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November 12, 2014

James Nobles
Legislative Auditor
Office of the Legislative Auditor
Room 140 Centennial Building
658 Cedar Street
Saint Paul, Minnesota 55155

Dear Mr. Nobles,

This letter is in response to your correspondence of September 29, 2014, which replied to Public Record Media's (PRM's) request to inspect public data responsive to PRM's April 22, 2014 Data Practices Act (DPA) request. The status of such data is further described in the Commissioner of Administration's Data Practices Advisory Opinion 14-011.

PRM understands and appreciates the purpose of Minn. Stat. 3.979 and the need for certain protections while ongoing audit work is in progress. PRM believes that the audit work performed by the Office of the Legislative Auditor (OLA) is valuable, and we have cited past OLA reports in our own publications. However, we continue to disagree with your office about the scope of Minn. Stat. 3.979, and its interaction with portions of Chapter 13, including Minn. Stat. 13.591.

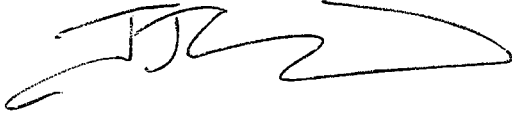
It is clear that 3.979 protects audit data during an audit process. The clear meaning of "audit" is the actual examination of records and data, and the production of a resulting report. The clear meaning of "data related to an audit" is data received and produced during that examination and reporting process.

The scope of "data related to an audit" under 3.979 has limits, however. For instance, there may exist data that precedes the existence of (and is therefore discreet from) an audit. Any such data is outside the scope of 3.979. Procurement-type data covered by 13.591 is one example of this data. RFP and related data under 13.591 is relevant to a separate process whereby the state seeks out and selects vendors to perform work. It is important that the state's procurement processes be transparent; thus the importance of those provisions of 13.591 that make procurement data publicly available, and thus PRM's April data practices request.

A clear reading of the law as reflected in the Commissioner's Opinion 14-011 dictates that the "audit" itself does not commence -- and protected data under 3.979 "related to an audit" does not begin to accrue -- until after the completion of the procurement process. Thus, access to such procurement data is governed by the terms of 13.591, not 3.979.

Accordingly, PRM expects to be able to inspect and copy public data pertinent to RFPs and related information maintained by OLA within the parameters set forth by Minn. Stat. 13.591.
Thank you.

Regards,

A handwritten signature in black ink, appearing to be 'JT Haines', written in a cursive style.

JT Haines
Special Counsel
Public Record Media