



OFFICE OF THE
ATTORNEY GENERAL

April 17, 2025

Honorable Scott S. Harris
Clerk
Supreme Court of the United States
1 First Street, NE
Washington, D.C. 20543
RE: *Oklahoma v. HHS*, No. 24-437

Dear Mr. Harris:

Oklahoma writes in response to the letter filed by the U.S. Solicitor General on April 15, 2025. The Solicitor General is correct that the Oklahoma State Department of Health (“OSDH”) received a Notice of Award two weeks ago indicating that the U.S. Department of Health and Human Services (“HHS”) would restore partial funding to Oklahoma under Title X. Oklahoma is grateful to the United States for this restoration. At nearly \$2 million, the award is around half of the funding Oklahoma was supposed to receive under Title X in 2025 (and a smaller fraction of what Oklahoma has lost over the past two years). The Solicitor General is also correct that this Notice wrongly indicated that a settlement agreement had been reached. No agreement has yet been entertained or discussed in any substantial manner in this case.

The Solicitor General concludes in his letter, however, that the “lack of prospective significance of this case—both for the parties here and more broadly—further militates in favor of denying certiorari.” Respectfully, Oklahoma disagrees. Most importantly, the Solicitor General does not assert that the case is moot. And seemingly for good reason: a partial restoration of funding is just that—partial. Without written assurance that its Title X funding will be restored in full, Oklahoma is still being harmed by the prior administration’s decision to strip the State of Title X funds, and injunctive relief is still warranted.

Moreover, the Solicitor General does not say *why* Oklahoma’s funding is being partially restored. Has the government now conceded that the plain text of the Weldon Amendment controls here and protects OSDH? (Oklahoma certainly hopes so.) Or does the government still believe OSDH is violating the relevant 2021 HHS regulations? This distinction has obvious “prospective significance” for Oklahoma, given that the question of abortion referrals and Title X has been litigated for decades and will likely continue to arise during future administrations. Put differently, if Oklahoma’s award is not being restored pursuant to a settlement agreement, then what is the reason for the partial restoration, and is it permanent?

Finally, as Oklahoma explained in detail in its Petition and Reply, this case is significant. The scope of the government’s Spending Clause power is important to numerous federal



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initiatives, and “the intersection of federal conscience protections and abortion undeniably presents ‘an important question of federal law’ here.” Reply at 11 (quoting Sup. Ct. R. 10(c)).

Again, Oklahoma is immensely thankful for the partial restoration here. But HHS should not be able to avoid certiorari on important, live issues by providing only a partial remedy at the last minute, without explanation. If the government believes the case is moot, it is more than welcome to say so and explain why. Then Oklahoma could receive the benefit of: (1) assurance of a full restoration of improperly withdrawn funding; and (2) a vacatur of the decisions below under *Munsingwear v. United States*, 340 U.S. 36 (1950). Otherwise, certiorari is still warranted.

Sincerely,

Zach West
Director of Special Litigation
Office of the Oklahoma Attorney General