



FINAL DETERMINATION

DATE ISSUED AND MAILED: October 27, 2026

IN RE: *Allison Rapoport v. Pa. Dep't of Comm. & Econ. Dev.*;
OOR Dkt. AP 2026-4184 (Consolidated w/ OOR Dkt. No. AP 2026-4187)

Upon review of the appeals filed with the Office of Open Records (“OOR”) to the above-referenced docket numbers, as well as the parties’ submissions, the appeals are **DENIED** because:

The records do not exist. On October 23, 2026, the Pennsylvania Department of Community and Economic Development (“Department”) submitted attestations, made under the penalty of perjury, from Candance Gaul (“Gaul Attestations”), the Department’s Open Records Officer, who attests that a search was conducted and that no responsive records were located.¹ Gaul Attestations, ¶¶ 4-8. More specifically, the Gaul Attestations explain that the Requests were directed to Nick Odato, the Department Administrative Officer and Records Custodian for the relevant Department program(s), who possesses knowledge of the requested records, to search the Department’s project files and other program locations for responsive records. *Id.* at ¶¶ 4-6. Based upon this evidence, the Department has demonstrated that it conducted a good faith search for responsive records as required by 65 P.S. § 67.901 and did not locate any such records; therefore, the Department has met its burden of proving that it does not possess the records sought in the Requests. *Hodges v. Pa. Dep’t of Health*, 29 A.3d 1190, 1192 (Pa. Commw. Ct. 2011).

For this reason, the Department is not required to take any further action. Within thirty days of the mailing date of this Final Determination, either party may appeal or petition for review with 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 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. 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 website at: <http://openrecords.pa.gov>.

Issued by:

/s/ Joshua T. Young

JOSHUA T. YOUNG, ESQ.
SENIOR DEPUTY CHIEF COUNSEL

Sent via OOR e-file portal to: Allison Rapoport; Shawn Kerns, Esq.; Candace Gaul, AORO

¹ In her unsworn position statement, the Requester argues, among other things, that the Department failed to “identify whether any projects satisfied” the first request’s specified contract-date and vendor-reporting criteria, and that the second request does not seek a list; however, the Requester may only seek records and cannot direct the Department to provide answers to questions. Furthermore, the Requester’s unsworn submission does not present sufficient competent evidence to undermine the Gaul Attestations. *See Pa. Dep’t of Health v. Mahon*, 283 A.3d 929, 936 (Pa. Commw. Ct. 2022) (finding that, in the absence of countervailing evidence establishing that the agency acted in bad faith or that the requested records exist, averments of nonexistence should be accepted as true).