint does not allege that the three relevant geographic markets here have seen significant consolidation.

The Chair also justifies the broad prior approval provision because JAB previously acquired clinics and entered into a related consent order. In that prior matter, JAB approached the Commission with a proposed acquisition and worked with it to resolve competitive overlaps, small parts of a much larger transaction.⁸ That process enabled the FTC to ensure that overlapping assets were divested to an acceptable buyer, which is critical to maintaining competition.⁹ The effect of imposing broader prior approval requirements because of such settlements will be to deter not mergers, but settlements. It will deter parties from submitting for agency review the complete set of assets subject to the deal, instead “fixing it first”: selling what they want to whom they want. The Commission has traditionally eschewed this approach because it reduces our ability to ensure the robustness of the divestiture and the quality of the buyer and because, without a consent order, there is no accountability should parties fail to meet their obligations. Fix-it-first transactions remove Commission oversight and increase the likelihood that competition will not be preserved and that consumers will be harmed.

As we warned when the Commission (actually, two sitting Commissioners

and a zombie vote) issued the ill-advised Prior Approval Policy, the broad and subjective factors enunciated in that policy lack limiting principles and are almost certain to lead to the routine imposition of prior approval provisions on geographic and product markets beyond those at issue in any given merger. We acknowledge that there are cases where the evidence supports the imposition of these more onerous remedies.¹⁰ This does not appear to be one of those cases.

We encourage comments during the public comment period regarding the statewide prior approval and nationwide prior notice provisions that appear in today’s consent order. In addition, we encourage comments on the implications of the agency’s apparent shift to an approach that incentivizes fix-it-firsts.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Family Reunification Packet for Sponsors of Unaccompanied Children (OMB #0970–0278)

AGENCY: Office of Refugee Resettlement, Administration for Children and Families, HHS.

ACTION: Request for public comment.

SUMMARY: The Office of Refugee Resettlement (ORR), Administration for Children and Families (ACF), U.S. Department of Health and Human Services (HHS), is inviting public comments on revisions to an approved information collection. The request consists of several forms that allow the Unaccompanied Children (UC) Program to assess the suitability of potential sponsors for UC.

DATES: *Comments due within 30 days of publication.* OMB must make a decision about the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication.

¹⁰ Decision, *In re DaVita Inc./Total Rental Care, Inc.*, File No. 2110013 (Oct. 25, 2021) https://www.ftc.gov/system/files/documents/cases/davita_order_9_24_final.pdf (DaVita was subject to a statewide prior provision, requiring prior approval from the Commission before acquiring any new ownership interest in a dialysis clinic in Utah.).

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function. You can also obtain copies of the proposed collection of information by emailing infocollection@acf.hhs.gov. Identify all emailed requests by the title of the information collection.

SUPPLEMENTARY INFORMATION:

Description: ORR proposes the following revisions to this information collection:

For all forms, ORR replaced the term “minor” with “child.”

- Authorization for Release of Information—
 - ORR replaced the term “minor” with “child.”
 - ORR removed the Alien Registration Number field, since it is not required for background checks.
 - ORR removed reference to “past and present immigration status,” since that information will no longer be collected in the Family Reunification application.
 - Family Reunification Application—
 - ORR replaced the term “minor” with “child.”
 - Proof of Identity—ORR added clarification that individuals under the age of 21 may use the ORR Verification of Release form with a photograph to meet this requirement.
 - Proof of Immigration Status or U.S. Citizenship—ORR removed the requirement that potential sponsors provide documentation verifying their immigration status or U.S. citizenship. ORR no longer uses this information as a criterion to determine when a sponsor care plan is required; therefore, it is no longer necessary to collect this information.
 - Proof of Address—ORR also removed the phrase “dated within the last two months” that appears after the current lease line item, because it is not applicable to that acceptable form of documentation.
 - Burden Estimate—ORR increased the average burden hours per response from 0.75 hours to a more accurate estimate of 1.0 hour.
 - Letter of Designation for Care of a Minor—
 - ORR replaced the term “minor” with “child.”
 - ORR also increased the average burden hours per response from 0.5 hours to a more accurate estimate of 0.75 hours.

⁶ Statement of the Commission on Use of Prior Approval Provisions in Merger Orders (Oct. 25, 2021), https://www.ftc.gov/system/files/documents/public_statements/1597894/p859900priorapprovalstatement.pdf (hereinafter “Prior Approval Policy”). But see Dissenting Statement of Commissioners Christine S. Wilson and Noah Joshua Phillips Regarding the Statement of the Commission on Use of Prior Approval Provisions in Merger Orders (Oct. 29, 2021), https://www.ftc.gov/system/files/documents/public_statements/1598095/wilson_phillips_prior_approval_dissentingstatement102921.pdf.

⁷ Prior Approval Policy, p. 2.

⁸ See Press Release, *FTC Requires Veterinary Service Providers Compassion First and National Veterinary Associates to Divest Assets in Three Local Markets* (Feb. 14, 2020), <https://www.ftc.gov/news-events/news/press-releases/2020/02/ftc-requires-veterinary-service-providers-compassion-first-national-veterinary-associates-divest> (The FTC required divestiture of 3 out of over 70 clinics operated by the parties).

⁹ See e.g., *The FTC’s Merger Remedies 2006–2012: A Report of the Bureaus of Competition and Economics* (Jan. 2017), https://www.ftc.gov/system/files/documents/reports/ftcs-merger-remedies-2006-2012-report-bureaus-competition-economics/p143100_ftc_merger_remedies_2006-2012.pdf.

Respondents: Potential sponsors of UC.

Annual Burden Estimates:

RESPONDENTS

Instrument title	Annual total number of respondents	Annual total number of responses per respondent	Average burden hours per response	Annual total burden hours
Authorization for Release of Information (Forms FRP-2 & FRP-2s)	81,532	1	0.50	40,766
Family Reunification Application (Forms FRP-3 & FRP-3s)	122,950	1	1.00	122,950
Fingerprinting Instructions (Forms FRP-7 & FRP-7s)	81,532	1	1.25	101,915
Letter of Designation for Care of Minor (Forms FRP-9 & FRP-9s)	41,181	1	0.75	30,886
Estimated Annual Burden Total	296,517

RECORD KEEPERS

Instrument title	Annual total number of record keepers	Annual total number of responses per record keeper	Average burden hours per response	Annual total burden hours
Authorization for Release of Information (Forms FRP-2 & FRP-2s)	235	347	0.25	20,386
Family Reunification Application (Forms FRP-3 & FRP-3s)	235	523	0.25	30,726
Fingerprinting Instructions (Forms FRP-7 & FRP-7s)	235	347	1.00	81,545
Letter of Designation for Care of Minor (Forms FRP-9 & FRP-9s)	235	175	0.25	10,281
Estimated Annual Burden Hours Total	142,938

Authority: 6 U.S.C. 279; 8 U.S.C. 1232; *Flores v. Reno* Settlement Agreement, No. CV85-4544-RJK (C.D. Cal. 1996).

Mary B. Jones,

ACF/OPRE Certifying Officer.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Recordkeeping for New Vaccine and Mask Requirements To Mitigate the Spread of COVID-19 in Head Start (OMB #0970-0583)

AGENCY: Office of Head Start, Administration for Children and Families, HHS.

ACTION: Request for public comment.

SUMMARY: The Office of Head Start (OHS), Administration for Children and Families (ACF), U.S. Department of Health and Human Services (HHS) requests public comment on an extension with no changes to

recordkeeping requirements for ACF Head Start grantees. An Interim Final Rule with Comment Period (IFC) was published on November 30, 2021 that established the COVID-19 vaccination requirements whereby all Head Start staff, certain contractors, and volunteers must be vaccinated for COVID-19 by January 31, 2022. OHS requested and received emergency approval from the Office of Management and Budget (OMB) to implement the associated recordkeeping requirements for 6 months. This request will extend approval beyond the current expiration date (6/30/2022). ACF is currently in the final rulemaking process. If the requirements in the final rule differ from the IFC in a way that alters recordkeeping requirements, ACF will make those changes in coordination with OMB.

DATES: Comments due within 30 days of publication. OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the Federal Register. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication.

ADDRESSES: Written comments and recommendations for the proposed

information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function. You can also obtain copies of the proposed collection of information by emailing infocollection@acf.hhs.gov. Identify all emailed requests by the title of the information collection.

SUPPLEMENTARY INFORMATION:

Description: This request is for recipients of Head Start funding to continue to (1) collect and maintain records on the vaccination status of staff (including certain contractors) and volunteers in Head Start and Early Head Start programs and (2) develop and maintain a written COVID-19 testing protocol for individuals granted vaccine exemptions that was established through the IFC (86 FR 68052). There is no standard instrument required to be used to meet these recordkeeping requirements. Burden estimates have been updated to reflect more recent data available.

Respondents: Recipients of Head Start funding.