

An agency may refuse to process a request if a requester has an outstanding balance due for previous RTKL requests. *Pa. Dep't of Transp. v. Drack*, 42 A.3d 355, 363 (Pa. Commw. Ct. 2012); *see also* OOR Advisory Opinion issued Jan. 12, 2016.³ Under the RTKL, an affidavit may serve as sufficient evidentiary support. *See Sherry v. Radnor Twp. Sch. Dist.*, 20 A.3d 515, 520-21 (Pa. Commw. Ct. 2011); *Moore v. Office of Open Records*, 992 A.2d 907, 909 (Pa. Commw. Ct. 2010). In the absence of any evidence that the Department has acted in bad faith, “the averments in [the statement] should be accepted as true.” *McGowan v. Pa. Dep't of Env'tl. Prot.*, 103 A.3d 374, 382-83 (Pa. Commw. Ct. 2014) (citing *Office of the Governor v. Scolforo*, 65 A.3d 1095, 1103 (Pa. Commw. Ct. 2013)). Based on the evidence provided, the Department has met its burden of proving that it is justified in refusing to process the Request. Accordingly, the appeal is **denied**.

For the foregoing reason, the Department is not required to take any further action. This Final Determination is binding on all parties. Within thirty days of the mailing date of this Final Determination, any party may appeal or petition for review to the Commonwealth Court. 65 P.S. § 67.1301(a). All parties must be served with notice of the appeal. The OOR also shall be served notice and have an opportunity to respond according to court rules as per Section 1303 of the RTKL. However, as the quasi-judicial tribunal adjudicating this matter, the OOR is not a proper party to any appeal and should not be named as a party.⁴ This Final Determination shall be placed on the website at: <http://openrecords.pa.gov>.

FINAL DETERMINATION ISSUED AND MAILED: October 21, 2016

/s/ Blake Eilers
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Appeals Officer

Sent to: Alton Brown DL-4686;
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³ This Advisory Opinion is available at: http://www.openrecords.pa.gov/Documents/RTKL/2016-01-12_Smith-Payment_when_requester_has_not-received-records.pdf.

⁴ *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).