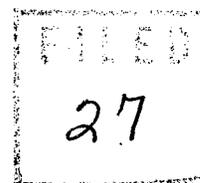


AREA AGENCIES ON AGING: An area agency on aging which is
DIVISION OF AGING: a not-for-profit corporation
SOCIAL SERVICES, DEPARTMENT OF: incorporated under Chapter 355,
SUNSHINE LAW: RSMo, comes within the provisions
of Sections 610.010 through
610.030, RSMo, the Sunshine Law, because it is a "public govern-
mental body" as defined in Section 610.010(2), RSMo Supp. 1987.

December 29, 1987

OPINION NO. 27-87

Michael Reagen, Ph.D., Director
Department of Social Services
Post Office Box 1527
Jefferson City, Missouri 65102



Dear Dr. Reagen:

This opinion is in response to the question asking:

To what extent are the various types of
Area Agencies on Aging described in 42
U.S.C. Section 3025(c) governed by or
subject to the sanctions provided in the
Open Meetings Act (or Sunshine Law),
contained in Sections 610.010 - 610.030,
RSMo?

An area agency on aging is a local entity designated by the
Division of Aging in a particular area of the state to develop
and administer a plan and administer available funds for a
comprehensive and coordinated system of services for the elderly
and handicapped persons who require similar services, Section
660.053(1), RSMo Supp. 1987 and 13 CSR 15-4.010(13).¹ Accord-
ing to 13 CSR 15-4.020(2), there are ten area agencies on aging
in Missouri. Most of these are not-for-profit corporations
incorporated under Chapter 355, RSMo, and the rest are offices
in or divisions of a local or regional governmental entity. The
opinion request indicates that you are concerned with the
applicability of Sections 610.010 through 610.030, RSMo, to the
not-for-profit corporations.

Whether the area agencies on aging which are not-for-profit
corporations are subject to the provisions of Sections 610.010
through 610.030, RSMo, commonly referred to as the Sunshine Law,
depends on whether they are a "public governmental body" as
defined in subsection 2 of Section 610.010, RSMo Supp. 1987.
Such subsection provides:

Michael Reagen, Ph.D., Director

(2) "Public governmental body", . . . any quasi-public governmental body. The term "quasi-public governmental body" means any corporation organized or authorized to do business in this state under the provisions of chapter 352, 353 or 355, RSMo, or unincorporated association which (a) performs a public function, and which (b) has as its primary purpose to enter into contracts with public governmental bodies, or to engage primarily in activities carried out pursuant to an agreement or agreements with public governmental bodies; except urban redevelopment corporations organized or authorized to do business under the provisions of chapter 353, RSMo, which are privately owned, operated for profit, and do not expend public funds;

An examination of the applicable federal and state laws shows that a not-for-profit corporation which is an area agency on aging performs a "public function" with its primary purpose being to enter into contracts with public governmental bodies, and to engage primarily in activities carried out pursuant to agreements with public governmental bodies. These area agencies on aging enter into contracts with the Division of Aging providing for those agencies to administer federal and state grant monies as prescribed by federal and state statutes and regulations. According to the Older Americans Act, the agency's function is to "develop an area plan and to carry out, directly or through contractual or other arrangements, a program in accordance with the plan within the planning and service area." 42 U.S.C. Section 3025(c). Under the federal regulations implementing the Older Americans Act, the area agency on aging is to award government funds to entities who will provide services to older individuals. 45 C.F.R. Sections 1321.71 and 1321.73. Section 660.057.1, RSMo 1986, provides that "an area agency on aging shall operate with local administrative responsibility for Title III of the Older Americans Act, and other funds allocated to it by the division [of Aging]." Subsection 3 of that section details further duties of these area agencies on aging including the following:

(7) Make grants to or enter into contracts with any public or private agency for the provision of social or health services not otherwise sufficiently available to elderly persons within the planning and service area;

Michael Reagen, Ph.D., Director

(8) Monitor and evaluate the activities of its service providers to insure that the services being provided comply with the terms of the grant or contract. Where a provider is found to be in breach of the terms of its grant or contract, the area agency shall enforce the terms of the grant or contract;

* * *

(10) Comply with division [of Aging] requirements that have been developed in consultation with the area agencies for client and fiscal information, and provide to the division information necessary for federal and state reporting, program evaluation, program management, fiscal control and research needs.

The regulations of the Department of Social Services contain further provisions regarding the agency's handling of funds (13 CSR 15-4.170) and of subgrants and contracts (13 CSR 15-4.200).

Based on the foregoing, the area agencies on aging which are not-for-profit corporations do come within the definition of "public governmental body" in Section 610.010(2) by being a "quasi-public governmental body".

CONCLUSION

It is the opinion of this office that an area agency on aging which is a not-for-profit corporation incorporated under Chapter 355, RSMo, comes within the provisions of Sections 610.010 through 610.030, RSMo, the Sunshine Law, because it is a "public governmental body" as defined in Section 610.010(2), RSMo Supp. 1987.

Very truly yours,



WILLIAM L. WEBSTER

Attorney General