

PAIA – PROMOTION OF ACCESS TO INFORMATION ACT

Information Manual in Terms of Section 51 of the Promotion of Access to Information Act, No. 2 of 2000 in Respect of Teraco Data Environments Proprietary Limited (Company Registration Number: 2007/002468/07)

Contents

Overview of Teraco.....	2
Introduction	2
Particulars In Terms Of The Section 51 Manual	3
Part 1: Contact Details [Section 51(1)(a)].....	3
Part 2: The Section 10 Guide on how to use the Act [Section 51(1)(b)]	3
Part 3: Notice in terms of Section 51(1)(c).....	4
Part 4: Records available in terms of any other legislation [Section 51(1)(d)	4
Part 5: Information required in terms of Sections 51(1)(e)(subject to Part 6)	4
Part 6: Procedure for request for access (Sections 53 to 57 and 60 of the Act)	6
Grounds For Refusal Of Access To Records (Chapter 4 Of The Act)	7
Remedies Available In Refusal Of A Request For Information (Part 4 Of The Act)	8
Fees	8

Overview of Teraco

Teraco is the first provider of vendor neutral Data Centres in Africa. Clients trust Teraco to collocate their business systems in network independent colocation facilities built and operated to global best practice, while benefiting from unrestricted choice of carrier network and service provider.

Through Teraco's investment in resilient Data Centre infrastructure, its South African colocation clients are provided with guaranteed levels of uptime, power and service availability as standard. Teraco offer global best-practice, network independent Data Centre colocation in Africa.

Introduction

The Promotion of Access of Information Act, Act No. 2 of 2000 (hereinafter referred to as the "Act") gives effect to Section 37(1)(a) & (b) of the constitution of the Republic of South Africa, Act 108 of 1996, which provides for the right of access of information held by public and private bodies when such information is requested for the exercise of protection of any rights.

The Act, inter alia, sets out the requisite procedural requirements in relation to a request for information, the requirements to be met and grounds for refusal of the request.

The Act recognises that the right to any information may be limited to the extent that such limitations (including, but not limited to, limitations aimed at the reasonable protection of privacy, commercial confidentiality and effect, efficient and good governance), are reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom as contemplated in Section 36 of the Constitution.

The purpose of this manual is to inform requesters of the procedural and other requirements which a request for information must meet as prescribed by the Act.

Particulars In Terms Of The Section 51 Manual

Part 1: Contact Details [Section 51(1)(a)]

Postal Address:

Postnet Suite #338,
Private Bag X2020,
Isando,
1600
Johannesburg

Physical Address:

5 Brewery Street,
Isando,
1600
Johannesburg

Telephone: 011 573 2800
Fax: 086 743 1330
Website: www.teraco.co.za
E-mail: info@teraco.co.za
Contact Person: The Company Secretary

Part 2: The Section 10 Guide on how to use the Act [Section 51(1)(b)]

1. The South African Human Rights Commission (hereinafter referred to as "the SAHRC") has compiled a guide. It contains information which would be reasonably required of any person wishing to exercise any right set out in the Act. The guide is available in all of the official languages.
2. The Guide is available from the SAHRC at:

Physical Address:
29 Princess of Wales Terrace
Cnr York and St Andrews Streets
Houghton
2041

Postal Address:

Private Bag 2700
Houghton
2041

Telephone: +27 11 484-8300
Fax: +27 11 484-0582
Website: www.sahrc.org.za
E-mail: PAIA@sahrc.org.za:

Part 3: Notice in terms of Section 51(1)(c)

3. At this stage no notice(s) has/have been published on the categories of record automatically available without a person having to request access thereto in terms of the Act.
4. The following records are however automatically available to any person requesting this information and it is therefore not necessary to apply for access thereto in terms of the Act:
 - ~ All other information freely available on Teraco's website at www.teraco.co.za

Part 4: Records available in terms of any other legislation [Section 51(1)(d)]

5. All records are available in terms of the following legislation :
 - ~ Basic Conditions of Employment Act, 75 of 1997;
 - ~ Companies' Act, 71 of 2008;
 - ~ Compensation for Occupational Injuries and Disease Act, 130 of 1993;
 - ~ Competition Act, 89 of 1998;
 - ~ Customs & Excise Act, 91 of 1964;
 - ~ Employment Equity Act, 55 of 1998;
 - ~ Labour Relations Act, 66 of 1995;
 - ~ Occupational Health and Safety Act, 85 of 1993;
 - ~ Skills Development Act, 97 of 1998;
 - ~ Trademarks Act, 194 of 1993;
 - ~ Unemployment Insurance Act, 63 of 2001;
 - ~ Value Added Tax Act, 89 of 1991.

Part 5: Information required in terms of Sections 51(1)(e)(subject to Part 6)

6. Companies' Act Records;
 - ~ Memorandum of Incorporation;

- ~ Minutes of meeting of the Board of Directors;
- ~ Minutes of meetings of Shareholders;
- ~ Records relating to the appointment of:
 - Directors;
 - Auditors;
 - Secretary;
 - Public Officer;
 - Any other Officer.

- ~ Share Register and other statutory registers and/or records and/or documents.

7. Financial Records:

- ~ Annual Financial Statements;
- ~ Tax Returns;
- ~ Accounting Records;
- ~ Asset Register;
- ~ Rental Agreements;
- ~ Invoices.

8. Income Tax Records:

- ~ Pay-as-you-earn (PAYE) Records;
- ~ Documents issued to employees for income tax purposes;
- ~ Records of payments made to South African Revenue Services on behalf of Employees.

9. All or any statutory compliances:

- ~ Value Added Tax;
- ~ Regional Services Levies;
- ~ Skills Development Levies;
- ~ Unemployment Insurance Fund;
- ~ Workman's Compensation;
- ~ Customs and Excise.

10. Personnel Documents and Records:

- ~ Employment Contracts;
- ~ Employment Equity Plan (If applicable);
- ~ Medical Aid Records;
- ~ Pension Fund Records;
- ~ Disciplinary Records;
- ~ Salary Records;
- ~ Disciplinary Code;
- ~ Leave Records;
- ~ Training Records;
- ~ Training Manuals;
- ~ Address Lists;
- ~ Internal Telephone Lists.

11. Third Party Records:

- ~ Records held by Teraco pertaining to third parties, including, but not limited to financial records, correspondence, contractual records, records provided by other parties, and records third parties have provided about any contractors and/or suppliers;

- ~ Records held by Teraco pertaining to contractors, subsidiary companies and service providers.

[In such cases where information requested by the requester may impact on a third party, the Information Officer is obliged to comply with the requirements as set out in terms of the Act (especially Section 71 to 73 of the Act.)]

Part 6: Procedure for request for access [Sections 53 to 57 and 60 of the Act]

12. The requester must comply with all the procedural requirements as set out in the Act, relating to the request for access to a record.
13. The requester must complete the prescribed form enclosed herewith as Appendix 1, and submit same together with payment of the request fee (if applicable) and a deposit (if applicable) to the Information Officer at the postal or physical address, facsimile number or electronic mail address under PART 1 above.
14. The prescribed form must be completed with enough particularity so as to at least enable the Information Officer to identify:
 - ~ The records requested;
 - ~ The identity of the requester;
 - ~ Which form of access to the records is required, should the request be granted;
 - ~ The postal address or facsimile number of the requester.
15. The requester must identify the nature of the right for which purposes access to the records is required.
16. The requester must indicate if the requester, in addition to being informed in writing whether access to the record has been granted, wishes to be informed of the decision of the request in any other manner. If so, he/she/it must state the manner with full particularity.
17. If the request is made on behalf of another person, then in such event, the requester must submit proof of the capacity in terms of which the requester is making the request, to the reasonable satisfaction of the Information Officer.
18. Should an individual be unable to complete the prescribed form because of illiteracy, disability or any other reason, such individual may submit such request orally to the Information Officer.
19. The requester must pay the prescribed fee (if applicable) before any further processing can take place.
20. Teraco will inform the requester within 30 days after receipt of the request of its decision whether or not to grant the request.
21. The 30 day period may be extended with a further period of not more than 30 days if the request is for a large number of records or requires a search through a large

number of records and compliance with the original period would unreasonably interfere with the activities of Teraco or the records are not located at the building of Teraco, or consultations amongst divisions within Teraco or another private body are required.

22. Should the request be granted, the notice must state the access fee (if any) to be paid upon access, the form in which access will be given and further that the requester may lodge an application with a Court against the access fee to be paid or the form of access granted, and with the procedure for lodging such application.
23. Should the request be refused, the notice must state adequate reasons for the refusal, including the provisions of the Act relied upon, and state that the requester may lodge an application with a Court against the refusal of the request, and the procedure (including the period) for lodging the application.

Grounds For Refusal Of Access To Records [Chapter 4 Of The Act]

24. Apart from Section 7 of the Act, and subject to Section 70 of the Act, the main grounds for Teraco to refuse a request for information as contemplated by the Act relates to:
 - ~ Protection of the privacy of a third party, if that third party is a natural person, which would involve the unreasonable disclosure of personal information of that natural person (Section 63(1))
 - ~ Protection of commercial information of a third party as defined by the Act, if the record contains:
 - trade secrets of that third party;
 - financial, commercial, scientific or technical information other than trade secrets of a third party, the disclosure of which would be likely to cause harm to the commercial or financial interests of that third party;
 - information disclosed in confidence to Teraco by a third party, the disclosure of which could put that third party at a disadvantage in contractual or other negotiations or would prejudice that third party in commercial competition (Section 64).
 - ~ Protection of confidential information if the disclosure would constitute a breach of a duty or confidence to a third party in terms of an agreement (Section 65);
 - ~ Protection of safety of individuals and protection of property (Section 66);
 - ~ Protection of records which would be regarded as privileged in any legal proceedings, unless the person so entitled to privilege waives the privilege (Section 67);
 - ~ Protection of commercial activities of Teraco, which includes:
 - trade secrets of Teraco;
 - financial, commercial, scientific or technical information, disclosure of which could cause harm to the financial or commercial interests of Teraco;
 - information which, if disclosed, could put Teraco at a disadvantage in negotiations or commercial competition;

- a computer programme owned by Teraco, and which is protected by copyright. (Section 68)
- ~ The research information of Teraco or a third party on behalf of Teraco if the disclosure would expose the third party, Teraco, the researcher or the subject matter of the research to serious disadvantage (Section 69).

Remedies Available In Refusal Of A Request For Information [Part 4 Of The Act]

25. Teraco does not have internal appeal procedures and as such, the decision made by the Information Officer is final.
26. Should the requester be dissatisfied with the Information Officer's decision to refuse access, that person may within 30 days after notification of the refusal apply to a Court for the appropriate relief.
27. Should a third party be dissatisfied with the Information Officer's decision to grant a request for information relating to that third party, it (the third party) may within 30 days of notification of such decision, apply to a Court for the appropriate relief.

Fees

28. The prescribed fee for requests to private bodies is available on the website of the SAHRC under the link "access to information/PAIA".

APPENDIX 1

Form C – Request for Access to Record of Private Body – Download PDF