



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 19, 2010

Ms. Kathleen Quiroz
Vice President
Oppenheimer, Blend, Harrison & Tate, Inc.
711 Navarro, Sixth Floor
San Antonio, Texas 78205

OR2010-02549

Dear Ms. Quiroz:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 370606.

The Planned Parenthood Trust of San Antonio and South Central Texas (the "trust"), which you represent, received a request for the most recent fiscal quarter check register and the most recent copy of a 3D ultrasound image taken during an abortion. You state the trust has no information responsive to the portion of the request regarding an ultrasound image. You claim the trust is not a governmental body subject to the Act. Alternatively, you claim the requested check register information is excepted from disclosure under section 552.101 of the Government Code. We have considered your arguments. We have also received and considered comments submitted by the requestor and another interested third party. *See* Gov't Code § 552.304 (interested party may submit written comments regarding availability of requested information).

The Act applies to "governmental bodies" as that term is defined in section 552.003(1)(A) of the Government Code. You assert the trust is not a governmental body, and, therefore,

its records are not subject to the Act. Under the Act, the term “governmental body” includes several enumerated types of entities and “the part, section, or portion of an organization, corporation, commission, committee, institution, or agency that spends or that is supported in whole or in part by public funds[.]” *Id.* § 552.003(1)(A)(xii). The phrase “public funds” means funds of the state or of a governmental subdivision of the state. *Id.* § 552.003(5).

You state the trust is a private, nonprofit corporation that underwent an operational restructuring in 2005. You explain the trust, prior to its restructuring, provided certain health care services for which it received public funds from the Texas Department of State Health Services (“DSHS”) and the Texas Health and Human Services Commission (“HHSC”). You further explain that with the completion of the restructuring in 2005, the trust “ceased to provide health care services and discontinued its participation in government health care programs[.]” thus ending its receipt of public funds. You contend, and have provided an affidavit from the trust’s President and Chief Executive Officer asserting, the trust does not currently receive public funds and has not received public funds since the completion of its restructuring in 2005.

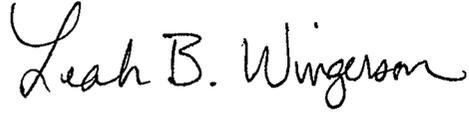
You state, however, the trust provides specific management and business services for two affiliates on a fee-for-service basis. You inform us both of the affiliates receive public funds from DSHS and/or HHSC for services the affiliates provide to the public. The courts and this office have determined an entity is not a “governmental body” for purposes of the Act if the entity’s receipt of public funds is for only specific, measurable services, rather than for the entity’s general support. *See Kneeland v. Nat’l Collegiate Athletic Ass’n*, 850 F.2d 224 (5th Cir. 1988), *cert. denied*, 488 U.S. 1042 (1989); *see also* Open Records Decision Nos. 602 (1992), 228 (1979). You have submitted a sample contract between the trust and one of its affiliates that lists the specific services provided by the trust and the specific fees paid by the affiliates. After reviewing the contract, we find, in this instance, we need not determine whether or not the affiliates pay the trust with the public funds received from DSHS and/or HHSC because we conclude the trust receives fees from the affiliates for specific, measurable services. Thus, based on your representations and our review, we find the trust is not a governmental body under section 552.003(1)(A)(xii) of the Government Code and the trust need not respond to the present request for information.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public

information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink that reads "Leah B. Wingerson". The signature is written in a cursive, flowing style.

Leah B. Wingerson
Assistant Attorney General
Open Records Division

LBW/dls

Ref: ID# 370606

No submitted documents

c: Requestor

Mr. Christopher Maska
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