

April 9, 2024

The Honorable Scott Martin
Chair, Senate Appropriations Committee
Senate of Pennsylvania
281 Main Capitol Building
Harrisburg, PA 17120

Dear Chairman Martin:

Thank you for the opportunity to share the Pennsylvania Office of Open Records' (OOR) 2024-25 fiscal year budget request. In 2023, the OOR issued another record-breaking 3,090 final determinations, and is on track to surpass that figure this year. This projection does not include the likely surge in election-related appeals in the lead-up and aftermath of the 2024 presidential election. The OOR needs three additional attorneys to ensure it meets the public's growing demand to hold government agencies accountable through records' requests.

The 2020 presidential election's impact on Right-to-Know Law (RTKL) requests and appeals was swift, prolonged, and intense. Requesters sought records related to mail-in ballots, voting machines, and security policies. From 2009 to 2019, approximately 35 Final Determinations issued by the OOR dealt with election related RTKL requests; from 2020 to the present, the figure jumped to 241 and counting.

More than three years after the election, related RTKL appeals still remain above pre-November 2020 levels. Since counties run elections, they were most impacted by the marked increase of RTKL requests. From January 2020 to January 2022, the OOR saw a 77% increase (369 to 653) in appeals of county records requests. While the overall number declined slightly between 2022 and 2023, it is still a 64% increase as compared to before the 2020 election. Even in the absence of a high-profile election, demand for these records remains steady.

In summary, an overall increase in RTKL appeals combined with a post-November surge in requests for election-related records will create an unprecedented and unsustainable demand for the OOR's timely issuance of decisions. With the law allowing just 30 days to issue a decision, the only sustainable path requires the creation of additional positions.

Therefore, I am requesting that the OOR's budget be funded at the Governor's proposed \$4,592,000 level. This will allow the OOR to maintain current operations and provide sufficient funding to hire three additional attorneys.

Thank you for taking the time to consider the OOR's budget request.

Sincerely,



Liz Wagenseller
Executive Director

cc: The Honorable Vincent Hughes, Democratic Chair, Senate Appropriations Committee
The Honorable Chris Dush, Chair, State Government Committee

enc: Budget request documents

**OFFICE OF OPEN RECORDS (OOR)
10949**

\$ in Thousands

1 <u>Summary Financial Data</u>	2022-23 Actual	2023-24 Available	2024-25 Request	Change	Percent Change
State Funds (10949)	\$ 3,627	\$ 3,895	\$ 4,592	\$ 697	17.89%
2 <u>Detail by Major Object (Commitment Item)</u>					
Personnel (6100000)					
State Funds	\$ 3,132	\$ 3,496	\$ 4,193	\$ 697	19.94%
Operating (6300000)					
State Funds	\$ 495	\$ 399	\$ 399	\$ -	0.00%
Total Funds	\$ 3,627	\$ 3,895	\$ 4,592	\$ 697	17.89%
3 <u>Lapse History</u>					
	2020-21	2021-22	2022-23		
State Funds	\$ -	\$ -	\$ -		
4 <u>Complement Information</u>					
State Funded (10949)					
<i>Authorized</i>	24	24	27		
<i>Filled</i>	23	23	27		
Total	24	24	27		
Benefit Rate	62.6%	62.4%	61.5%		

The Pennsylvania Office of Open Records

The Office of Open Records (OOR) was created by Act 3 of 2008. The Supreme Court has held that the OOR is a unique and *sui generis* independent body. The Commonwealth Court has held that the OOR is a quasi-judicial agency.

The legislative mandate of the OOR is to decide appeals under the Right-to-Know Law (RTKL) and to serve as a resource for citizens, public officials, and members of the media in obtaining public records of their government. Under the RTKL, the OOR is also required to provide training sessions covering the RTKL and the Sunshine Act, to establish a mediation program, to issue advisory opinions, to establish a website, to conduct a biannual review of fees charged under the RTKL, and to prepare an annual report for the Governor and the General Assembly.

The OOR's accomplishments in calendar year 2023 include the following:

- Received and docketed 3,147 appeals, breaking a new record.
- Decided 3,090 appeals.
- Responded to 1,317 Right-to-Know Law requests directed to the OOR.
- Participated in or monitored more than 350 cases in the Supreme Court, Commonwealth Court and Courts of Common Pleas.
- Provided 49 training sessions, including bi-weekly virtual training sessions, attended by nearly 3,000 public officials, lawmakers, judges, agency employees, solicitors, and requesters.
- Fully launched the OOR E-File Appeal Portal, a system to process all OOR RTKL appeals.
- Conducted a bi-annual study that found that 73 percent of reviewed agencies' websites contain all of the information required to be posted by the Right-to-Know Law.

2024-25 Office Request

The OOR is in need of three additional legal positions to address an unprecedented increase in RTKL appeals that it must adjudicate within the legally required thirty-day deadline; the looming 2024 presidential campaign will certainly accelerate the spike in county appeals, which saw a 77 percent increase in the aftermath of the 2020 election. Even in the absence of a high-profile election, demand for these records remains steady.