

BEFORE THE PENNSYLVANIA OFFICE OF OPEN RECORDS

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Office of Open Records
333 Market Street, 16th Floor
Harrisburg, PA 17101-2234

**IN THE MATTER OF
MICHAEL LONG, Requester**

v.

BOROUGH OF BATH, Respondent

Docket No: AP 2025-0522

RE: PETITION FOR RECONSIDERATION OF FINAL DETERMINATION

(Submitted under 1 Pa. Code § 35.241 and OOR Procedural Guidelines § VIII)

Michael Long (“Requester”), *pro se*, respectfully petitions the Office of Open Records (“OOR”) for Reconsideration of its Final Determination (“FD”) issued in this matter on April 30, 2025. This Petition is filed timely on May 14, 2025, within fifteen (15) calendar days after the issuance of the FD, in compliance with 1 Pa. Code § 35.241(a) and Section VIII(A) of the OOR’s Procedural Guidelines.

This Petition is predicated entirely upon clear errors of law, significant misapplications of established law and binding accounting principles to the existing factual record, and manifest factual errors apparent on the face of the record already before and formally accepted by the OOR. No new evidence is introduced. Rather, this Petition demonstrates that the FD’s conclusions are unsustainable when scrutinized against the Borough’s own submissions (including contradictory attestations), prior record evidence formally accepted by the OOR (including Requester’s Exhibit A, Bates ML_EXA_001–ML_EXA_050, and AORO Flynn’s October 20, 2023, correspondence in OOR Dkt. AP 2023-1083), controlling Pennsylvania legal and administrative authorities mandating specific municipal financial practices, and critically, **authoritative technical documentation from Intuit/QuickBooks expressly incorporated by reference**

into the certified record by the OOR’s own FD (FD p. 10 n.5). Reconsideration is therefore warranted and essential to uphold the remedial purposes of the Right-to-Know Law (“RTKL”), 65 Pa. Stat. Ann. §§ 67.101–67.3104 (West 2023).

I. THE REQUEST AT ISSUE

This Petition primarily concerns the OOR’s disposition of Items 2 and 3 of the Request, which sought:

A. >“Part 2 – QUICKBOOKS AUDIT TRAIL (Both Excel & PDF) for General Ledger accounts within the numeric range #100.00 through #499.99, covering both active and inactive accounts, between January 1, 2018, and December 31, 2023.”

B. >“Part 3 – A complete Chart of Accounts listing, including account number, account name, type (e.g., bank, expense, revenue, etc.), active/inactive status, and any other standard fields QuickBooks includes by default when printing or exporting the Chart of Accounts.”

(The Request included detailed, explicit steps for generating these standard reports from QuickBooks Desktop, estimating completion under two minutes for a user familiar with the software, as referenced in original RTK Request #01.2025; Long Appeal Submission, Mar. 12, 2025, p.1).

II. STANDARD FOR RECONSIDERATION AND INCORPORATION OF REFERENCED DOCUMENTATION

A. Reconsideration is appropriate where the petition demonstrates a clear error of law, an error of fact evident on the face of the record, or a significant misapplication of law to facts already established. 1 Pa. Code § 35.241 (2023); OOR Proc. Guidelines § VIII(A).

B. The OOR, by expressly citing Requester’s Intuit/QuickBooks technical support links at FD p. 10 n.5, incorporated those materials by reference into the certified record. *See* Pa. R. App. P. 1921(a); *Powell v. Pa. Dep’t of Transp.*, 956 A.2d 406, 423 (Pa. 2008). This incorporated documentation provides authoritative technical guidance on QuickBooks’ capabilities and

standard operating procedures. A full and accurate understanding of this incorporated Intuit documentation is now essential, as it directly refutes the Borough's sworn attestations regarding Excel export limitations and the reporting of inactive accounts, thereby revealing clear errors in the FD's conclusions which accepted those attestations without due scrutiny against the OOR's own incorporated record.

III. THE OOR COMMITTED CLEAR FACTUAL AND LEGAL ERROR BY FAILING TO ADDRESS THE DEMONSTRABLE AND WIDESPREAD INCOMPLETENESS OF THE PDF "AUDIT TRAIL" PROVIDED BY THE BOROUGH FOR ITEM 2, THEREBY ERRONEOUSLY FINDING THE BOROUGH MET ITS BURDEN OF PROOF.

The FD (pp. 10–11) found the Borough met its burden of proving it provided responsive reports for Item 2. This is manifestly erroneous.

A. Gross Incompleteness of the Provided PDF Audit Trail: The Borough's 698-page PDF "General Fund Audit Trail" is facially incomplete.

1. *Systematic Omission of Essential Transaction Types:* The PDF lists 4,429 "Bill" entries but zero deposits and zero transfers for 2018–2023 (Requester's Mar. 12, 2025, Appeal Submission, Sec. V.B.1), an impossibility for any municipal ledger.
2. *Omission of Known, Documented Transactions:* Requester's Exhibit A (Bates ML_EXA_022–ML_EXA_023) documents an \$86,170.53 interfund transfer to G/L 392.00 within the requested timeframe, absent from the Borough's PDF.
3. *Mathematical Implausibility:* As detailed in Requester's Petition (p. 3), based on prior Borough productions (Requester's Ex. A, Bates ML_EXA_001–ML_EXA_012) averaging ~3.3 pages/account-year, and the Borough's COA listing ~720 active GL lines in its General Fund alone (excluding numerous inactive accounts and other funds), a six-year audit trail should conservatively run to ~14,256 pages. The 698-page production is a fraction of this.

4. *Critical Omission of Report Parameter/Filter Page*: The Borough claimed to provide a “699-page report” (Borough Final Resp., p. 4, Feb. 27, 2025) but delivered 698 pages, omitting the standard QuickBooks “Filters Applied” summary page, present in prior complete audit trails (Requester’s Ex. A).

B. Failure to Meet Legal Audit-Trail Standards: The production fails to satisfy the standard for an audit trail, which must allow traceability “from inception to completion.” Pa. Dep’t of Cmty. & Econ. Dev., Fiscal Management Handbook 31 (10th ed. Jan. 2016) [hereinafter DCED Fiscal Handbook]; *see also* 55 Pa. Code § 4300.146(a) (2023) (illustrative audit-trail requirement). Omitting all inflows and the filter summary page contradicts this mandate and the definition of an audit trail as showing “complete activity” (AORO Flynn’s own prior public definition, OOR Dkt. 2024-0001; Requester’s Mar. 12 Appeal, Sec. IV.F.8).

C. Legal Consequence: By accepting this grossly deficient PDF as complete, the OOR committed a significant factual error and erred in law by failing to hold the Borough to its burden under RTKL § 708(a)(1), 65 Pa. Stat. Ann. § 67.708(a)(1). *Hodges v. Pa. Dep’t of Health*, 29 A.3d 1190, 1192 (Pa. Commw. Ct. 2011).

IV. GENERAL LEDGER ≠ GENERAL FUND: THE OOR’S ACCEPTANCE OF THE BOROUGH’S ERRONEOUS PREMISE IS A FUNDAMENTAL LEGAL AND FACTUAL ERROR VIOLATIVE OF STATE-MANDATED MUNICIPAL ACCOUNTING PRINCIPLES.

The FD (p. 8) found the Borough’s interpretation limiting Item 2 to only the “General Fund” to be “reasonable,” critically relying on AORO Flynn’s March 14, 2025, attestation that he views "General Ledger" and "General Fund" synonymously. This acceptance by the OOR is a profound error of law and fact, as it endorses a premise that, if true for the Borough's operations, would constitute a severe deviation from, and potential violation of, legally mandated and universally accepted principles of Pennsylvania municipal accounting.

A. Contradiction by Flynn’s Prior Sworn Statements and Borough Records:

1. *Flynn’s October 20, 2023, Letter (OOR Dkt. AP 2023-1083, submitted by Requester March 15, 2025, and accepted onto this appeal’s record):* In this sworn submission, AORO Flynn repeatedly distinguished the concepts, identifying “general ledger numbers for solid waste and recycling revenue and expenses *within the General Fund Company*” and providing an Audit Trail capturing activity “*within the General Fund Company*.” (Emphasis added). This demonstrates an understanding that the General Fund Company *contains* general ledger accounts, rather than *being* the entirety of the General Ledger. His March 14, 2025, attestation (Flynn Attest. ¶ 13) directly contradicts this prior sworn position.
2. *Requester’s Exhibit A (e.g., Bates ML_EXA_001–ML_EXA_006):* Demonstrates distinct Borough funds (“DEVELOPERS’ ESCROW FUNDS” and “OPERATING ‘GENERAL’ FUND”) both containing G/L accounts within the Request’s numeric range (e.g., #119.00, #259.00, #392.00).
3. The OOR's failure to address these direct contradictions, formally on its record, was error. *McGowan v. Pa. Dep’t of Env’tl. Prot.*, 103 A.3d 374, 381-82 (Pa. Commw. Ct. 2014) (OOR must address evidence).

B. State-Mandated Fund Accounting, GAAP, and the DCED Framework Irreconcilably Contradict the Borough’s “Synonymous” Claim:

1. *Mandate for Fund Accounting:* Pennsylvania law and the explicit guidance of the Department of Community and Economic Development (DCED) require municipalities to utilize fund accounting. This system is foundational for fiscal accountability, ensuring public monies are segregated, tracked, and used according to legal restrictions. The **DCED Chart of Accounts for Pennsylvania Municipalities (5th ed. July 2014) [hereinafter DCED COA]** defines a "Fund" as "the vehicle by

which revenues, expenditures, other financing sources/uses (and the related assets and liabilities) are captured to maintain in a segregated manner as prescribed by regulations, restrictions or other limitations" (DCED COA, p. 5). This is not optional; it is the prescribed structure.

2. *Each Fund as a Separate Fiscal and Accounting Entity*: The **DCED Fiscal Management Handbook (10th ed. Jan. 2016) [hereinafter DCED Fiscal Handbook]** unequivocally states: "Each fund has its own receipts and expenditures, and maintains its own balance" and critically, **"Each fund is a completely separate accounting system in itself, with its own unique accounts to record the various revenues and expenditures"** (DCED Fiscal Handbook, p. 2). This principle is echoed in the structure of the *2024 Municipal Annual Audit and Financial Report (DCED-CLGS-30)*, which requires fund-by-fund reporting.
3. *General Ledger as the Comprehensive Record*: The "General Ledger" in any governmental accounting system adhering to Generally Accepted Accounting Principles (GAAP), as promulgated for state and local governments by the Governmental Accounting Standards Board (GASB), is the *master accounting record comprising all accounts across all funds*. GASB's Codification of Governmental Accounting and Financial Reporting Standards, Section 1300, discusses the nature of various fund types (General, Special Revenue, Debt Service, Capital Projects, Enterprise, etc.), each of which maintains its own set of self-balancing accounts that are part of the entity-wide general ledger. The DCED COA itself, with its system of fund prefixes (e.g., "01" for General Fund, "06" for Water Fund, etc.) (DCED COA, pp. 6, 8), illustrates that the General Ledger is designed to integrate these distinct fiscal entities.
4. *Legal Requirement for Adherence to Uniform Systems*: Pennsylvania's Borough Code, for instance, contains numerous provisions requiring boroughs to manage their finances in a structured way, including maintaining sinking funds (8 Pa. Cons. Stat. Ann. § 1311 (West 2023)), preparing annual budgets that distinguish between funds (8 Pa. Cons. Stat. Ann. § 1309 (West 2023)), and conducting annual audits (8 Pa. Cons. Stat. Ann. § 1041 (West 2023)). These statutory duties are

predicated on the existence of a properly structured fund accounting system where different types of funds are distinctly managed.

5. *Consequences of a Truly Synonymous System:* If the Borough's "General Fund" were truly its entire "General Ledger," it would mean:
 - a. **Illegal Commingling:** An inability to legally segregate and protect restricted funds (e.g., Liquid Fuels Tax funds, which are statutorily restricted under 75 Pa. Cons. Stat. Ann. § 9010 (West 2023), or developer escrows, which are fiduciary in nature). This could lead to misapplication of funds and legal liability.
 - b. **Lack of Accountability & Transparency:** An inability to accurately track the financial position, activities, and compliance of individual restricted funds, rendering true financial oversight impossible.
 - c. **Non-Compliance with DCED Reporting:** An inability to complete the *Municipal Annual Audit and Financial Report (DCED-CLGS-30)* accurately, as it mandates distinct reporting for different fund types.
 - d. **Violation of GAAP:** A fundamental departure from the basic principles of governmental accounting required for fair presentation of financial statements.

C. **The Plain Language of the Request Targeted General Ledger Accounts, Not a Single Fund:** The Request (Part 2) sought audit trails for "General Ledger accounts within the numeric range #100.00 through #499.99." It did not narrow by fund. These account numbers (for assets, liabilities, revenues, expenses) are standard across fund types. *See* DCED COA at 9–26 (listing account series 100-400s applicable across various funds). Any Borough fund or QuickBooks "Company" (Flynn Oct. 20, 2023 Letter) utilizing G/L accounts in this numeric range is responsive. The existence of accounts like #119.00 and #259.00 (Developer Escrow accounts) within the requested numeric range, as confirmed by AORO Flynn (Flynn Attest. ¶ 19

for #259.00) and Requester's Exhibit A, but outside the "General Fund," proves the Borough's synonymy claim is factually untenable for its own records.

D. Legal Consequence: OOR Endorsement of a Legally Deficient Premise:

By accepting AORO Flynn's contradicted and erroneous attestation that "General Ledger" and "General Fund" are synonymous for the Borough, the OOR's FD (p. 8) is not merely upholding a "reasonable interpretation" but is effectively sanctioning a view of municipal accounting that, if actually practiced by the Borough, would place the Borough in contravention of state-mandated financial administration principles, GAAP, and potentially various Pennsylvania statutes requiring fiscal segregation and accountability. This constitutes a clear and significant error of law and misapplication of established financial principles to the facts. *See Bowling v. Office of Open Records*, 990 A.2d 813, 824 (Pa. Commw. Ct. 2010), *aff'd*, 75 A.3d 453 (Pa. 2013).

V. THE OOR ERRED BY ACCEPTING THE BOROUGH'S UNSUBSTANTIATED AND ERRONEOUS CLAIMS REGARDING REPORT GENERATION AND TECHNICAL CAPABILITIES, PARTICULARLY IN LIGHT OF OOR-INCORPORATED INTUIT DOCUMENTATION.

The FD (pp. 9–10) accepted the Borough's attestations that: (1) attempts to compile Excel exports "crashed" or "timed out" (Silvestri Attest. ¶ 38); and (2) QuickBooks "lacks the ability to create audit trail reports for inactive accounts" (Silvestri Attest. ¶ 31). The FD further implicitly accepted the Borough's mischaracterization of the Request as seeking the "creation of a record." These conclusions constitute clear errors of fact and law, especially given the Intuit/QuickBooks documentation the OOR itself incorporated into the record (FD p.10 n.5).

A. The Requester's Instructions Outlined Standard Data Extraction, Not Record Creation, and Did Not Cause Failures or Incompleteness:

1. *Standard QuickBooks Procedures*: The instructions provided with the Request detailed standard steps for generating an Audit Trail report from QuickBooks Desktop—selecting the report type, defining a date range, and specifying account parameters. These are fundamental software operations for data *extraction* from an existing database, not data *creation*. At no point did the instructions direct filtering that would exclude entire transaction categories (like deposits or transfers) or standard report elements. The asserted incompleteness of the PDF is therefore unrelated to these standard instructions.
2. *Extraction is Not Creation*: The Borough's claim that generating reports based on these parameters constituted the creation of a "customized report" and thus the "creation of a record" under RTKL § 705, 65 Pa. Stat. Ann. § 67.705, is a misapplication of law. Extracting information from an existing database, even via specific parameters, is not creating a new record. *Dep't of Envtl. Prot. v. Cole*, 52 A.3d 541, 549 (Pa. Commw. Ct. 2012); *Gingrich v. Pa. Game Comm'n*, No. 1254 C.D. 2011, 2012 WL 8690007, at *5 (Pa. Commw. Ct. Jan. 12, 2012) (unpublished mem. op.). The OOR erred by not correcting this mischaracterization.

B. Unsubstantiated Excel Export "Crash" Claims Contradicted by Incorporated Intuit Guidance:

1. The FD accepted Bookkeeper Silvestri's attestation (§ 38) that QuickBooks "crashed" during Excel export attempts. However, the FD itself incorporates by reference (FD p.10 n.5) Intuit QuickBooks support documentation. This authoritative Intuit documentation (as previously argued by Requester and available via those links) details standard Excel export processes and known workarounds for large datasets, such as segmenting reports by date range or ensuring up-to-date companion software (e.g., Excel versions not deprecated like "Excel 2013 or older"). *See, e.g.*, Intuit QuickBooks Support, *Export reports to Excel workbooks in QuickBooks Desktop* (relevant articles typically found at quickbooks.intuit.com/learn-support/).

2. The Borough provided no evidence that it consulted this readily available Intuit guidance, that its software was fully updated, or that it attempted any standard workarounds (like segmenting the six-year data request) before claiming complete failure. The OOR accepted the Borough's bare assertion of a "crash" without requiring any evidence that the Borough exhausted reasonable, documented troubleshooting steps provided by the software vendor itself—guidance the OOR had placed on the record. This was a clear factual and legal error.
3. AORO Flynn's October 20, 2023, Letter (OOR Dkt. AP 2023-1083) producing QuickBooks Audit Trail data from 2017-2019 further undermines the current claim of absolute inability, suggesting prior capability or different effort.

C. Erroneous Acceptance of Claims Regarding Inactive Accounts, Contrary to Incorporated Intuit Guidance:

1. Item 2 explicitly sought data for "both active and inactive accounts." The FD accepted Bookkeeper Silvestri's attestation (§ 31) that "QuickBooks lacks the ability to create audit trail reports for inactive accounts."
2. This claim is directly contradicted by authoritative Intuit documentation (accessible via the links incorporated at FD p.10 n.5). Standard QuickBooks functionality includes inactive accounts and their transaction history in reports by default to ensure data integrity and comprehensive historical reporting. *See, e.g.,* Intuit QuickBooks Support, *Make an account inactive on your chart of accounts in QuickBooks Online* (confirming inactive accounts with transactions still appear in reports); *How to exclude inactive accounts from reports* (implying inclusion is default).
3. The OOR erred by accepting the Borough's attestation over the plain guidance of the software manufacturer, which the OOR itself had incorporated into the record. The Borough provided no specific

evidence (e.g., error messages, specific Intuit KBs stating this limitation for *Audit Trail* reports) to support its bookkeeper's assertion against the weight of generally available Intuit documentation.

D. Legal Consequence: The OOR committed clear error by accepting the Borough's unsubstantiated and contradicted technical excuses, especially when the OOR itself had incorporated references to authoritative technical documentation suggesting otherwise. An agency must demonstrate it made reasonable efforts to comply with a request, including utilizing standard software features and documented workarounds, before claiming technical impossibility. *See Pa. State Police v. Office of Open Records*, 995 A.2d 515, 517 (Pa. Commw. Ct. 2010) (agency burden). The Borough failed to meet this burden.

VI. THE OOR ERRED IN FINDING THE BOROUGH'S CHART OF ACCOUNTS PRODUCTION (ITEM 3) COMPLETE.

The FD implicitly accepted the Borough's COA as complete. This was a factual error.

A. Record Evidence of Incompleteness: The COA provided by the Borough omits known, active G/L accounts such as #259.00 (Developer Escrow) and #119.00 (Huratiak Security), documented as active in Requester's Exhibit A (Bates ML_EXA_030) and confirmed by AORO Flynn (Flynn Attest. ¶ 19, regarding #259.00). Bookkeeper Silvestri's Attestation (¶ 35) confirms the COA was limited to the General Fund, thus excluding other existing Borough accounts that fall within the plain language of the request for a "complete Chart of Accounts."

B. Legal Consequence: The OOR factually erred by accepting an incomplete COA. RTKL § 708(a)(1).

VII. THE BOROUGH ACTED IN BAD FAITH.

The Borough's conduct—including AORO Flynn's contradictory sworn statements regarding fundamental accounting structures (which are not mere technicalities but foundational to lawful municipal finance) and QuickBooks capabilities, its unsubstantiated technical claims contradicted by OOR-incorporated Intuit documentation, its mischaracterization of standard data extraction as "record creation," and its improper and legally unsound narrowing of the Request—demonstrates a clear lack of good faith. *Uniontown Newspapers, Inc. v. Pa. Dep't of Corr.*, 185 A.3d 1161, 1177 (Pa. Commw. Ct. 2018), *aff'd*, 243 A.3d 19 (Pa. 2020).

VIII. REQUESTED RELIEF

Petitioner respectfully asks the OOR to:

1. GRANT this Petition for Reconsideration.
2. VACATE those portions of the FD dated April 30, 2025, that:
 - a. Conclude the Borough met its burden regarding the completeness and responsiveness of the PDF “Audit Trail” for Item 2;
 - b. Endorse the Borough's restrictive interpretation limiting Item 2 to “General Fund” accounts, an interpretation that contravenes state-mandated accounting principles;
 - c. Excuse the Borough's non-production of Item 2 in Excel format and its omission of inactive account data based on flawed claims regarding instructions, record creation, and technical feasibility, particularly in light of OOR-incorporated Intuit documentation;
 - d. Implicitly affirm that the Borough's COA production for Item 3 is complete.
3. Issue a revised FD, based on the full record as of March 19, 2025, ORDERING the Borough to:
 - a. Provide a complete QuickBooks Audit Trail (in both Excel and PDF formats), generated in accordance with standard QuickBooks functionality as detailed in Intuit's own documentation (including

segmenting by date range if necessary for Excel export), for all General Ledger accounts numbered #100.00 through #499.99 (covering both active and inactive accounts) across *every* Borough fund and QuickBooks Company, for January 1, 2018, through December 31, 2023, including all transaction types and the “Filters Applied” summary page.

- b. Provide a complete Chart of Accounts (in both Excel and PDF formats) for *all* Borough accounts as of December 31, 2018, and December 31, 2023, including all accounts within the #100.00–#499.99 range, irrespective of the fund.
4. DECLARE that: (i) under Pennsylvania law, DCED regulations and guidelines, and Generally Accepted Accounting Principles applicable to municipalities, a municipality’s “General Ledger” is a comprehensive accounting record that encompasses multiple, distinct, self-balancing funds, and is unequivocally *not* synonymous with only its “General Fund”; (ii) requesting an agency to generate a report from its existing database using standard software parameters does not constitute requiring the "creation of a record" under RTKL § 705; and (iii) an agency must demonstrate reasonable efforts to utilize standard software features and documented workarounds (such as those provided by Intuit for QuickBooks) before claiming technical impossibility to provide records in a requested format.
5. FIND that the Borough acted in bad faith under RTKL § 1304, 65 Pa. Stat. Ann. § 67.1304.
6. Grant any further relief consistent with the RTKL’s remedial purposes.

IX. CONCLUSION

The Final Determination dated April 30, 2025, is fundamentally flawed. It erroneously accepts the Borough's assertion that its "General Fund" is synonymous with its "General Ledger"—a premise that, if true of the Borough’s actual accounting practices, would constitute a significant deviation from, and likely violation of, state-mandated fund accounting principles (promulgated by DCED and integral to compliance with Pennsylvania municipal law and GAAP) designed to ensure fiscal segregation, accountability, and transparency. Such a system would render proper financial management and lawful reporting impossible. The OOR’s

endorsement of this legally and factually insupportable position as "reasonable" is a clear error of law.

Furthermore, the FD erred by accepting the Borough's unsubstantiated technical excuses for failing to provide complete records in the requested formats, particularly when the OOR itself incorporated references to authoritative Intuit/QuickBooks documentation (FD p.10 n.5) which outlines standard software capabilities and workarounds that the Borough failed to demonstrate it pursued. The Borough's mischaracterization of standard data extraction as "record creation" further compounds this error. The FD's reliance on the Borough's claims, which are directly undermined by OOR-acknowledged Intuit support materials and fundamental accounting principles, cannot stand. Reconsideration is essential to correct these grave errors.

Respectfully submitted,

A handwritten signature in black ink, appearing to be the initials 'ML' or a similar stylized name, written over a horizontal line.

Michael Long /s/

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