

Trump Administration to Replace Migrant Kids' Aid Network (1)

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August 4, 2026



Photographer: John Moore/Getty Images

The Trump administration on Tuesday announced a Houston law firm as its new pick to provide legal aid to unaccompanied minors, days after a long-running contract lapsed amid an information sharing dispute.

Burke Law Group would receive up to \$150 million to represent eligible children during immigration proceedings, according to an [advance notice](#) posted by the Department of Health and Human Services, which oversees a program that serves over 20,000 undocumented children. Marcella Burke, the firm's chairman, held positions at the EPA and Interior Department during the first Trump administration.

Funding for the migrant aid program has been in flux, after the previous contract expired on July 31 amid a court battle over the future of the program and more than \$65 million in billed services the government hasn't paid out to over 80 subcontracted aid groups. The federal government's attempts to solicit bids on a new contract had been stymied by protests. Tuesday's advance Federal Register notice announces the government's intent to award the work via a non-competitive process.

HHS said the award to Burke Law would comply with a [preliminary injunction](#) issued last year by a federal district court in California, which is overseeing a dispute between the federal government and the network of legal providers who held the program contract until it lapsed.

The latest phase of the litigation has focused on how much case information contractors need to disclose to the HHS Office of Refugee Resettlement about their clients. The administration

says it needs more documentation to substantiate the invoices, while the legal aid groups argue that HHS is demanding information it knows can't be ethically shared as an end-run around the court order requiring continued funding.

A hearing in that case is set for Aug. 6.

Burke Law could not be immediately reached for comment. A spokesperson for the previous lead contractor, Acacia Center for Justice, didn't immediately respond to a request for comment.

Past Contracts in Limbo

The lack of certainty around the contract and the disputed funding had legal aid groups preparing to furlough attorneys, cut services, or shut their doors entirely.

Kids in Need of Defense, a Washington, D.C.-based subcontractor that says it is owed more than \$20 million, will need to sift through 5,000 cases to see which ones can ethically be closed, according to Jennifer Podkul, the organization's chief of global policy and advocacy.

"We offered to help these kids and now we're saying 'Sorry, we can't,' Podkul said. "It's just awful."

Legal representation can make a big difference in immigration cases: The Congressional Research Service [found](#) that just 0.3% of the children who went through immigration proceedings without legal representation between fiscal 2005 and 2017 won relief, compared to 7.2% of the children who had attorneys.

Heart of the Dispute

An HHS spokesperson said in an emailed statement that its Office of Refugee Resettlement offered Acacia the opportunity to receive a bridge contract ahead of the July 31 deadline "based on requirements that they provide data on who they represent," but the contractor refused it.

However, Acacia and other groups claim the government's suggested terms would force subcontracted organizations to disclose information that would violate attorney-client privilege, such as alien registration numbers and the specific relief sought by clients.

"The idea that we would essentially turn over case strategy for a client to the government is absurd," said Michael Lukens, executive director of subcontractor Amica Center for Immigrant Rights. "We wouldn't turn that over to anybody."

The Justice Department said in a July 31 court [filing](#) that the information they seek from Acacia isn't privileged and includes records "any legal services organization operating at this scale would be expected to maintain."

The government filing also touches on "significant invoice substantiation concerns," claiming that much of the supporting documentation provided by Acacia was redacted, didn't match immigration agency records, and failed to identify specific children who received legal aid.

"These concerns are foundational to the contract, not outliers as asserted by Plaintiff," the DOJ said.

Uncertain Future

Prior to the single-source agreement with Burke Law, the ORR had attempted to open up the legal aid contract to new bidders. It was unable to move forward in light of repeated protests filed by Acacia with the Government Accountability Office.

Acacia executive director Shaina Aber said that the organization is challenging funding conditions and fighting to remove a contract provision that pays attorneys only once their case is adjudicated.

Rep. Veronica Escobar (D-Texas) recently led a [letter](#) by the state's House Democrats questioning plans for the program, citing recent reporting that the administration [asked](#) the Texas Indigent Defense Commission — a state organization that provides criminal defense services to low-income Texans — to assist in providing legal services to unaccompanied minors. The House Democrats questioned whether the Trump administration was planning to relocate unaccompanied minors under the care of HHS to Texas in order to expedite removal proceedings

"Relocating vulnerable minors abruptly to Texas would only result in separating them from their lawyers and critical support systems, while sending them alone to a state that no longer provides oversight of childcare facilities for immigrant children," the lawmakers said.

Elizabeth Young, a former immigration judge, said moving away from the providers who have long fulfilled the contract could lead to a loss in expertise, reducing the effectiveness of a program that's long helped children navigate the immigration court system.

"It would be like saying, 'I'm going to hire somebody straight out of high school to do a job that somebody's been trained to do for 20 years,'" Young said.

(Updates throughout with information about HHS announcement of a new legal aid provider.)

— With assistance from Paul Murphy.

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