

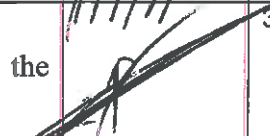




NATIONAL YOUTH DEVELOPMENT AGENCY

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### Approval

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Approved by: ( Accounting Authority)	Yershen Pillay	Executive Chairperson of the Board		30 January 2014

### Summary of Amendments

Version	Author	Date	Revision

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## **FOREWORD**

The Promotion of Access to Information Manual (“Manual”) was prepared as required in terms of Section 51 of the Promotion of Access to Information Act No.2 of 2000 (“PAIA”/ the “Act”).

PAIA gives the public the right of access to information held by the State or by another person and that is required for the exercise or protection of any rights.

PAIA provides the framework and procedures for the exercise of the constitutional right to information (in terms of s32 of the Constitution). The South African Human Rights Commission (‘SAHRC’) plays a key role in the implementation of PAIA. All pertinent information about PAIA, including access to PAIA itself and regulations made under it, is available on the SAHRC’s website.

NYDA is committed to giving effect to the right of access to information to promote transparency, accountability and effective governance at the NYDA.

The NYDA is committed to the general principles of good governance, including transparency, openness, integrity, accountability, fairness and responsibility to all its stakeholders as advocated in the King Report on Corporate Governance for South Africa – 2009 (King III Report). NYDA subscribes to the Code of Corporate Practices and Conduct, and the Code of Ethical Behaviour and Practice as set out in the King III Report.

The purpose of this Manual is to set out the procedures to be followed and criteria that have to be met for anyone (the “requester”) to request access to records in the possession or under the control of the NYDA.

## **AVAILABILITY OF THIS MANUAL**

This Manual can be accessed on our website at [www.nyda.gov.za](http://www.nyda.gov.za) or by requesting a copy by e-mail from the relevant Information Officer as provided for in paragraph 4 below. The Manual may also be obtained from the South African Human Rights Commission.

## DEFINITIONS

**Access fee:** means reproduction, search, preparation and postal costs where applicable.

**Days:** When any particular number of days is prescribed for the doing of any act, or for any other purpose, the same shall be reckoned exclusively of the first and inclusively of the last day, unless the last day happens to fall on a Sunday or on any public holiday, in which case the time shall be reckoned exclusively of the first day and exclusively also of every such Sunday or public holiday"  
**(Interpretation Act No 33 of 1957. Section 4 "Reckoning of number of days")**

**Human Rights Commission:** means the South African Human Rights Commission referred to in section 181 (1) (b) of the Constitution.

**'Personal information'** means information about an identifiable individual, including, **but not limited to:**

- information relating to the race, gender, sex, pregnancy, marital status, national, ethnic or social origin, colour, sexual orientation, age, physical or mental health, well-being, disability, religion, conscience, belief, culture, language and birth of the individual;
- information relating to the education or the medical, criminal or employment history of the individual, or information relating to financial transactions in which the individual has been involved;
- any identifying number, symbol or other particular assigned to the individual;
- the address, fingerprints or blood type of the individual;
- the personal opinions, views or preferences of the individual, except where they are about another individual or about a proposal for a grant, an award or a prize to be made to another individual;
- correspondence sent by the individual that is implicitly or explicitly of a private or confidential nature, or further correspondence that would reveal the contents of the original correspondence;

- the views or opinions of another individual about the individual;
- the name of the individual where it appears with other personal information relating to the individual, or where the disclosure of the name itself would reveal information about the individual, but **excluding** information about an individual who has been dead for more than 20 years.

A **Personal Requester** means a requester seeking access to a record containing personal information about the requester/about themselves.

**Relevant Authority** means in relation to the NYDA the Minister responsible for the NYDA or the person designated in writing by that Minister.

**Requester** means any person (whether representing themselves or an organisation) making a request for access to a record of the National Youth Development Agency; or Only those public bodies that are exercising a public power or performing a public function in terms of legislation. This also includes NYDA employees who want organisational information for purposes not directly pertaining to their jobs i.e. study purposes

But for the purposes of sections 34 of the Act, the reference to 'person' in paragraphs (a) and (b) must be construed as a reference to a 'natural person'.

The **request fee** means a standard once-off fee. The request and other related fees are prescribed. This fee must be paid before a request can be processed and the NYDA's Information Officer or Deputy Information Officer must notify the requester (in writing) that this fee is payable.

**NOTE:** The request fee is not applicable in the case of a personal requester. [Section 22(1)]

**Record** In relation to the NYDA, a record means any recorded information:

- regardless of form or medium;
- in the possession or under the control of NYDA; and
- whether or not it was created by NYDA.

**Third Party** mean in relation to a request for access to a record of the NYDA means any person (including, but not limited to, the government of a foreign state, an international organisation or an organ of that government or organisation) other than the requester concerned; and the NYDA;

**Working Days** means any days other than Saturdays, Sundays or public Holidays, as defined in section 1 of the Public Holidays Act, 1994 (Act No 36 of 1994).

## 1. OVERVIEW OF NYDA BUSINESS

The National Youth Development Agency (NYDA) is a South African based agency established primarily to tackle challenges that the nation's youth are faced with. The NYDA was established by an Act of parliament, the National Youth Development Agency Act 54 of 2008 (the NYDA Act). The institution was established to be a single, unitary structure, established to address youth development issues at National, Provincial and Local Government level.

The existence of the NYDA should be located within the broad context of South Africa's development dynamics. Similar to many developing countries, South Africa has a large population of youth, those between the ages 14 – 35; represent 42% of the total population. Given the youthful nature of the South African population much of the socio economic challenges faced by the nation, inter alia; poverty, inequality and joblessness, poor health etc, are borne by the youth. The gravity of challenges South Africa is faced with, require multi-pronged efforts, that simultaneously promote the development of sustainable livelihoods reduce poverty, inequality and prioritise the development of policies which create an enabling environment for youth development.

The NYDA plays a lead role in ensuring that all major stakeholder's, such as government, private sector and civil society, prioritise youth development and contribute towards identifying and implementing lasting solutions which address youth development challenges.

Furthermore, the NYDA designs and implements programmes aimed at improving lives and opportunities available to youth. These programmes could be clustered as follows:

**At an individual level (Micro level)**, the NYDA provides direct services to youth in the form of information provision, career guidance services, mentorship, skills development and training, entrepreneurial development and support loan funding, health awareness programmes and involvement in sport.

**At a Community level (Meso level)**, the NYDA encourages youth people to be catalysts for change in their communities through involvement in community development activities, social cohesion activities, national youth service programmes and dialogue.

**At a Provincial and National level (Macro level)**, through its policy development, partnerships and research programme, the NYDA facilitates the participation of youth in developing key policy inputs which shape the socio economic landscape of South Africa.

The National Youth Development Agency derives its mandate from the legislative frameworks, including the NYDA Act, the National Youth Policy 2009 -2014 and the draft Integrated Youth Development Strategy as adopted by the Youth Convention of 2006. In furtherance of the NYDA mandate as outlined in the NYDA Act, NYDA activities could be summarized as follows:

- a) Lobby and advocate for integration and mainstreaming of youth development in all spheres of government, private sector and civil society.
- b) Initiate, implement, facilitate and coordinate youth development programmes.
- c) Monitor and evaluate youth development intervention across the board and mobilise youth for active participation in civil society engagements.

The NYDA faces challenges key challenges of meeting the expectations of youth, addressing all the challenges that young people face on a daily basis. This requires continued innovation in developing products and services responsive to the challenges of the youth.



## 2. NYDA CONTACT DETAILS

Name of Body	National Youth Development Agency
	Promulgated under the National Youth Development Agency Act 54 of 2008
Physical Address:	11 Broadwalk Avenue
	Midrand
	1685
Postal Address:	P O Box 982
	Halfway house
	1685
Telephone:	011 6517000
Facsimile:	

### 2.2 Information Officer in relation to the access of NYDA information

<b>Name:</b>	Ms Ayanda Makaula
Designation	Acting Chief Executive Officer
Telephone:	011 651 7274
Email:	<a href="mailto:ayanda.Makaula@nyda.gov.za">ayanda.Makaula@nyda.gov.za</a>

### 2.3 Deputy Information Officer in relation to the access of NYDA information

<b>Name:</b>	Mr Neo Eugene Chuene
Designation	Company Secretary
Telephone:	011 6517000
Email:	<a href="mailto:eugene.chuene@nyda.gov.za">eugene.chuene@nyda.gov.za</a>

### 3. SOUTH AFRICAN HUMAN RIGHTS COMMISSION (“SAHRC”) GUIDE ON THE ACT

3.1 A guide to the Act and the rights of requesters is available from the SAHRC from their website: [www.sahrc.org.za](http://www.sahrc.org.za)

3.2 Should you have any queries in this regard, please contact SAHRC directly at

	PAIA Unit
	The Research and Documentation Department
Postal Address:	Private Bag 27000, Houghton, 2041
Telephone:	+27 11 484 8300
Facsimile:	+ 27 11 484 0582
Website:	<a href="http://www.sahrc.org.za">www.sahrc.org.za</a>
Email:	<a href="mailto:paia@sahrc.org.za">paia@sahrc.org.za</a>

### 4. HOW TO REQUEST ACCESS TO RECORDS HELD BY NYDA

The following steps must be considered before submitting a request:

#### 4.1 Step 1: Are you entitled to use the Act to request access?

4.1.1 Please take note of section 7(1) of the Act which states:

“This Act does not apply to a record of a public body or a private body if—

- (a) that record is requested for the purpose of criminal or civil proceedings;
- (b) if the record so requested after the commencement of such criminal or civil proceedings, as the case may be; and
- (c) the production of or access to that record for the purpose referred to in paragraph (a) is provided for in any other law.”

4.1.2 If section 7(1) applies, you may not bring a request in terms of this Act. You must use the rules and procedures for discovery of information of the relevant legal forum and proceedings you are involved in. NYDA reserves the right to claim all expenses and

other damages incurred as a result of a requester submitting a request in contravention of section 7(1).

- 4.1.3 Please have regard to section 45 of the Act which entitles NYDA to refuse a request for access to a record if: (a) the request is manifestly frivolous or vexatious; or (b) the work involved in processing the request would substantially and unreasonably divert the resources of NYDA.

#### **4.2 Step 2: Does the information requested exist in the form of a record?**

- 4.2.1 Please note that the Act only applies to records which are in existence at the time of NYDA receiving your request.
- 4.2.2 The Act does not compel anyone to create a record which is not yet in existence at the time the request is made. For instance, the Act cannot be used to obtain reasons for a decision taken by NYDA if such reasons are not in the form of a record
- 4.2.3 If you are not sure whether the record exists, please indicate that to NYDA in the relevant request form.

#### **4.3 Step 3: Is the record in the possession or under NYDA's control?**

- 4.3.1 NYDA is a large organisation and the search for records requested may involve substantial time, resources and expenses.
- 4.3.2 The Act provides that the record requested must be in the possession or under the control of NYDA. However, for the purposes of this Act, a record in the possession or under the control of:

- (a) NYDA official or

- (b) an independent contractor engaged by NYDA, is regarded as being a record of that public body or private body, respectively.

If you are not sure whether the record is in the possession or under the control of NYDA, please indicate that to us in the relevant request form.

- 4.3.3 Section 45(b) of the Act entitles NYDA to refuse a request for access to a record if the work involved in processing the request would substantially and unreasonably divert the resources of NYDA.

#### **4.4 Step 4: Form of Request**

Requests for access to records held by NYDA must only be made on and through the request form as prescribed by the Act.

### **5. CONSIDERING YOUR REQUEST**

5.1 The NYDA shall notify the requester of the outcome of its decision to grant or refuse access to information in line with the Act within 30 (thirty) days of receipt of the request.

5.1. Subject to the provisions of the Act, access to records requested from NYDA will only be given if -

5.1.1 all the procedural requirements set out in the Act relating to a request are met; and

5.1.2 access to the requested record/s is not refused in terms of any ground for refusal set out in the Act.

5.2 The grounds of refusal are outlined in with Chapter 4 Part 2 and Chapter 4 of Part 3 of the Act and includes mandatory protection of -

5.2.1 commercial information of a third party;

5.2.2 certain confidential information;

5.2.3 safety of individuals, and protection of property;

5.2.4 records privileged from production in legal proceedings;

5.2.5 economic interests and financial welfare of the Republic and commercial activities of public bodies;

5.2.6 research information of third a party, and protection of research information of a public body; or

5.2.7 certain information regarding the operations of public bodies.

5.3 NYDA may also refuse requests that are manifestly frivolous or vexatious or that will lead to a substantial and unreasonable diversion of resources.

#### 5.4 Mandatory protection of privacy of a third party who is a natural person

5.4.1 The information officer of a public body must refuse a request for access to a record of that public body, if the disclosure would involve the unreasonable disclosure of personal information about a third party, including a deceased individual.

5.4.2 However, a record may not be refused if it consists of information:

5.4.2.1 about an individual who has consented in writing to the disclosure of the information;

5.4.2.2 given to the public body by the individual to whom it relates, and that individual

5.4.2.3 is informed by the public body before it is disclosed, that the information

5.4.2.4 belongs to a class of information that might already be publicly available; that is already publicly available;

5.4.2.5 about an individual who is deceased and the requester is the individual's next

of kin, or is making the request with the written consent of the individual's next of kin;

5.4.1.6 about an individual who is or was an official of a public body, and the information relates to the position or functions of the individual.

## 6. PRESCRIBED FEES

6.1 The Act sets out two types of fees, namely a *request fee* and an *access fee*, that are required to be paid prior to NYDA providing the requested information.

6.2 A personal requester, i.e. a requester seeking access to a record containing personal information about the requester. This person is not required to pay the request fee. Any other requester will be required to pay such fee, subject to the exemptions listed below.

6.2.1 the fees for reproduction of this manual and records are listed in Annexure 2;

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6.2.2 the request fee payable by every requestor, other than a personal requestor is listed in Annexure 2;

6.2.3 the access fees payable by a requester referred to section 22(7), unless exempted under section 22(8), of the Act are listed in Annexure 2.

### 6.3 Exemptions

6.3.1 The following persons are exempt from paying access fees:

6.3.1.1 a single person whose annual income, after permissible deductions does not exceed R14 712, 00 per annum; and

6.3.1.2 married persons or a person and his or her life partner whose joint annual income, after permissible deductions does not exceed R27 192, 00 per annum.

6.4 Where the cost of collecting any fee in respect of the search and preparation of a record for disclosure, exceeds the amount charged, such fee does not apply.

6.5 The access fee in respect of the search, preparation and disclosure of records does not apply to the personal record of a requester.

6.6 The request and access fees do not apply to a record requested by a maintenance officer or maintenance investigator for purposes of a maintenance investigation or inquiry in terms of the provisions of the Maintenance Act No. 99 of 1998 or the regulations made under section 44 of that Act.

6.7 Request Period

## 7. RECORDS AUTOMATICALLY AVAILABLE

We hereby provide you with a list of record categories that are automatically available to requesters as required by section 15 of the above Act.

### 7.1 RECORDS AUTOMATICALLY AVAILABLE FOR FREE

No	Description
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NYDA®/CS/LegalServices/PAIA Manual

1	The NYDA's Annual Report
2	Information on NYDA product and services;
3	Current and latest tenders;

*All records listed above are only available for free subject to available stock in print at any given time. Access to these records will be granted to requesters in respect of a request for access to records, subject to the provisions of the Promotion of Access to Information Act, 2000.*

## **7.2 RECORDS AUTOMATICALLY AVAILABLE SUBJECT TO PAYMENT OF PRESCRIBED FEE**

<b>No</b>	<b>Description</b>
1	Laws, regulations and by laws that govern the functioning and conduct of NYDA.
2	Details of auditors
3	Newsletters.

*Requesters will be advised of prescribed fees on receipt of a request for access to records. Access to these records will be granted to requesters in respect of a request for access to records, subject to the provisions of the Promotion of Access to Information Act, 2000. Please note: whereas a requester in clause 7.1 has to submit a request for access to records on FORM A, it is not so for clause 7.2 as the records are automatically available or in other words already in the public domain*

## **8. REMEDIES**

8.1 A requester (or a third party, where applicable) may seek relief from any court with appropriate jurisdiction in respect of the following decisions of the Information Officer:

- 8.1.1 refusal or partial refusal of the request for access;
- 8.1.2 the amount of fees required to be paid;
- 8.1.3 the extension of the period within which to deal with the request; or
- 8.1.4 the form of access in which the information will be furnished.

8.2 All legal processes must be served on the Information Officer who dealt with the request.

## **9. RECORDS HELD BY NYDA**

NYDA maintains records on the following categories and subject matters. However, please note that recording a category or subject matter in this Manual does not imply that a request for access to such records would be granted. All requests for access will be evaluated on a case by case basis in accordance with the provisions of the Act.

### **9.1 Internal records**

9.1.1 The following are records pertaining to NYDA's own affairs:

- 9.1.1.1 Financial records;
- 9.1.1.2 Operational records;
- 9.1.1.3 Intellectual property;
- 9.1.1.4 Marketing records;
- 9.1.1.5 Internal correspondence;
- 9.1.1.6 Statutory records;
- 9.1.1.7 Internal policies and procedures; and
- 9.1.1.8 Records held by officials of NYDA

### **9.2 Employee records**

"Employee" refers to any person who works for or provides services to or on behalf of NYDA and receives or is entitled to receive any remuneration and any other person who assists in carrying out or conducting any work or services for NYDA. This includes, without limitation, NYDA®/CS/LegalServices/PAIA Manual



heads of departments, managers, all permanent, temporary and part-time staff as well as contract workers. Personnel records include the following:

- 9.2.1 Any personal records provided to NYDA by their personnel;
- 9.2.2 Any records a third party has provided to NYDA about any of their personnel;
- 9.2.3 Conditions of employment and other personnel-related contractual and quasi-legal records;
- 9.2.4 Internal evaluation records; and
- 9.2.5 Other internal records and correspondence.

### **9.3 Work-related/beneficiary records**

- 9.3.1 Work-related information includes the following:
  - 9.3.1.1 Any records a third party has provided to NYDA; and
  - 9.3.1.2 Records generated by or within NYDA pertaining to work or services, including transactional records.

### **9.4 Other Parties**

- 9.4.1 Records are kept in respect of other parties, including without limitation contractors, suppliers, departments, service providers. Alternatively, such other parties may possess records which can be said to belong to NYDA. The following records fall under this category:
  - 9.4.1.1 Personnel, work or service related records which are held by another party as opposed to being held by NYDA; and
  - 9.4.1.2 Records held by NYDA pertaining to other parties, including financial records, correspondence, contractual records, records provided by the other party, and records third parties have provided about the contractors/suppliers.