



destea

department of
economic, small business development,
tourism and environmental affairs
FREE STATE PROVINCE

**MANUAL
FOR
ACCESS TO
INFORMATION**

FOREWORD BY THE HEAD OF DEPARTMENT

The DESTEA, in compliance to the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000) has prepared this Manual to facilitate the public access to information held by DESTEA. This Manual will provide the public with guidelines for accessing information in possession and keep of DESTEA. This will enable the public to arrive at informed public participation decision making in dealing with the DESTEA.

It is envisaged that DESTEA’s process would be advanced by ensuring public participation and thus enable transparency in all our work and decision making. The DESTEA is enjoined to ensure efficacy in governance, administration and remain accountable to the public.

The DESTEA acknowledges that in as much as the Constitution and the Act promotes accountability and transparency, there may be limitations in achieving these noble intentions. These limitations may include amongst others the following:

Protection of privacy

Matters affecting commercial confidentiality

Confidential matters relating to the efficacy and good governance

I hereby undertake that the DESTEA will endeavor to ensure that there is no hindrance in access to information and will observe the values and Chapter 2 of the Constitution.

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MBULELO NOKWEQU(Dr)
INFORMATION OFFICER
HEAD OF DEPARTMENT: DESTEA

DATE

TABLE OF CONTENTS

In terms of Section 14 of the Promotion of Access to Information Act 2 of 2000 (“the Act”) the DESTEA hereby makes available the manual for the public. The Manual assist the public in understanding the following information about DESTEA

- (a) Its Functions
- (b) The overall Structure
- (c) Records held
- (d) Accessibility of Records
- (e) Process of accessing records

1. THE PURPOSE

The purpose of this document is to serve as the manual of the Department of Economic, Small Business Development, Tourism and Environmental Affairs as required in terms of the Act, and to provide a reference as to the records held and the procedure that need to be followed to request access to such records.

2. INTRODUCTION

The Department of Economic, Small Business Development, Tourism and Environmental Affairs envisages to improve the socio-economic livelihoods through economic development that is environmentally sustainable and ensure governance system that leads to best practice towards job creation and poverty reduction within the Free State.

The manual covers records held by DESTEA and its operating divisions.

SECTION I: CONTACT PERSON AND ADDRESS DETAILS

In terms of Section 17 the Information Officer has appointed a Deputy Information Officer whose details appear hereunder to ensure that the Act is complied with:

Contact Person : Adv. KJ Ramatlakane

Physical Address : 113 St Andrews Street

: St. Andrews Building

: 5th Floor, Room 4

: Bloemfontein

: 9300

Postal Address : 113 St. Andrews
: Bloemfontein
: 9300
Telephone : (051) 400 9427
E-mail address : ramatlakanet@destea.gov.za

SECTION II: GUIDE ON HOW TO USE THE ACT (as required by section 14 (1) (c), as read with section 10)

The Information Regulator must update the guide compiled by the Human Rights Commission. Any queries about the guide can be addressed to:

The Information Regulator (South Africa)

JD House, 27 Stiemens Street, Braamfontein, Johannesburg, 2001

PO Box 31533, Braamfontein, Johannesburg, 2017

General enquiries email: infoereg@justice.gov.za

Please consider Section 14 for all Categories as prescribed

DESCRIPTION OF THE DEPARTMENT STRUCTURE

The Department is constituted by:

MEC: Administration
Head of Department: Administration
Small Business Development
Business Regulation
Economic Development
Conservation
Environmental Affairs

SECTION III: CATEGORIES OF RECORDS AVAILABLE (as required by section 14 (1) (e)

The following categories of records are automatically available without a person having to request access in terms of this ACT:

1. Human Resources
 - Employment Equity Plan
 - Skills Development Plans submitted to relevant Sector Educators and Training (SETA)
 - Standard terms and Conditions of Employment applicable to all staff

2. Employment benefits

- Government Employment Pension Fund
- Government Employee Medical Aid Scheme

3. Auditors

- The Departments auditors are Auditor General, 19 Donald Murray Ave, Brandwag, Bloemfontein, 9301.

SECTION IV: RECORDS AVAILABLE IN ACCORDANCE WITH LEGISLATION (as required by Section)

Records are available, where applicable, in accordance with the following current South African Legislation (only to the extent that the relevant Act makes disclosure of records compulsory):

- The Occupational Health and Safety Act No 29 of 1996;
- Labour Relations Act 66 of 1995;
- Employment Equity Act 55 of 1998;
- Basic Conditions of Employment Act 75 of 1997
- Compensation for Occupational Injuries and Disease Act 130 of 1993;
- Companies Act 61 of 1973;
- Unemployment Insurance Act 63 of 2001
- Value Added Tax Act 89 of 1991;
- Income tax act 58 of 1962;
- Skills Development Act 9 of 1999;

SECTION V: DETAIL TO FACILITATE A REQUEST FOR ACCESS TO RECORDS (as required by Section 29)

Any request for access to records should be submitted on the prescribed form which should be sent to the contact person whose names and address details appear in Section thereof.

DESTEA has in its possession the following categories of records on the subject matters referred to hereunder.

HEAD OF DEPARTMENT'S OFFICE

- General Correspondence
- Internal reports and communications
- Policy documents
- Strategy documents

- Financial reports
- Statutory records

CHIEF FINANCIAL OFFICER

The Accounting Directorate maintains financials and management accounts for DESTEA and operating divisions. The Accounting directorate records comprise the following main categories:

- Accounting records
- General correspondence
- Management records
- PAYE records
- Consolidation records
- Internal reports and communications
- Technical records
- Departmental administration records
- Risk management records
- General administration records
- Audit reports and supporting working papers
- Annual Financial Statements
- Banking records
- Assist register
- Rental Agreements
- Invoices

INTERNAL AUDIT

The Internal Audit function is being exercised by the Departmental Internal Audit Directorate. This Directorate's purpose is to provide independent assurance that risks are being appropriately managed. Internal Audit Records pertaining to the company comprise the following main categories:

- General correspondence
- Employee records
- General HR policies and procedures
- Training records
- Pension records
- Employee benefits records
- Labour relations records
- Statutory records
- Employment equity records
- Contracts

LEGAL SERVICES DIRECTORATE

The Legal Services provides assistance with all Departments legal matters material to DESTEA and its operating units. Legal Services records comprise the following categories:

- Working files
- Agreements
- Statutory records
- Litigation records
- Legal records
- Legal Opinions
- Internal reports and communications

ENVIRONMENTAL AFFAIRS & CONSERVATION DIRECTORATE

The Environmental Affairs and Conservation Directorate conduct workshops on the implementation of EIA regulations and processes and compliance thereof. They also grant authorization in terms of NEMA on application for Environmental Impact Assessments. The following records are kept by this directorate:

- Records on public participations
- Applications for EIA
- Permits for hunting
- Records of Decisions
- Internal reports and communications

ECONOMIC DEVELOPMENT DIRECTORATE

The Economic Development Directorate provides the development of Socio-economy of the Free State by ensuring poverty reduction with the Province. The Economic Development directorate records comprise:

- General Correspondence
- Financial records and budgets
- Internal reports and communication
- Research records, documentation and diagram
- Customer records
- Consumer Affairs
- Consumer Court

SECTION VI: ACCESS REQUESTS PROCEDURE AND PRESCRIBED FEES

A request for access to records must be made in the prescribed form which should be sent to the Deputy Information Officer at the address, fax number or electronic mail address given above.

Please note an initial, non-refundable request fee as prescribed is payable on submission. This fee is not applicable to personal requests, i.e. individual seeking access to records pertaining to those individuals themselves.

In the event that a request for access is successful an access fee will be payable for the search, reproduction and/or preparation of records and will be calculated based on the fee prescribed under the Act. The access fee must be paid prior to access being given to the requested record.

Request for information will be evaluated and the applicant will be notified within 30 days after receipt of the request in the prescribed format of the following:

(a) Notification of extension period (if required) the Act, the 30 (thirty) days period mentioned above may be extended for a further period of not more than 30 (thirty) days under certain circumstances (details will be provided together with the notification of such extension)

(b) The access fee and/or deposit

The applicant will be informed of the access fee (if any) which is payable for having access to the records. In addition, a deposit may be requested which is fully refundable in the event that the application is ultimately refused.

(c) Decision on request

The applicant will be informed whether or not the application for access has been denied or granted. In the event that it is granted the information referred to above pertaining to the access fee, any deposit payable and any other relevant matters will be advised. In the event that the applicant is refused the applicant will be given adequate reasons for the refusal and will be informed that the applicant may lodge an application with a court against the refusal of the application as well as the procedure (including the period) for lodging such application.

(d) Grounds for refusal

- The Department may legitimately refuse to grant access to a requested record that falls within a certain category. Grounds on which the Department holds about a third person (who is a natural person), including a deceased person, from unreasonable disclosure.

- Protecting commercial information that the Department (for example financial, commercial scientific or technical information that may harm the commercial or financial interests of the Department or third party).
- If disclosure of the record would result in a breach of a duty of confidence owed to a third party in terms of an agreement;
- If disclosure of the record would endanger the life or physical safety of an individual;
- If disclosure of the record would prejudice or impair the security of property or means of transport;
- If disclosure of the record would prejudice or impair the protection of a person in accordance with a witness protection scheme.
- If disclosure of the record would prejudice or impair the protection of the safety of the public;
- The record is privileged from production in legal proceedings, unless the legal privilege has been waived;
- Disclosure of the record would put the Department at a disadvantage in contractual or other negotiations ;
- The record contains information about research being carried out or about to be carried out on behalf of a third party or the Department.

(e) Records that cannot be found or do not exist.

If the Department has searched for a record and it is believed that the record either does not exist or cannot be found, the register will be notified by way of an affidavit or affirmation. This will include the steps that were taken to try to locate the record.

(f) Third party information

- If access is requested to a record that contains information about a third party, the Department is obliged to attempt to contact this third party to inform them of the request. This enables the third party the opportunity of responding by either consenting to the access or by providing reasons why the access should be denied.
- In the event of the third party furnishing reasons for the support or denial of access, our designated contact person will consider those reasons in determining whether access should be granted or not.

THE REMEDIES AVAILABLE IF THE PROVISIONS OF THIS ACT ARE NOT COMPLIED WITH

A requester or third party may lodge an internal appeal against the decision of the Deputy Information Officer within 60 days to the MEC: DESTEA or a person designated by the MEC. The appeal must be submitted to the Office of the Deputy Information Officer, who must in terms of the Act forward it to the appeal authority. A requester may also lodge a complaint at the Information Regulator after he/she has exhausted the internal appeal procedure. Said complaint must be submitted within 180 days of the decision. Furthermore, the requester may apply to a court for appropriate relief after the requester has exhausted the internal procedure. Fees are also prescribed for this process.

PROCESSING OF PRIVATE INFORMATION

1. Purpose of use of personal information

- a) To manage human resources;
- b) To manage procurement and finances of the Department;
- c) To manage the bursary function for local and international students;
- d) To manage access control to offices of the Department;
- e) To gather contact information in order to consult and communicate with stakeholders;
- f) To confirm identities to promote good governance and for the detection and prevention of fraud, crime, corruption or other malpractice;
- g) For audit and record keeping purposes;
- h) To report to oversight bodies and national departments;
- i) To keep statistical data for research purposes;
- j) In connection with legal proceedings and legal advice.

The Department shall use personal information only for the purposes for which it was collected and/or agreed with a person. In addition, where necessary your information may be retained for legal, audit or research purposes.

2. Disclosure of information

The Department may disclose personal information to service providers who are involved in the delivery of products or services, e.g. consideration of temporary incapacity leave or information technology services. The Department includes provisions in agreements with service providers to regulate the confidentiality and privacy of information.

Furthermore, the Department may disclose personal information to oversight bodies, national departments, external auditors, pension funds, audit committee members and law enforcement agencies.

The Department may also disclose personal information:

- a) Where there is a duty or a right to disclose in terms of a law or as required by a court order;
- b) In terms of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000). Requesters must follow the application procedure in terms of the PAIA Manual on website and contact the Information Officer or the Deputy Information Officer. Such access request may be subject to a payment of prescribed fees;
- c) Where it is necessary to protect the rights of the Department.

3. Flow of Information outside borders

In support of the international bursary programme of the Department, personal information of students may be shared with Department of International Affairs, Embassies, Universities, Service Providers who renders services to students. Furthermore, personal information of staff and political office bearers may be shared with Department of International Affairs, Embassies, Service Providers when such persons travel abroad for work related matters. Consent of persons are obtained.

4. Information security

The Department must provide adequate protection for the personal information to prevent unauthorized access and use of personal information. Therefore, the Department is committed to reviewing of security controls and related procedures to ensure that personal information remains protected. The following is relevant in this regard:

- a) Physical security;
- b) Computer and network security;
- c) Record Management;
- d) Investigation of security incidents;
- e) Inclusion of provisions in contracts to regulate confidentiality of personal information.

5. Correction of information

Persons may ask to update, correct or delete any personal information. The Department will require as a minimum a certified copy of an Identity Document to confirm the requester's identity before considering the request to make changes to personal information, where necessary and legally allowed. The Department strives to keep personal information as accurate as possible.

UPDATING OF THE MANUAL

The Department will, when necessary, update this manual.

AVAILABILITY OF THE MANUAL

The manual of the Department is made available in the following manner:

- A copy in each of the three official languages (Sesotho, English and IsiXhosa) is available at the Office of the Deputy Information Officer.
- The manual is available on the website of the Department at freestateonline.fs.gov.za.