



CONSTRUCTION

# TIPS

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Following is an excerpted version of information from Janice Mullenix of the OGC. It was prompted by this question:

**At the District and in our field offices we often receive letters in which information is requested. We normally do not react to these as "open records requests" unless the correspondent specifically refers to the Texas Public Information Act or otherwise indicates that it is a formal open records request. Is this incorrect or inappropriate? Should we be treating every letter containing requests for information as an open records request?**

According to the Attorney General's Open Records Division, an open records request does not have to reference the Public Information Act, nor does it have to be formal in any way. It need only be a written request for pre-existing information, whether it exists in documentary or electronic form.

There are two major categories of inquiries that are not open records requests. The first is oral requests, which are never covered by open records. The second is requests for a narrative response, which occur when someone asks us for an answer to a question or wants us to create a new document.

Informal written inquiries, if they are asking us for information contained in documents or on the computer, need to be processed as open records requests. This is true even if they're handwritten, like the Gettysburg Address, on the back of an envelope. This is not very convenient, but it is the law:

- Do not say no to a request for information without first checking with this office (OGC). Under the Public Information Act, it is a criminal violation for TxDOT to refuse unilaterally to provide public information on receipt of a written request. No matter how valid our reasons or how good our arguments, we may never withhold documents without first referring the issue through the Office of General Counsel to the Attorney General's Open Records Division for a ruling.
- Always deal with these requests promptly. If we want to withhold something, this office has only 10 business days from receipt by the department to get the documents and a brief to the Attorney General's Open Records Division. Delay will usually mean that the documents have to be released.

On another topic, don't forget that bridge designs may never be released to the public without first checking with the Office of General Counsel. This is true whether or not the request is covered by open records. A little extra caution these days is a small price to pay in the interest of security.

For more information contact the Office of General Counsel at 512/463-8630.



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Regarding Requests  
for Information**