

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
EXECUTIVE OFFICE OF THE MAYOR  
MAYOR'S OFFICE OF LEGAL COUNSEL  
Freedom of Information Act Appeal: 2022-010**

May 11, 2022

VIA ELECTRONIC MAIL

Ms. Priscillia Sundah Suntoso

RE: FOIA Appeal 2022-010

Dear Ms. Suntoso:

This letter responds to the administrative appeal you submitted to the Mayor under the District of Columbia Freedom of Information Act, D.C. Code § 2-537 (“DC FOIA”), on the grounds that the Department of Employment Services (“DOES”) failed to properly respond to your FOIA request.

You submitted a FOIA request to DOES, on behalf of your client Mr. Nugroho, seeking “all Alien Employment Certification-related documents of Mr. Nugroho.” DOES notified you that it does not have responsive records, but the U.S. Department of Labor (“DOL”) may have the requested records. DOES also provided you with information from DOL’s website explaining how to submit a FOIA request to them. You filed an appeal with this Office stating, “[k]indly locate Perm Labor Cert filed by West Twenty Four Restaurant for M. Setijo Nugroho.” DOES responded to your appeal by explaining that the program and files were transferred to DOL 15 years ago and therefore DOES has no responsive records.<sup>1</sup>

Under the DC FOIA, an agency is required to disclose materials only if they were “retained by a public body.” D.C. Official Code § 2-502(18). An agency is only required to disclose records that are under its control at the time of the request. *DOJ v. Tax Analysts*, 492 U.S. 136, 145 (1989). Here, DOES has explained that it no longer maintains the relevant program and files and referred you to the appropriate entity.

Based on the foregoing, we conclude that DOES properly responded to your FOIA request and we hereby deny your appeal.

This constitutes the final decision of this Office. If you are dissatisfied with this decision, you may commence a civil action against the District of Columbia in the Superior Court of the District of Columbia in accordance with D.C. Code § 2-537.

Respectfully,

---

<sup>1</sup> A copy of DOES’s response to your appeal is attached to this decision.

Mayor's Office of Legal Counsel

cc: Tonya A. Robinson, General Counsel  
DOES (via email)