

PAIA and POPIA Manual

This manual was prepared in accordance with section 51 of the Promotion of Access to Information Act, 2000 and to address the requirements of the Protection of Personal Information Act, 2013.

**The manual applies to Civet Engineering Proprietary
Limited**

(hereinafter Civet Engineering)

1. Introduction

- 1.1 The Promotion of Access to Information Act, No.2 of 2000 (“the Act”) was enacted on 3 February 2000, giving effect to the constitutional right of access to any information held by the State and any information that is held by another person and that is required for the exercise or/and protection of any rights.
- 1.2 In terms of section 51 of the Act, all Private Bodies are required to compile an Information Manual (“PAIA Manual”).
- 1.3 Where a request is made in terms of the Act, the body to whom the request is made is obliged to release the information, except where the Act expressly provides that the information may or must not be released. The Act sets out the requisite procedural issues to such request.

2. Definitions

- 2.1 **Conditions for Lawful Processing** means the conditions for the lawful processing of Personal Information as fully set out in chapter 3 of POPIA;
- 2.2 **Consent** means any voluntary, specific and informed expression of will in terms of which permission is given for the processing of personal information;
- 2.3 **Constitution** means the Constitution of the Republic of South Africa, 1996;
- 2.4 **Data Subject** is the natural or juristic person to whom the personal information relates;
- 2.5 **Direct Marketing** means approaching a Data Subject personally for the purpose of selling them a product or service, or to request a donation;
- 2.6 **Manual** means this manual prepared in accordance with section 51 of PAIA and regulation 4(1)(c) of the POPIA Regulations;
- 2.7 **Personal Information** has the meaning ascribed thereto in section 1 of POPIA;
- 2.8 **Private Body** means the entity to which this manual applies as it appear on the front page of this manual;
- 2.9 **Processing** has the meaning ascribed thereto in section 1 of POPIA;
- 2.10 **Responsible Party** is the entity (in this case CIVET ENGINEERING) that needs the personal information for a particular reason and determines the purpose of and means for processing the personal information;
- 2.11 **Record** has the meaning ascribed thereto in section 1 of PAIA and includes Personal Information;
- 2.12 **SAHRC** means the South African Human Rights Commission.

3. Purpose and Scope of the Manual

- 3.1 To promote effective governance of private bodies, it is necessary to ensure that everyone is empowered and educated to understand their rights in terms of the PAIA Act in order for them to exercise their rights in relation to public and private bodies.
- 3.2 Section 9 of the PAIA Act however recognises that such rights to access to information cannot be unlimited and should be subject to justifiable limitations, including, but not limited to:
 - Limitations aimed at the reasonable protection of privacy;
 - Commercial confidentiality; and
 - Effective, efficient and good governance;

and in a manner which balances the right with any other rights, including such rights contained in the Bill of Rights in the Constitution.

- 3.3 Wherever reference is made to a “document” or “record”, it shall include such documents or records that are stored on a computer or in any form of electronic format.
- 3.4 This manual and its guiding principles applies to all CIVET ENGINEERING employees, agents, contractors, service providers and other persons acting on behalf of CIVET ENGINEERING.

4. Contact Details: CIVET ENGINEERING PROPRIETARY LIMITED

Registration number	1994/009071/07
Postal address	P O Box 6366, Welgemoed, 7538
Physical address	Unit 3, No 2 Boulevard Park Drive, Bellville 7530
Telephone number	021-9308480
Fax number	Not Applicable
E-mail address	chris@civet.co.za
Website address	Not applicable
Information Officer	Christoph Böckle
Head of Private body	Christoph Böckle

5. Guide Particulars

This Manual is made available in terms of PAIA and section 4 of the Regulations to POPIA. This Manual is also available at the offices of CIVET ENGINEERING for inspection during normal business hours.

No fee will be levied for inspection as contemplated in this clause. Copies of the Manual can be obtained from the Information Officer at the standard rates provided in section 15 of this document. The guide is also available from the South African Human Rights Commission.

The South African Human Rights Commission
 PAIA unit
 Private Bag X2700
 Houghton
 2041
 Telephone number: 011 – 8773600
 Website: www.sahrc.org.za
 E-mail address: PAIA@sahrc.org.za

6. Processing of Personal Information

6.1 Chapter 3 of POPIA provides for the minimum Conditions for Lawful Processing of Personal Information by a Responsible Party. These conditions may not be derogated from unless specific exclusions apply as outlined in POPIA.

6.2 The processing of Personal Information is only lawful if, given the purpose of processing, the information is adequate, relevant and not excessive. CIVET ENGINEERING may only process Personal Information if one of the following grounds of lawful processing exists:

- The Data Subject consents to the processing;
- Processing is necessary for the conclusion or performance of a contract with the Data Subject;
- Processing complies with a legal responsibility imposed on CIVET ENGINEERING;
- Processing protects a legitimate interest of the Data Subject;
- Processing is necessary for pursuance of a legitimate interest of CIVET ENGINEERING, or a third party to whom the information is supplied;

6.3 Special Personal Information includes:

- Religious, philosophical, or political beliefs;
- Race or ethnic origin;
- Trade union membership;
- Health or sex life;
- Biometric information;
- Criminal behaviour.

6.4 CIVET ENGINEERING may only process Special Personal Information under the following circumstances:

- The Data Subject has consented to such processing;
- Processing is necessary for the establishment, exercise or defence of a right or obligation in law;
- Processing is for historical, statistical, or research reasons;
- The Special Personal Information was deliberately made public by the Data Subject;
- Processing of race or ethnic origin is necessary to comply with affirmative action laws.

6.5 Data Subjects have the right to refuse or withdraw their consent to the processing of their Personal Information. A Data Subject may also object, at any time, to the processing of their Personal Information on any of the above grounds, unless legislation provides for such processing. If the Data subject withdraws consent or objects to processing then CIVET ENGINEERING shall forthwith refrain from processing the Personal Information.

6.6 CIVET ENGINEERING needs Personal Information relating to both individual and juristic persons to carry out its operational functions and activities. CIVET ENGINEERING is accordingly a Responsible Party for the purposes of POPIA and will ensure that the Personal Information of a Data Subject:

6.6.1 is collected and processed in such a manner that the conditions and all the measures set out in the Act that give effect to such conditions, are complied with at the time of the determining the purpose and means of the processing.

6.6.2 is processed lawfully, transparently and in a reasonable manner that does not infringe the privacy of the Data Subject. The purpose should be adequate, relevant and not excessive.

6.6.3 is processed only for the purposes for which it was collected and will not be processed for a secondary purpose unless that processing is compatible with the original purpose. The information will be retained for an adequate period.

6.6.4 is adequate, relevant and not excessive for the purposes for which it was collected.

6.6.5 is complete, accurate and kept up to date.

6.6.6 is collected in such a manner that the Data Subject whose information is collected is aware thereof and for what purpose the information will be used.

6.6.7 is kept secure against the risk of loss, unlawful access, interference, modification, unauthorised destruction and disclosure.

6.6.8 is processed in accordance with the rights of Data Subjects, where applicable.

6.7 Data Subjects have the following rights:

- To be notified that their Personal Information is being collected by CIVET ENGINEERING;
- To be notified in the event of a data breach;
- To establish whether CIVET ENGINEERING holds Personal Information about them, and to access that information. Any request for information must be handled in accordance with the provisions of this Manual;
- To request the correction or deletion of inaccurate, irrelevant, excessive, out of date, incomplete, misleading or unlawfully obtained Personal Information;
- To object to CIVET ENGINEERING's processing of their Personal Information and request the deletion of such Personal Information. Deletion would however be subject to CIVET ENGINEERING's record keeping and retention requirements;
- To object to the processing of Personal Information for purposes of direct marketing by means of unsolicited electronic communications; and
- To complain to the Information Regulator regarding an alleged infringement of any of the rights protected under POPIA and to institute civil proceedings regarding the alleged non-compliance with the protection of his, her or its Personal Information.

7. Categories of Records available only on request to Access in terms of the PAIA and POPIA legislation

Category	Records
Customers	<ol style="list-style-type: none"> 1. Quotes 2. Credit agreements 3. Copies of Identity Verification documents 4. BEE – certificates 5. Financial information 6. Correspondence; 7. Invoices and payment records
Human Resources	<ol style="list-style-type: none"> 1. Information provided by job applicants/employees at application stage; 2. Employment contracts; 3. Letters of appointment; 4. Curriculum Vitae; 5. Remuneration records; 6. Employee photos and videos; 7. BEE statistics; 8. Career development records; 9. Disciplinary records; 10. Safety, health and environmental records; 11. Training records; 12. Travelling records; 13. Workplace agreements and records; 14. Personnel information; 15. Employment equity reports; ; 16. Leave records; 17. PAYE records and returns; 18. Performance management records and procedures; 19. UIF returns;
Information Management and Technology	<ol style="list-style-type: none"> 1. Third party Agreements; 2. IT Asset register; 3. IT Policies, standards, procedures and guidelines; 4. Software licenses; 5. Software programs; 6. Software applications;
Marketing and Communication	<ol style="list-style-type: none"> 1. Proposal documents; 2. New business development; 3. Brand information management; 4. Marketing and communication strategies; 5. Agreements and communications; 6. Marketing publications and brochures.
Operations and Procurement	<ol style="list-style-type: none"> 1. Access control records; 2. Company Act and accounting-related records and statements;

	<ol style="list-style-type: none"> 3. Asset registers 4. Third party agreements; 5. Archive and data retention administration; 6. General correspondence; 7. Insurance documentation; 8. Service level agreements and procurement-related documents; 9. Travel and flight information and documentation; and 10. Vehicle registration documents.
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8. Records required in terms of Legislation

CIVET ENGINEERING also retains records and documents in terms of the legislation below. Unless disclosure is prohibited in terms of legislation, regulations, contractual agreement or otherwise, records that are required to be made available in terms of these acts shall be made available for inspection by interested parties in terms of the requirements of PAIA and this manual. The legislation includes:

- Basic Conditions of Employment Act, No. 75 of 1997;
- Broad- Based Black Economic Empowerment Act, No. 53 of 2003;
- Business Act, No. 71 of 1991;
- Companies Act, No. 71 of 2008;
- Compensation for Occupational Injuries & Diseases Act, No. 130 of 1993;
- Constitution of the Republic of South Africa 2008;
- Copyright Act, No. 98 of 1978;
- Consumer Protection Act, No. 68 for 2008;
- Customs & Excise Act, No. 91 of 1964;
- Disaster Management Act, No. 57 of 2002;
- Electronic Communications Act, No. 36 of 2005;
- Electronic Communications and Transactions Act, No. 25 of 2002;
- Employment Equity Act, No. 55 of 1998;
- Financial Intelligence Centre Act, No. 38 of 2001;
- Identification Act, No. 68 of 1997;
- Income Tax Act, No. 58 of 1962;
- Intellectual Property Laws Amendment Act, No. 38 of 1997;
- Labour Relations Act, No. 66 of 1995;
- Occupational Health & Safety Act, No. 85 of 1993;
- Prescription Act, No. 68 of 1969;
- Prevention of Organised Crime Act, No. 121 of 1998;
- Promotion of Access to Information Act, No. 2 of 2000;

- Protection of Personal Information Act, No. 4 of 2013;
- Regulation of Interception of Communications and Provision of Communication-Related Information Act, No. 70 of 2002;
- Revenue laws Second Amendment Act, No. 61 of 2008;
- South African Reserve Bank Act, No. 90 of 1989;
- Skills Development Levies Act, No. 9 of 1999;
- Short-term Insurance Act, No. 53 of 1998;
- Tax Administration Act, No. 28 of 2011
- Unemployment Insurance Contributions Act, No. 4 of 2002;
- Unemployment Insurance Act No. 63 of 2001;
- Value Added Tax Act No. 89 of 1991.

Although CIVET ENGINEERING has used their best endeavors to provide a list of applicable legislation, it is possible that the list may be incomplete. Should it come to CIVET ENGINEERING's attention that other or new legislation is also applicable, the list will be updated as such.

9. CIVET ENGINEERING Personal Information Uses

9.1 CIVET ENGINEERING uses the Personal Information under its care in the following ways:

- Preparing quotes and credit agreements;
- Administration and management of customer and service provider relationships and agreements;
- Staff and Payroll administration as well as employee relationship management;
- The advertising of vacancies, employee recruitment and selection processes;
- Keeping of accounts and records;
- Complying with legal and regulatory requirements;
- In connection with legal proceedings;
- Provide, administer and improve our services including any marketing activities;
- To fulfil requests received from Data Subjects (for support and service delivery);
- For invoicing and collection of debtors;
- To provide Data Subjects with product and service information and alerts which also include payment-related information;
- Detecting and prevention of fraud, crime, money laundering and other malpractice;
- To search for additional information about our Data Subjects that is publicly available

9.2. CIVET ENGINEERING may supply the Personal Information to any party to whom CIVET ENGINEERING may have assigned or transferred any of its rights or obligations under any agreement, and/or to service providers who render the following services:

- Capturing and organising of data;
- Storing of data;

- Sending of emails and other correspondence to customers;
- Government agencies and law enforcement.

10. Safeguarding of Personal Information

10.1 Data Retention

Personal information will be retained as per CIVET ENGINEERING's Data Retention Policy. Documents may be destroyed after the termination of the retention period.

10.2 Information Security Measures

CIVET ENGINEERING will ensure the integrity and confidentiality of all Personal Information in its possession, by taking appropriate and practical steps to identify risks relating to information security. Reasonable measures will be taken to establish and maintain appropriate safeguards against such risks.

CIVET ENGINEERING has policies and controls in place for the safe custody, security and backup of information. The safeguarding measures *inter alia* include:

- Firewalls;
- Virus protection software and update protocols;
- Logical and physical access control
- Secure setup of hardware and software making up the IT infrastructure;
- Secure communications;
- Investigating and reacting to security incidents;
- Daily back-ups;
- Outsourced Service Providers who process Personal Information on behalf of CIVET ENGINEERING are contracted to implement security controls.

CIVET ENGINEERING will, on an on-going basis, continue to review their security controls and related processes to ensure that the personal information of their Data Subjects remains secure.

10.3 Actual or Planned Transborder Flows of Personal Information

Where applicable, CIVET ENGINEERING will endeavor to ensure that its service providers will make all reasonable efforts to secure the relevant data and Personal Information.

11. Request Procedure

11.1 A person who requests access to records must complete the necessary request form, as set out in Appendix A. The completed form must be marked for the attention of the Information Officer (refer to the "Contact Details" section above).

The following should be detailed in the form:

- The requester must indicate which form of access is required;
- Identify the right that is sought to be exercised or protected;

- Provide an explanation of which the requested record is required for the exercise or protection of that right; and
- Provide proof of the capacity in which the Requester is requesting the information;
- Proof of identification of the Requestor (and related third parties acting on behalf of the requestor) must be provided on submitting the request form.

11.2 CIVET ENGINEERING will decide whether to grant or decline the Request for Access within 30 days of receipt of the Request for Access and must give notice to the Requester with reasons (if required) to that effect. The period referred to above may be extended for a further period of not more than 30 days if the Request for Access depending on the complexity of the request or if it is for a large number of Records.

11.3 CIVET ENGINEERING will notify the Requester in writing should an extension of time as contemplated above be required.

11.4 If, in addition to a written reply from the Information Officer, the Requester wishes to be informed of the decision on the Request for Access in any other manner, the Requester must state the manner and particulars so required.

11.5 If a request is made on behalf of another person, then the Requester must submit proof of the capacity in which the Requester is making the request to the reasonable satisfaction of the Information Officer (section 53(2)(f)).

11.6 If access to a record/information is granted, the Requestor will be notified and will include the following:

- An indication of the prescribed fee that should be paid before further processing can take place.
- An indication of the form in which the access will be granted.

11.7 If access to a record/information is denied, the requestor will be notified and will include the following:

- Adequate reasons for the refusal.
- Advice on how to lodge an application against the refusal with a court, once the Requestor has exhausted all available remedies with CIVET ENGINEERING.

12. Grounds for Refusal

CIVET ENGINEERING may legitimately refuse to grant access to a requested record that falls within a certain category. Grounds on which CIVET ENGINEERING may refuse access include:

- Protecting personal information that CIVET ENGINEERING holds about a third person (who is a natural person) including a deceased person, from unreasonable disclosure;
- Protecting commercial information that CIVET ENGINEERING holds about a third party or CIVET ENGINEERING (for example a trade secret, financial, commercial, scientific or technical information that may harm the commercial or financial interests of CIVET ENGINEERING or the 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 (containing trade secrets, financial, commercial, scientific, or technical information) would harm the commercial or financial interests of CIVET ENGINEERING;
- Disclosure of the record would put CIVET ENGINEERING at a disadvantage in contractual or other negotiations or prejudice it in commercial competition;
- The record is a computer program which is owned by CIVET ENGINEERING and which is protected by copyright and intellectual property laws;
- Research information of CIVET ENGINEERING or a third party, if such disclosure would place the research or the researcher at a serious disadvantage; and
- Requests for Records that are clearly frivolous or vexatious, or which involve an unreasonable diversion of resources.

13. Information or Records not found

If the Company cannot find the records that the Requester is looking for despite reasonable and diligent search and it believes either that the records are lost or that the records are in its possession but unattainable, the Requester will receive a notice in this regard from the Information Officer in the form of an affidavit setting out the measures taken to locate the document and accordingly the inability to locate the document.

14. Remedies available to the Requester upon refusal of a request for access in terms of PAIA

14.1 The Company does not have internal appeal procedures. As such, the decision made by the Information Officer is final, and Requesters will have to exercise such external remedies at their disposal if the Request for Access is refused.

14.2 In accordance with sections 56(3) (c) and 78 of PAIA, a Requester may apply to a court for relief within 180 days of notification of the decision for appropriate relief.

15. Prescribed Fees: Section 51 (1) (f) of PAIA

15.1 The Act provides for two types of fees, namely:

- a. A request fee, which is a form of administration fee to be paid by all requesters except personal requesters, before the request is considered and is not refundable; and
- b. An access fee, which is paid by all requesters in the event that a request for access is granted. This fee is inclusive of costs involved by the private body in obtaining and preparing a record for delivery to the requester.

15.2 When the request is received by the Information Officer, such officer shall by notice require the requester, other than a personal requester, to pay the prescribed request fee, before further processing of the request (section 54(1)).

15.3 The Information Officer shall withhold a record until the Requester has paid the fees as indicated below.

15.4 A Requester whose request for access to a record has been granted, must pay an access fee that is calculated to include, where applicable, the request fee, the process fee for reproduction and for search and preparation, and for any time reasonably required in excess of the prescribed hours to search for and prepare the record for disclosure including making arrangements to make it available in the request form.

15.5 If a deposit has been paid in respect of a request for access, which is refused, then the Information Officer concerned must repay the deposit to the Requester.

15.6 Fee structure for Request of Records:

In addition to the request fee, the Minister has also prescribed the following reproduction fees. (Information relating to personal records of the person requesting the information would not be subject to a charge.)

Description	Amount
For every photocopy of an A4-size page or part thereof	R1.10
For every printed copy of an A4-size page or part thereof held on a computer or in electronic or machine-readable form	R0.75
For a copy in a computer-readable form on <ul style="list-style-type: none">• Stiffy disc• Compact disc	R7.50 R70.00
For a transcription of visual images, for an A4-size page or part thereof	R40.00
For a copy of visual images	R60.00
For a transcription of an audio record, for an A4-size page or part thereof	R20.00
For a copy of an audio record	R30.00

Request Fees:

Where a Requester submits a request for access to information held by a private body on a person other than the Requester himself/herself, a request in the amount of R 50.00 is payable up-front before the Company will further process the request.

Access Fees:

An access fee is payable in all instances where a request for access to information is granted, except in those instances where payment of an access fee is specifically excluded in terms of the PAIA Act or an exclusion is determined by the Minister in terms of section 54(8). The applicable access fees which will be payable are:

Description	Amount
For every photocopy of an A4-size page or part thereof	R1.10
For every printed copy of an A4-size page or part thereof held on a computer or in electronic or machine-readable form	R0.75
For a copy in a computer-readable form on <ul style="list-style-type: none">• Stiffy disc• Compact disc	R7.50 R70.00
For a transcription of visual images, for an A4-size page or part thereof	R40.00
For a copy of visual images	R60.00
For a transcription of an audio record, for an A4-size page or part thereof	R20.00
For a copy of an audio record	R30.00
To search for and prepare the record for disclosure, for each hour or part of an hour reasonably required for such search and preparation	R30.00

Note: The actual postage is payable when a copy of a record must be posted to a Requester.

Deposits:

Where the Company receives a request for access to information other than personal information and the head of Compliance upon receipt of the request is of the opinion that the preparation of the required records for disclosure will take more than 6 (six) hours, a deposit is payable by the Requester. The amount of the deposit is equal to one third of the amount of the applicable access fee.

16. Updates to Manual

This Manual will be updated at such intervals that may be deemed necessary.

SIGNED AT _____ on _____



THE HEAD OF THE PRIVATE BODY