



pennsylvania

OFFICE OF OPEN RECORDS

FINAL DETERMINATION

IN THE MATTER OF	:	
	:	
GABRIEL STRAUS AND ENERGY AND POLICY INSTITUTE,	:	
Requester	:	
	:	
v.	:	Docket No: AP 2026-0537
	:	(Consolidated appeals of OOR Dkt. Nos.
PHILADELPHIA GAS WORKS,	:	AP 2026-0537 and 2026-0538)
Respondent	:	

FACTUAL BACKGROUND

On December 15, 2025, Gabriel Straus and the Energy and Policy Institute (collectively “Requester”) submitted two requests (separately “Request”; collectively “Requests”) to the Philadelphia Gas Works (“PGW”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking:

[Request 1 - Docket 2026-0537:]

[...] Records documenting Seth Shapiro’s attendance at the following events disclosed in his PA Statements of Financial Interests [(“SFI”)]:

“Customer Meeting and Networking” events hosted by Independence Blue Cross on October 19-20, 2022, February 12, 2023, July 27-28, 2023, July 31, 2024, October 23, 2024, November 30 – December 1, 2024.

“Corporate Sponsor Networking” events hosted by the Philadelphia Phillies on August 19, 2024, March 7-10, 2024, May 14, 2023, August 14, 2023, March 9-12, 2023, March 10-13, 2022[.]

For each of the specified events, please search for the following types of records:

1. PGW or City of Philadelphia Legal Department approvals, authorizations or recommendations associated with Mr. Shapiro’s attendance[.]
2. Travel receipts, expense reports, or reimbursement requests[.]
3. Travel itineraries[.]
4. Paid time-off requests (and/or records reflecting paid leave) coinciding with the below listed events[.]
5. Event invitations[.]
6. Correspondence (including emails (to/from/cc/bcc, including attachments), text messages) with event hosts (Independence Blue Cross, Philadelphia Phillies, Major League Baseball, or any other entities involved with hosting the events)[.]
7. Event tickets, receipts, or related documents for event venue access[.]
8. Photos of the event captured by Mr. Shapiro[.]

[Request 2 - Docket 2026-0538:]

[...] Records documenting Seth Shapiro’s attendance at the following events disclosed in his PA Statements of Financial Interests:

“Customer Meeting” event hosted by Tioga LNG on December 11, 2022[.]

“Customer Meeting” events hosted by 61 Commodities on April 26-27, 2022 and April 11-13, 2023[.]

“Customer Seminar and Meetings” events hosted by Williams Co. on April 27-29, 2022 and December 7, 2022[.]

“Customer Seminar and Meetings” events hosted by Enbridge on November 17, 2022, December 2-4, 2022, November 16, 2023, December 1-3, 2023, November 7, 2024, December 6-8, 2024, December 11-13, 2025.

“Customer Seminar and Meetings” events hosted by William Co and 61 Commodities on April 24-27, 2024, December 9, 2024[.]

For each of the specified events, please search for the following types of records:

1. PGW or City of Philadelphia Legal Department approvals, authorizations or recommendations associated with Mr. Shapiro’s attendance[.]
2. Travel receipts, expense reports, or reimbursement requests[.]
3. Travel itineraries[.]

4. Paid time-off requests (and/or records reflecting paid leave) coinciding with the below listed events[.]
5. Event invitations[.]
6. Correspondence (including emails (to/from/cc/bcc, including attachments), text messages) with event hosts (Independence Blue Cross, Philadelphia Phillies, Major League Baseball, or any other entities involved with hosting the events)[.]
7. Event tickets, receipts, or related documents for event venue access[.]
8. Photos of the event captured by Mr. Shapiro[.]
9. Meeting and seminar documents provided to Mr. Shapiro including minutes, presentations, notes, agendas, schedules, handouts, attendee lists[.]

On January 20, 2026,¹ following a thirty-day extension during which to respond, 65 P.S. § 67.902(b), the PGW denied the Requests in part, arguing that some records are protected by the attorney-client privilege, the PGW is not in the possession, custody or control of some items listed in the Requests, the disclosure of some records would be reasonably likely to result in a substantial and demonstrable risk of physical harm or to the personal security of an individual, 65 P.S. 67.708(b)(1)(ii), and that portions of the Requests are insufficiently specific, 65 P.S. § 67.703. Along with those grounds for denial already listed, the PGW denied Request 2, Items 1-14(i), arguing that the portion of those items seeking “notes” is denied because notes and working papers of an agency employee are exempt from disclosure, 65 P.S. § 67.708(b)(12), and that the portion of those items seeking “attendee lists” constitutes third party customer lists and is exempt trade secret information, 65 P.S. § 67.708(b)(11). The PGW granted the Request in part, providing

¹ For the sake of brevity, noting that the PGW’s final response to Request 1 was 33 pages and to Request 2 was 42 pages, not including any responsive records, the OOR will summarize the PGW’s final response and not specifically reiterate each individual item. Further, the OOR will refer to the PGW’s recitation of the Request. For example, for Request 1, the PGW divided the request into 96 items (*see* Items 1-12 (a-h)) and, for Request 2 (*see* Items 1-1 (a-i)), PGW divided the Request into 126 items.

records responsive to Request 1, Item 1(e) and 8(e) (in part),² and records responsive to Request 2, Item 11(e) and Items 3(b), 7(b), 9(b), 11(b), and 13(b) (in part).³

On February 9, 2026, the Requester appealed to the Office of Open Records (“OOR”),⁴ challenging the denial and stating grounds for disclosure.⁵ Specifically, the Requester argues that “[a]ll of the records sought in [the Requests] are at issue in [his] appeal.” The OOR invited both parties to supplement the record and directed the PGW to notify the OOR if any third parties have a direct interest in the appeal. 65 P.S. § 67.1101(c).

On February 11, 2026, the PGW requested that the submission period be extended to March 6, 2026, and that there are four third parties that are potentially affected by records at issue in this appeal. That same day, the OOR extended the submission period to March 6, 2026 and directed the PGW to notify any potential third parties of notice of the instant appeal.

On February 12, 2026, the PGW provided notice to three third parties and provided confirmation thereto.⁶

On March 6, 2026, the PGW submitted a position statement, reiterating its grounds for denial. The PGW claims that: 1) attorney-client records are not subject to disclosure under the RTKL; 2) where PGW responded that requested records do not exist, the records do not exist; 3) public disclosure of records detailing Mr. Shapiro’s travel patterns and exact whereabouts presents

² The PGW redacted records responsive to Request 1, Item 8(e), arguing that personal email addresses are exempt from disclosure under 65 P.S. § 67.708(b)(6)(i)(A), and customer lists are exempt from disclosure under 65 P.S. § 67.708(b)(11).

³ The PGW redacted personal identification information, 65 P.S. § 67.708(b)(6)(i), and information that would be reasonably likely to result in a substantial and demonstrable risk of physical harm to or the personal security of an individual, 65 P.S. § 67.708(b)(1)(ii).

⁴ The Requester filed two separate appeals against the PGW. The appeals were docketed at OOR Dkt. Nos. AP 2026-0537 and AP 2026-0538. Because the appeals involve the same agency, requester, and similar requests, on February 12, 2026, the appeals were consolidated into OOR Dkt. AP 2026-0537. *See* 65 P.S. § 67.1102(b)(3) (stating that “the appeals officer shall rule on procedural matters on the basis of justice, fairness, and the expeditious resolution of the dispute”).

⁵ The Requester granted the OOR an additional extension of time to issue a final determination. *See* 65 P.S. § 67.1101(b)(1).

⁶ To date, no third party has filed a request to participate as a direct interest participant.

a substantial and demonstrable risk to his personal security; 4) PGW cannot be required to take further action where requested records are not within its possession, custody, or control; 5) the Requester's requests for "Meeting and Seminar Documents" and "Correspondence" are insufficiently specific; 6) the requested attendee lists are exempt under Section 708(b)(11) of the RTKL; and 7) the records provided to Requester were properly redacted under Sections 708(b)(6)(i) and 708(c) of the RTKL. In support of its position, the PGW submitted the attestations, made subject to the penalties of unsworn falsification to authorities, 18 Pa.C.S. § 4904, of Seth Shapiro ("Shapiro Attestation"), President and Chief Executive Officer ("CEO") for the PGW; Brett Zahorchak, Esq. ("Zahorchak Attestation"), Open Records Officer ("AORO") and Vice President, Legal & Associate General Counsel for the PGW; Dennis Wilson ("Wilson Attestation"), Security Consultant contracted by the PGW; and Theodore Waddell, Jr. ("Waddell Attestation"), Lieutenant in charge of the Dignitary Protection Section within the Counter Terrorism Operations Unit of the Philadelphia Police Department. In addition, the PGW submitted Exhibits E (article on why CEOs and boards are worrying about security), F (article on the sharp rise in threat of violence to U.S. Executives, Corporate Security Chiefs and Investors), and G (article on Luigi Mangione's killing United Healthcare's CEO).

On March 6, 2026, the Requester submitted a position statement, arguing, in summation, that "[the R]equests are sufficiently specific, PGW has not provided sufficient information about its search for responsive records where it has claimed that no responsive records exist, and PGW has not adequately upheld its burden of demonstrating that specific privileges and exemptions apply." The Requester "does not appeal PGW's denial of that portion of [Request 2] for records related to Mr. Shapiro's attendance at an event hosted by Enridge on December 11-13, 2025" and "does not appeal PGW's redactions of travel receipts, expense reports, or reimbursement requests

pursuant to 65 P.S. §§ 67.708(b)(6)(i) and 67.708(c) where PGW redacted financial account numbers, employee ID numbers, credit card account numbers, and personal email addresses.”⁷ In addition, the Requester asks the OOR to conduct *in camera* review of those records withheld and protected by the attorney-client privilege.

LEGAL ANALYSIS

The PGW is a local agency subject to the RTKL. 65 P.S. § 67.302. Records in the possession of a local agency are presumed to be public, unless exempt under the RTKL or other law or protected by a privilege, judicial order or decree. *See* 65 P.S. § 67.305. As an agency subject to the RTKL, the PGW is required to demonstrate, “by a preponderance of the evidence,” that records are exempt from public access. 65 P.S. § 67.708(a)(1). Preponderance of the evidence has been defined as “such proof as leads the fact-finder ... to find that the existence of a contested fact is more probable than its nonexistence.” *Pa. State Troopers Ass’n v. Scolforo*, 18 A.3d 435, 439 (Pa. Commw. Ct. 2011) (quoting *Pa. Dep’t of Transp. v. Agric. Lands Condemnation Approval Bd.*, 5 A.3d 821, 827 (Pa. Commw. Ct. 2010)). While the Requester sought *in camera* review of records protected by the attorney-client privilege, the OOR has the information and evidence before it to properly adjudicate the matter. Therefore, the request for *in camera* review is denied.

1. The PGW demonstrated that a portion of the Requests are protected by privilege

The PGW argues that it properly withheld those records protected by the attorney-client privilege.⁸ The Requester argues that “PGW has not provided any information to justify its claim

⁷ Because the Requester no longer challenges the PGW’s assertion that records responsive to the event hosted by Enbridge on December 11-13, 2025 do not exist and PGW’s redactions pursuant to 65 P.S. §§ 67.708(b)(6)(i), those issues will not be addressed further in this Final Determination.

⁸ The Request, in relevant part, seeks “approvals, authorizations or recommendations associated with Mr. Shapiro’s attendance” at several events. As demonstrated below, “approvals” and “permissions” associated with this portion of the Request do not exist.

of attorney-client privilege[.]” In order for the attorney-client privilege to apply, an agency must demonstrate that: 1) the asserted holder of the privilege is or sought to become a client; 2) the person to whom the communication was made is a member of the bar of a court, or his subordinate; 3) the communication relates to a fact of which the attorney was informed by his client, without the presence of strangers, for the purpose of securing either an opinion of law, legal services or assistance in a legal matter, and not for the purpose of committing a crime or tort; and 4) the privilege has been claimed and is not waived by the client. *See Bousamra v. Excelsa Health*, 210 A.3d 967, 983 (Pa. 2019). “[A]fter an agency establishes the privilege was properly invoked under the first three prongs, the party challenging invocation of the privilege must prove waiver under the fourth prong.” *Office of the Governor v. Davis*, 122 A.3d 1185, 1192 (Pa. Commw. Ct. 2014) (citing *id.*).

Here, the Shapiro Attestation states,⁹ in relevant part:

8. To the extent I seek guidance regarding my attendance at an event or function, including my acceptance of gifts, hospitality, or transportation in connection with these events or functions, I seek legal advice from PGW Ethics Counsel under the Ethics Act. I do not seek approval or authorization.
9. At all times during my tenure as the President and CEO for PGW, it is my understanding that PGW Ethics Counsel has been a licensed attorney employed by PGW for the purpose of providing legal advice.¹⁰
10. I have sought advice from PGW Ethics Counsel both verbally and in writing.
11. All of my communications with PGW Ethics Counsel, whether verbal or in writing, regarding my attendance at an event or function have been for the sole purpose of obtaining legal advice under the Ethics Act.

⁹ Under the RTKL, a sworn affidavit or statement made under penalty of perjury 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. Off. of Open Records*, 992 A.2d 907, 909 (Pa. Commw. Ct. 2010). In the absence of any evidence that PGW has acted in bad faith, “the averments in [the attestations] should be accepted as true.” *McGowan v. Pa. Dep’t of Env’t Prot.*, 103 A.3d 374, 382-83 (Pa. Commw. Ct. 2014) (citing *Off. of the Governor v. Scolforo*, 65 A.3d 1095, 1103 (Pa. Commw. Ct. 2013)).

¹⁰ PGW Ethics Counsel has an in-house attorney license to practice law in the Commonwealth of Pennsylvania and “Mr. Shapiro, in his capacity as PGW President and CEO, maintains an attorney-client relationship with PGW Ethics Counsel.” Zahorchak Attestation, ¶¶ 8-9.

12. All the communications I have received from PGW Ethics Counsel, whether verbal or in writing, in response to my request for legal advice have been legal opinions applying the Ethics Act to the hypothetical facts of my attendance at an event or function, or questions seeking more information to provide such attendance. These communications are between me and Ethics Counsel.
13. It is my understanding that any recommendations I have received from PGW Ethics Counsel in response to my requests for advice under the Ethics Act are privileged.

The PGW's evidence demonstrates that Mr. Shapiro communicated with PGW's counsel for the purpose of seeking guidance regarding his attendance at an event or function, including his acceptance of gifts, hospitality, or transportation in connection with those events or functions. Shapiro Attestation, ¶ 8. Mr. Shapiro communicated with PGW's Ethics Counsel "for the sole purpose of obtaining legal advice under the Ethics Act" and maintains an attorney-client relationship with PGW Ethics Counsel. *Id.* at ¶ 11; Zahorchak Attestation, ¶ 9. Moreover, there is no indication in the appeal record that the aforementioned records were exchanged for the purpose of committing a crime or tort, and the Requester has not presented any competent evidence to contradict the PGW's assertions, or demonstrate that waiver of the privileges have occurred. Thus, the withheld communications seeking legal advice meet all the requirements as set forth in *Bousamra*. Accordingly, the District proved, by a preponderance of the evidence, that the redacted records are protected from public access under the attorney-client privilege. 65 P.S. § 67.305; *see Campbell v. Pa. Interscholastic Athletic Ass'n*, 268 A.3d 502 (Pa. Commw. Ct. 2021) (emphasizing that the standard of proof before the OOR is tantamount to a "more likely than not" standard); *see also Joe v. Prison Health Services, Inc.*, 782 A.2d 24 (Pa. Commw. Ct. 2001) (both requests for legal advice and information disclosed to obtain that legal advice is privileged).

2. The PGW has demonstrated that certain records responsive to the Requests do not exist in its possession, custody or control

The PGW asserts that a good faith search for responsive records was performed and, other than the records provided, the following records do not exist in its possession, custody or control:

- “Travel receipts, expense reports or reimbursement request” for 21 events;
- “Paid time-off requests (and/or records reflecting paid leave) coinciding with” attendance for all events;
- Notes taken by Mr. Shapiro at all events;
- Minutes for all events;
- Invitations, presentations, and handouts for events hosted by 61 Commodities and Tioga LNG;
- Agendas and schedules; Request 2

In response to a request for records, “an agency shall make a good faith effort to determine if ... the agency has possession, custody or control of the identified record[.]” 65 P.S. § 67.901.

While the RTKL does not define the term “good faith effort,” in *Uniontown Newspapers, Inc. v.*

Pennsylvania Department of Corrections, the Commonwealth Court stated:

As part of a good faith search, the open records officer has a duty to advise all custodians of potentially responsive records about the request, and to obtain all potentially responsive records from those in possession ... When records are not in an agency’s physical possession, an open records officer has a duty to contact agents within its control, including third-party contractors ... After obtaining all potentially responsive records, an agency has the duty to review the records and assess their public nature under ... the RTKL.

185 A.3d 1161, 1171-72 (Pa. Commw. Ct. 2018) (citations omitted), *aff’d*, 243 A.3d 19 (Pa. 2020).

An agency must show, through detailed evidence submitted in good faith from individuals with knowledge of the agency’s records, that it has conducted a search reasonably calculated to uncover all relevant documents. *See Burr v. Pa. Dep’t of Health*, OOR Dkt. AP 2021-0747, 2021 PA O.O.R.D. LEXIS 750; *see also Mollick v. Twp. of Worcester*, 32 A.3d 859, 875 (Pa. Commw. Ct. 2011).

In support of the PGW's position, the Shapiro Attestation indicates, in relevant part, as follows:

14. In response to [the Requests] for travel receipts, expense reports, or reimbursement requests associated with my attendance at the 25 events identified in my SFI, I provided through my assistant to Brett Zahorchak, PGW [AORO], any expense report I submitted in connection with these events. Any request for reimbursement is included in the expense reports, together with any receipt I submitted in connection therewith.

[...]

17. To the extent any travel receipts, expense reports, or reimbursements requests were not provided, it is because they do not exist. Either no cost was incurred or I paid costs incurred out of pocket.

[...]

30. I did not utilize paid time off or paid leave in connection with my attendance at the 25 events identified in my SFI nor would I have had any reason to utilize paid time off or paid leave for such events.

31. Therefore, records of paid time off requests and/or records reflecting paid leave in connection with the 25 events identified in my SFI do not exist.

32. To the best of my knowledge and recollection, the invitations I received to the events disclosed in my SFI were via email, telephone call, text message, or U.S. Mail.

33. I do not believe there are records of any invitations from Tigo LNG or 61 Commodities.

34. To the extent I received any invitation via text message, telephone call, or U.S. Mail to any of the events, I did not retain such invitations and had discarded any such invitation long before PGW's receipt of the [R]equests at issue in these appeals.

35. To the extent I may have received an invitation to any of the events at issue via email, I conducted a search for such invitations as follows:

- a. I obtained access to my email archives from PGW's Information Services Department; and
- b. I searched my email for each of the event host's names together with the word "invitation" and then the word "invited."
- c. My search yielded four (4) invitations: [specific invitations omitted for brevity].
- d. I provided each of the above invitations to [the PGW AORO], and all the invitations were provided to the Requester.

36. To the extent I may have received a ticket, receipt or other document to obtain event venue access to the events identified in my SFI, I received physical tickets and/or documents or electronic tickets, none of which I retained.
37. While I do not believe I took any photos capturing any of the events identified in my SFI, I cannot say with absolute certainty whether I took any such photos.
38. If I had taken any such photos, I would have done so on my phone, and had I retained any such photos, they would be on the camera roll on my phone.
39. Therefore, in response to the request for photos, I may have captured at these events, I reviewed my camera roll for photos taken on the dates of the events disclosed on my SFI. I do not have any photos capturing any of the events at issue on my camera roll.
40. There were no minutes from any of the events disclosed on my SFI.
41. There were no presentations or handouts at the events hosted by 61 Commodities and Tioga LNG.
42. I do not recall having been given any copies of presentations or handouts at the other events identified in my SFI. If I was given a copy of a presentation or a handout, I did not retain it.
43. I did not take any notes at any of the events identified in my SFI.
44. Any hard copies of schedules or agendas I was given at any of the events identified on my SFI were discarded following the events.
45. Not all events identified on my SFI provided schedules or agendas.

Shapiro Attestation, ¶¶ 14, 17, 30-45. In addition, the PGW has provided the Zahorchak Attestation, authored by its AORO, who is familiar with the records of the PGW and conducted a good faith search. Zahorchak Attestation, 3. Mr. Zahorchak conducted a thorough search of files in the possession, custody and control of PGW for records responsive to the Requests, discussed the Requests with Mr. Shapiro, and provided a response to each item listed in the Requests. *Id.* at ¶¶ 5-6, 66.

The PGW's attestations were authored by an individual named in the Request and whose records were sought and by its AORO. The PGW demonstrated that a good faith search for

responsive records was performed, which included searches within its files and Mr. Shapiro's camera roll on his phone. Zahorchak Attestation, ¶ 5; Shapiro Attestation, ¶ 39. An attestation by the individual who searched for responsive records is sufficient to meet an agency's burden of proving the nonexistence of a record. *See Pa. Dep't of Health v. Mahon*, 283 A.3d 929 (Pa. Commw. Ct. 2022) (holding that, when there is evidence that a record does not exist, "[i]t is questionable to what degree additional detail and explanation are necessary"). Further, there is no evidence that contradicts the statements offered by the PGW in the attestations submitted. Therefore, based on the evidence provided, the PGW has met its burden of proof that records responsive to portions of the Requests do not exist in its possession, custody or control.¹¹ *See Hodges v. Pa. Dep't of Health*, 29 A.3d 1190, 1192 (Pa. Commw. Ct. 2011) ("[t]he burden of proving a record does not exist ... is placed on the agency responding to the right-to-know request").¹²

3. The PGW has demonstrated that disclosure of travel itineraries would threaten personal security

The PGW argues that the release of "travel itineraries" would be reasonably likely to result in a substantial and demonstrable risk of physical harm to or the personal security of Mr. Shapiro (as well as his family and other high-profile executives). 65 P.S. § 67.708(b)(1)(ii). Section 708(b)(1)(ii) of the RTKL exempts "[a] record the disclosure of which ... would be reasonably likely to result in substantial and demonstrable risk of physical harm to or the personal security of an individual." 65 P.S. § 67.708(b)(1)(ii). To show this exemption applies, an agency must

¹¹ The OOR makes no determination as to whether records responsive to the Requests *should* exist, as our inquiry is limited to whether the records are "in existence and in possession of the ... agency at the time of the right-to-know request." *Moore v. Office of Open Records*, 992 A.2d 907, 909 (Pa. Commw. Ct. 2010); *see also* 65 P.S. § 67.705.

¹² Because the PGW has demonstrated that records responsive to agendas and schedules do not exist, the OOR need not address the PGW's alternative ground for denial under 65 P.S. 67.708(b)(1)(ii). *See Jamison v. Norristown Bor. Police Dept.*, OOR Dkt. AP 2011-1233, 2011 PA O.O.R.D. LEXIS 927.

demonstrate: (1) a “reasonable likelihood” of (2) “substantial and demonstrable risk” to a person’s security. *Delaware County v. Schaefer*, 45 A.3d 1149, 1156 (Pa. Commw. Ct. 2012). “Belief alone[,] without more, even if reasonable, does not meet this heightened standard.” *Lutz v. City of Phila.*, 6 A.3d 669, 676 (Pa. Commw. Ct. 2010) (holding that “[m]ore than mere conjecture is needed” to establish that this exemption applies).

In support of the PGW’s position, the Shapiro Attestation states, in part:

18. To the extent I have travel itineraries associated with my travel to and from the events identified in my SFI, those itineraries include specific travel information such as flight numbers, departure times, arrival times, and other information that correlates my physical presence with a specific location and a specific time.
19. The events identified on my SFI are recurring events that tend to be held around the same time each year and at the same locations.
20. To make public information that documents my travel habits and patterns present a very real risk to my personal security because it would permit malicious actors to identify vulnerabilities in travel patterns or vulnerable locations where security may be lighter.
21. As a high-profile executive in the energy sector, my personal security is particularly at risk should this information be made publicly available.
22. As the face of PGW, there are PGW employees who erroneously believe that I am personally responsible for any disciplinary action, up to and including termination.
23. As the face of PGW, there are customers who erroneously believe that I am personally responsible for termination of their gas service.
24. As the face of PGW, there are Philadelphia residents who erroneously believe that I am personally responsible for inconvenience resulting from main replacement and energy work.
25. As the face of PGW, there are environmental advocates who erroneously believe that I am personally responsible for global climate change.
26. At events I have attended, protesters have gathered with pictures of my face and personal information on posters and flyers.

27. PGW has received threats to its facilities and its executives. These threats have specifically included references to firearms and PGW's CEO.
28. I have been advised by PGW's Security Consultant and the Philadelphia Police Department's Dignitary Protection Unit to maintain unpredictability with respect to travel and whereabouts.
29. That is of paramount importance not just for my security, but for that of my family including minor children.

In addition, the Wilson Attestation states, in part:

8. I'm an expert in large-scale security and event management, through steering committee work for both the 2015 Philadelphia Papal visit and the 2016 Democratic National Convention.
9. As a Security Consultant with 36 years of experience in law enforcement and security, it is my professional opinion that the public release of PGW CEO Seth Shapiro's travel itineraries, schedules, agendas, and event location information, whether past, present, or future, creates an important risk to his personal security.
10. As the CEO of the nation's largest municipally-owned gas utility, Mr. Shapiro is a high-profile executive.
11. The threat climate for high-profile executives reached a new peak following the December 2024 assassination of United Healthcare CEO Brian Thompson.
12. Recent high-profile violence against executives has led companies to classify records identifying their location and travel patterns, such as travel itineraries, schedules, agendas, and event location information, as sensitive security information.
13. Publicly available information regarding location and travel such as travel itineraries, schedules, agendas, and event location information, whether past, present, or future, allow malicious actors to identify vulnerabilities in travel patterns or vulnerable locations where security may be lighter. Information such [as] arrival and departure times at specific, non-public locations also provides a roadmap for individuals seeking to cause physical harm or coordinate an ambush.
14. As a high-profile executive in the energy sector, Mr. Shapiro is particularly at risk for this type of targeting. Energy companies are frequently targeted by activist groups and advance[d] knowledge of a CEO's location can facilitate disruptive or dangerous activities that jeopardize the safety of the executive, staff, and the public.

[...]

17. PGW has received threats to its facilities and its executives. These threats have specifically included references to firearms and PGW's CEO.
18. Because Mr. Shapiro is a high-profile executive in the energy sector, I deemed it necessary to conduct an executive level vulnerability assessment for Mr. Shapiro.
19. Together with the Philadelphia Police Department's Dignitary Protection Unit I conducted an executive vulnerability assessment for Mr. Shapiro in 2025.
20. This included analyzing his physical residence and workplace, as well as his habits and travel patterns, to identify any gaps and vulnerabilities in his security. This resulted in several recommendations to improve his security, including but not limited to maintaining unpredictability with respect to travel and whereabouts. Maintaining an unpredictable routine is a critical security requirement for Mr. Shapiro. To protect Mr. Shapiro while traveling or attending events, PGW Security relies on unpredictability in both routes and final destinations and uses veteran security department personnel as drivers for certain transports.
21. Additionally, Mr. Shapiro's schedule and travel details often include visits to critical infrastructure sites, such as pipeline substations, highly restricted control centers, or natural gas distribution plants. Disclosing these visits could inadvertently reveal operational patterns or access points to critical infrastructure.
22. Even internally, PGW restricts who can see Mr. Shapiro's calendar and movements within the organization.

The PGW also submitted the Waddell Attestation authored by Mr. Waddell, the Lieutenant in charge of the Dignitary Protection Section within the Counter Terrorism Operations Unit of the Philadelphia Police Department. Lieutenant Waddell, who was involved in conducting a threat and vulnerability assessment of Mr. Shapiro, attests that such a release of travel itineraries "would unnecessarily endanger the CEO and his family, compromise protective operations, and create avoidable risks to the continuity of essential services relied upon by the public." Waddell Attestation, ¶ 8.

Here, the evidence demonstrates that revealing the specific travel itineraries would “permit malicious actors to identify vulnerabilities in travel patterns or vulnerable locations where security may be lighter.” Shapiro Attestation, ¶ 20. While the Requester argues that PGW cannot meet its burden “where there is no indication that disclosure of past travel would risk harm to [Mr.] Shapiro[,]” Mr. Shapiro attests that the events listed in his SFI are recurring events that tend to be held around the same time each year and at the same locations. *Id.* at ¶ 19. Further, the PGW provided evidence that it has received threats to its facilities and executives, specifically mentioning firearms and PGW’s CEO. *Id.* at ¶ 27; Wilson Attestation, ¶ 17. Additionally, the PGW submitted attestations from a Lieutenant in charge of the Dignitary Protection Section within the County Terrorism Operations Unit of the Philadelphia Police Department and a Security Consultant contracted by the PGW, who conducted a detailed threat and vulnerability assessment of Mr. Shapiro and concluded that the release of travel itineraries would unnecessarily endanger the CEO and his family. *See generally*, Wilson Attestation, ¶¶ 9-22; Waddell Attestation, ¶¶ 5-9. Finally, the PGW submitted news articles of recent violence against CEOs and the recent killing of United Healthcare’s CEO, demonstrating the violence perpetuated against high-level CEOs. *See Exhibits E-G.* Thus, based on the unchallenged testimonial evidence in the record, the PGW has demonstrated that public disclosure of Mr. Shapiro’s travel itineraries would be reasonably likely to result in a substantial and demonstrable risk of physical harm to him or the personal security of an individual.¹³ Accordingly, the PGW has met its burden of proof that the withheld travel itineraries as requested are exempt from public access under Section 708(b)(1)(ii) of the RTKL. *See* 65 P.S. § 67.708(a)(1); *see also Pope v. Pa. Off. of Gov.*, OOR Dkt. AP 2023-2789,

¹³ We note that the events to which Mr. Shapiro traveled are contained in other documents, such as SFIs. Our holding is limited to the travel itineraries, due to the detailed nature of those records, and should not be read to permit the redaction of any other document. Further, our holding is limited to the facts of this case and should not be read to create a blanket exemption for travel itineraries.

2024 PA O.O.R.D. LEXIS 113 (finding, in relevant part, that travel itineraries of the Governor are exempt from public access under Sections 708(b)(1) and (2) of the RTKL).

4. Portions of the Requests are insufficiently specific

The PGW argues that the portion of the requests for “meeting and seminar documents” and “correspondence” are insufficiently specific. Further, the PGW argues that it cannot be required to interpret the portion of the Requests for “meeting and seminar documents” and, by the “Requester’s own clarification of the term ‘meeting and seminar documents’ acknowledges the insufficiency of these terms, having explained that these terms include ‘minutes, presentations, notes, agendas, schedules, handouts, attendee lists.’”¹⁴ Similarly, the PGW argues that the portion of the Requests seeking “[c]orrespondence (including emails (to/from/cc/bcc, including attachments), text messages) with event hosts (Independence Blue Cross, Philadelphia Phillies, Major League Baseball, or any other entities involved with hosting events)” is also insufficiently specific due to the unlimited timeframe, failure to identify a subject matter and the broad scope.

Section 703 of the RTKL states that “[a] written request should identify or describe the records sought with sufficient specificity to enable the agency to ascertain which records are being requested.” 65 P.S. § 67.703. When determining whether a particular request is sufficiently specific, the OOR undertakes a nonexclusive, multi-factor test, considering “the extent to which the request specifies the subject matter, the extent to which it defines the scope of the records it seeks, and the extent to which it limits the timeframe of the Request.” *Pa. Off. of the Governor v. Brelje*, 312 A.3d 928, 927 (Pa. Commw. Ct. 2024) (citing *Pa. Dep’t of Educ. v. Pittsburgh Post-Gazette*, 119 A.3d 1121 (Pa. Commw. Ct. 2015)). The test is not “a conjunctive, bright-line rule

¹⁴ The PGW further argues that it responded to the specific “meeting and seminar documents” as clarified by the Requester but, without more, “is unable to discern what else it is Requester may be seeking by this general and ambiguous phrase.”

requiring each ‘element’ of the test to be satisfied; rather, it [is] a flexible approach” consistent with relevant caselaw. *Id.*

First, “[t]he subject matter of the request must identify the ‘transaction or activity’ of the agency for which the record is sought.” *Pittsburgh Post-Gazette*, 119 A.3d at 1125 (quoting 65 P.S. § 67.102). Second, “[t]he scope of the request must identify ‘a discrete group of documents, either by type ... or by recipient.’” *Id.* (quoting *Carey v. Pa. Dep’t of Corr.*, 61 A.3d 367, 372 (Pa. Commw. Ct. 2013)). Finally, “[t]he timeframe of the request should identify a finite period of time for which records are sought.” *Id.* at 1126 (citing *Carey, supra*). “The timeframe prong is, however, the most fluid of the three prongs, and whether or not the request’s timeframe is narrow enough is generally dependent upon the specificity of the request’s subject matter and scope.” *Id.*

The above factors are intended “to facilitate an analysis in order to determine whether an agency can ascertain which records are being requested The subject matter, scope, and timeframe of a request are flexible, analytical elements, not evidentiary requirements.” *Pa. Dep’t of Health v. Shepherd*, No. 377 C.D. 2021, 2022 Pa. Commw. Unpub. LEXIS 207 *6-7 (Pa. Commw. Ct. 2022), *appeal denied*, No. 334 MAL 2022, 2022 Pa. LEXIS 1862 (Pa. 2022). Finally, we must analyze the entirety of a request, as it is possible that portions of a request are insufficiently specific, while other portions provide sufficient guidance. *See Pa. State Police v. Off. of Open Records*, 995 A.2d 515, 517 (Pa. Commw. Ct. 2010) (noting “the valid part of the request was included in a laundry list of requested materials”).

Here, the Requests seek, in relevant part, any “correspondence” and “meeting and seminar documents” for Mr. Shapiro’s attendance at numerous events listed in his PA Statements of Financial Interests. While the Requests have an overarching subject matter (i.e. events hosted by various entities and attended by Mr. Shapiro), the subject matter is not otherwise limited. The

OOR has held that where a request seeks communications of an agency which discuss or otherwise reference a subject matter, that request may be found to be insufficiently specific where the agency is required to review every communication and make judgment calls as to whether it discusses or references the subject matter. *See Pope v. Pa. Off. of Gov.*, OOR Dkt. AP 2023-3122, 2024 PA O.O.R.D. LEXIS 224 (holding that request seeking all electronic communications over seven months that discuss sexual harassment or reference two employees is insufficiently specific); *Macey v City of Pittsburgh*, OOR Dkt. AP 2019-1390, 2019 PA O.O.R.D. LEXIS 1048 (finding insufficiently specific a request seeking all correspondence, emails, meeting minutes, and notes of City employees for both a two-month and eight-month timeframe “mentioning” the open letter to the mayor or the use of autonomous vehicles on a specific roadway); *Sinisko v. Pleasant Valley Sch. Dist.*, OOR Dkt. AP 2023-1622, 2023 PA O.O.R.D. LEXIS 2122 (finding a request insufficiently specific which seeks over a lengthy timeframe all records of school administration and department heads “discussing” the school math department’s outcomes on certain examinations). Here, the fact that portions of the Requests seek “correspondence” with event hosts and “meeting and seminar documents”¹⁵ which relate in any way to the events attended by Mr. Shapiro, does little to help guide the PGW in conducting a search for responsive records.

Further, the scope of the Requests do not identify senders or recipients outside of identifying all PGW employees and all event hosts or entities involved with hosting the events. Finally, while there are sets of dates included in the Requests surrounding specific events, the Requests do not include a limited timeframe to help narrow the search for responsive records and, instead, seeks all correspondence associated with specific events. Accordingly, based upon the

¹⁵ Again, we note that the Requester further defined “meeting and seminar documents” to include minutes, presentations, notes, agendas, schedules, handouts, and attendee lists and that the PGW conducted a search for those additional records listed.

multifactor test, we find that portions of the Requests are insufficiently specific. 65 P.S. § 67.703. However, nothing in this Final Determination prevents the Requester from filing a more specific RTKL request, and if necessary, filing an appeal pursuant to the requirements of 65 P.S. § 67.1101(a).

5. The PGW has not demonstrated that attendee lists would reveal trade secrets

The PGW argues that it properly denied the request for “attendee lists” because these constitute third party customer lists exempt from disclosure as “trade secrets” under Section 708(b)(11). While Mr. Shapiro attests that he was not given attendee lists at every event, to the extent that he was given any attendee lists, the “lists are customer lists of the event sponsors distributed solely for the purpose of peer-to-peer networking.” Shapiro Attestation, ¶¶ 50-51.

Section 708(b)(11) of the RTKL exempts from disclosure “[a] record that constitutes or reveals a trade secret or confidential information.” The term “trade secret” is defined in Section 102 of the RTKL as follows:

“Trade secret.” Information, including a formula, drawing, pattern, compilation, including a customer list, program, device, method, technique or process that:

- (1) derives independent economic value, actual or potential, from not being generally known to and not being readily ascertainable by proper means by other persons who can obtain economic value from its disclosure or use; *and*
- (2) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

65 P.S. § 67.102 (emphasis added). Pennsylvania courts confer “trade secret” status based upon the following factors: (1) the extent to which the information is known outside of the business; (2) the extent to which the information is known by employees and others in the business; (3) the extent of measures taken to guard the secrecy of the information; (4) the value of the information to the business and to competitors; (5) the amount of effort or money expended in developing the information; and (6) the ease or difficulty with which the information could be properly acquired

or duplicated by others. *Smith ex rel. Smith Butz, LLC v. Pa. Dep't of Env't Prot.*, 161 A.3d 1049, 1064 (Pa. Commw. Ct. 2017). The most important indicia for determining whether information constitutes a trade secret are “substantial secrecy and competitive value to the owner.” *Mission Pa., LLC v. McKelvey*, 212 A.3d 119, 136 (Pa. Commw. Ct. 2019), *aff'd in part*, 255 A.3d 385 (Pa. 2021) 11 (citing *W. Chester Univ. of Pa. v. Schackner (Bravo)*, 124 A.3d 382 (Pa. Commw. Ct. 2015)). Trade secret status is a fact-specific inquiry, and must be decided “on a case-by-case basis.” *Id.* (internal quotation omitted).

Where a third party makes a submission and marks it as confidential proprietary information or as containing a trade secret, the PGW may raise Section 708(b)(11) to avoid prejudicing the rights of those third parties. *Davis v. Pa. Dep't of Health*, OOR Dkt. AP 2023-0332, 2023 PA O.O.R.D. LEXIS 524 (explaining that the Department may raise the exemption to protect the rights of third parties). However, an agency is not permitted to delegate its responsibility to determine whether a record is exempt to a third party entirely. *McKelvey v. Pa. Dep't of Health*, 255 A.3d 385, 404 (Pa. 2021) (“the language of the RTKL is plain and unambiguous, placing the burden and responsibility on the governmental agency to independently evaluate and discern the validity of claimed exemptions to disclosure in the first instance, including those made by third parties.”). While the PGW’s attestation and position statement sufficiently explain the PGW’s reasoning for raising Section 708(b)(11), there is no evidence before us that addresses the various factors set forth in the definition of “trade secret”. The PGW is unable to adequately address the economic value of the marked information or present any evidence that disclosure of the marked information is likely to cause “substantial harm to the competitive position [of the submitting entity],” 65 P.S. § 67.102, as it is unlikely that the PGW even has access to the information it would need to establish such factors.

Third parties are permitted to raise and defend exemptions to protect their information. *Highmark Inc. v. Voltz*, 163 A.3d 485, 491 (Pa. Commw. Ct. 2017) (en banc); *Pa. Dep't of Educ. v. Bagwell*, 131 A.3d 638 (Pa. Commw. Ct. 2016); *Office of the Governor v. Bari*, 20 A.3d 634 (Pa. Commw. Ct. 2011). In this case, the affected third parties chose not to participate on appeal or submit any evidence or argument in favor of exemption, despite being notified by the PGW. Because “agencies are not permitted to waive a third party’s interest in protecting the records,” *Bagwell*, 131 A.3d at 650, the PGW properly did not waive the third parties’ interest at the Request stage and instead withheld third-party records potentially exempt pursuant to Sections 707(b) and 708(b)(11) of the RTKL. *See* 65 P.S. § 67.707(b); 708(b)(11). However, because the burden of proof as to whether the exemption applies to the record has not been met on appeal, and the affiliated third-party has not participated on appeal by submitting any argument/evidence in support of withholding records under Section 708(b)(11) of the RTKL, those records may not be redacted or withheld for this reason. Thus, because the notified third parties failed to participate on appeal, the OOR finds that attendee lists are not protected under Section 708(b)(11) of the RTKL.¹⁶ *See e.g., Mission Pa., LLC v. McKelvey*, 212 A.3d 119, 138 (Pa. Commw. Ct. 2019) (redactions were not supported by the evidence where the third party did not prove the confidential nature of or describe the content of its redactions).

However, the PGW, to the extent it applies, may redact the names of private citizens in the attendee lists. Although the constitutional right to privacy was not raised by either party, the OOR may raise the issue *sua sponte*. *See Reese v. Pennsylvanians for Union Reform*, 173 A.3d 142 (Pa. 2016). The Pennsylvania Supreme Court has held that an individual possesses a constitutional

¹⁶ While the OOR recognizes the PGW’s argument that customer lists are expressly exempt from disclosure under Section 708(b)(11), the evidence is insufficient to demonstrate that attendee lists and customer lists are the same thing under the RTKL.

right to privacy in certain types of personal information. *Pa. State Educ. Ass'n v. Commonwealth*, 148 A.3d 142 (Pa. 2016). When a request for records implicates personal information not expressly exempt from disclosure under the RTKL, the OOR must balance the individual's interest in informational privacy with the public's interest in disclosure and may release the personal information only when the public benefit outweighs the privacy interest. *Id.*; *see also Pennsylvania State Univ. v. State Employees' Retirement Bd.*, 935 A.2d 530 (Pa. 2007) (employing a balancing test with respect to home addresses sought under the former Right-to-Know Act). Although the Pennsylvania Supreme Court did not expressly define the types of "personal information" subject to the balancing test, the Court recognized that certain types of information, including home addresses, by their very nature, implicate privacy concerns and require balancing. *Sapp Roofing Co. v. Sheet Metal Workers' International Assoc.*, 713 A.2d 627, 630 (Pa. 1998) (plurality) (finding names, home addresses, social security numbers, and telephone numbers of private citizens to be personal information subject to the balancing test).

The OOR cannot perceive any public interest in disclosing the names of private citizens with respect to the records at issue here. *See Crowley v. City of Meadville*, OOR Dkt. AP 2024-0386, 2024 PA O.O.R.D. LEXIS 865; *see also Davis v. Luzerne County*, OOR Dkt. AP 2023-1768, 2023 PA O.O.R.D. LEXIS 2234. Accordingly, the PGW may redact the names of private citizens contained in the attendee lists.

CONCLUSION

For the foregoing reasons, the appeal is **granted in part** and **denied in part**, and the PGW is required to provide the attendee lists, as described above, to the Requester within thirty days. This Final Determination is binding on all parties. Within thirty days of the mailing date of this Final Determination, any party may appeal to the Philadelphia County Court of Common Pleas.

65 P.S. § 67.1302(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 65 P.S. § 67.1303, but 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.¹⁷ All documents or communications following the issuance of this Final Determination shall be sent to oor-postfd@pa.gov. This Final Determination shall be placed on the OOR website at: <http://openrecords.pa.gov>.

FINAL DETERMINATION ISSUED AND MAILED: May 4, 2026

/s/ Lyle Hartranft

APPEALS OFFICER
LYLE HARTRANFT, ESQ.

Sent via portal to: Gabriel Straus; Zehava Robbins, Esq.; Brett Zahorchak, Esq., AORO

¹⁷ *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).