



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 5, 2012

Ms. Julie V. Pandya  
Counsel for the City of Farmers Branch  
Nichols, Jackson, Dillard, Hager & Smith, L.L.P.  
1800 Lincoln Plaza, 500 North Akard  
Dallas, Texas 75201

OR2012-15862

Dear Ms. Pandya:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 467611 (NJDHS Reference. No. 56702).

The City of Farmers Branch (the "city"), which you represent, received a request for the current contract with and most recent invoice from the vendor providing utility bill printing and mailing services. You state the city has released some of the requested information. You claim that a portion of the submitted information is excepted from disclosure under section 552.101 of the Government Code. Additionally, you state release of the submitted information may implicate the proprietary interests of DataProse, Inc. ("DataProse"). Accordingly, you state, and provide documentation showing, you notified DataProse of the request for information and of its right to submit arguments to this office as to why the submitted information should not be released. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances). We have considered the exceptions you raised and reviewed the submitted information.

Initially, we note a portion of the submitted information, which we have marked, is not responsive to the instant request because it is neither a contract or an invoice as described by the request. This ruling does not address the public availability of the non-responsive

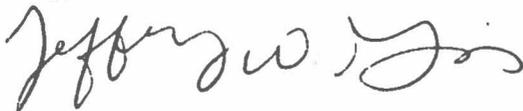
information, nor is the city required to release non-responsive information in response to this request.<sup>1</sup>

Next, we note an interested third party is allowed ten business days after the date of its receipt of the governmental body's notice to submit its reasons, if any, as to why information relating to that party should not be released. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received arguments from DataProse. Thus, DataProse has failed to demonstrate it has a protected proprietary interest in any of the submitted responsive information. *See id.* § 552.110(a)–(b); Open Records Decision Nos. 661 at 5–6 (1999) (to prevent disclosure of commercial or financial information, party must show by specific factual evidence, not conclusory or generalized allegations, that release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret), 542 at 3. Accordingly, the city may not withhold the submitted responsive information on the basis of any proprietary interest DataProse may have in the information. As you raise no other exceptions to disclosure, the city must release the responsive submitted information.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free at (888) 672-6787.

Sincerely,



Jeffrey W. Giles  
Assistant Attorney General  
Open Records Division

JWG/tch

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<sup>1</sup>As our ruling does not address the non-responsive documents, we need not address your argument under section 552.101 of the Government Code.

Ref: ID# 467611

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

DataProse, Inc.  
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