

At-Large's Subsequent Procedures Scorecard: Community Applications

CPWG SubPro Small Team

Post At-Large Consolidated Policy Working Group (CPWG) Call
Wednesday, 4 March 2020, 13:00 UTC



STRING CONTENTION RESOLUTION

Topic/Area:	[34] COMMUNITY APPLICATIONS [2.9.1]			Priority:	HIGH	Settled On:	
Related:	<ul style="list-style-type: none"> • Community Priority Evaluations (CPE) • Community Objections distinct from Community Priority Evaluations • Appeals – Accountability Mechanism [2.8.2] • Application Assessed in Rounds [2.2.3] (including Neustar’s proposal) – Priority for next round 						
Key Issues:	<ul style="list-style-type: none"> • Many of the processes and rules applicable to evaluating community applications through Community Priority Evaluations (CPE) were introduced after the 2012 Program was launched, in some cases, with insufficient notice to or understanding by both applicants and the Community, thereby making it not only difficult, but also unfair to applicants and concerned parties/objectors • Third party service provider appointed to undertake CPE process • Lack of clear details to CPE process led to incidences of determinations without given rationales, inconsistent decisions, eg. Definition of “community” • There was no appeal process for CPE determinations, so no opportunity to test the correctness or inconsistencies in determinations 						
Policy Goals:	<ul style="list-style-type: none"> • Processes and rules related to Community Applications should be clear and transparent • Implementation of processes and rules should be consistent and predictable • In respect evaluation determinations, any research relied on for the decision should be cited and a link provided 						
Assigned CCT-RT Rec’s:	<p>? Rec. 34: Review of procedures & objectives for community-based applications, improvements made before new round is launched (prerequisite for SubPro)</p>						
References:	<ul style="list-style-type: none"> • SubPro PDP WG String Contention Resolution_Summary Document, 7 January 2020 • 01. SubPro Community Applications Update to CPWG, 5 Oct 2019 						
What has SubPro PDP WG concluded?	What will/might SubPro PDP WG recommend?	Is this acceptable? If not, why so?	What else needs to be done and by/with whom?				
1. Lack of transparency and predictability with CPE process caused problems	That CPE process must be more transparent and predictable	Yes, however, note details will likely be tagged as implementation task for IRT.	To monitor work of the IRT and provide inputs through IRT (if possible) or as Advice to Board (if necessary)				

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			<p>High level aspects of concern include:</p> <ul style="list-style-type: none">• Need for clarity in process flow sequence and timelines in CPE to be published and adhered to – to not subject applicants to unfairness eg how to distinguish between objections during the stipulated Objection Period and opposition during the evaluation by evaluator? If do not occur concurrently then care must be taken to not allow an objector whose objection was dismissed to repackage objection as an opposition during evaluation• More transparency in ICANN Org’s selection of CPE provider• Ability to identify conflicts of interest on the part of panellists /evaluators early on to seek recusal• Influence the revision of CPE Guidelines for SubPro to better guide panellists/evaluators (see point 2 on next page) especially since we aren’t able to participate in appointment of CPE Provider• Applicants to be updated periodically on status of applications throughout CPE process, to improve access to transparency & predictability
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<p>2. CPE procedures being published post AGB release reinforced lack of transparency and predictability. Therefore, CPE procedures must accompany AGB when AGB is published.</p>	<p>That all evaluation procedures should be developed <u>before</u> the application process opens and made easily and readily available</p> <p><u>In practical terms, this means recommending adoption of the CPE Guidelines of 27 Sep 2013¹ developed by EIU but with amendments</u></p>	<p>Yes, we advocated for upfront clarity to CPE procedures. However, note details on CPE Guidelines will ultimately be tagged as implementation task for IRT.</p>	<p>To monitor work of the IRT and provide inputs through IRT (if possible) or as Advice to Board (if necessary)</p> <p><u>Elements of concern in CPE Guidelines of 27 Sep 2013 to watch and address include concept of “community”, “membership”, “relevant” to allow for flexibility when scoring applications:</u></p> <ul style="list-style-type: none"> • <u>“Delineation”</u> per EIU list showed clear biased towards ‘card-carrying membership organisation’, especially professional and trade communities. To note that many communities are often not structured as membership organisations (eg linguistic, cultural communities), and to allow for flexibility in evaluating ‘unconventional’ letters of support • <u>“Nexus”</u> where greater clarity is needed in approach to “identify” communities with a reasonable amount of broadness and with consistency as written in AGB, and not overridden by EIU bias
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¹ <https://newgtlds.icann.org/en/applicants/cpe/guidelines-27sep13-en.pdf> ; EIU – Economic Intelligence Unit were appointed the CPE Provider for 2012 round

			<ul style="list-style-type: none"> • “Opposition” where care to be taken in establishing “relevance” – balance of opposition compared to documented support, undue reliance on opposition with little relevance to the targeted community.
3. CPE panellists/evaluators should be allowed and encouraged to obtain clarifications from applicants and opposers as needed.	<p>For CPE panellists/evaluators to utilize a Clarification Questions process to seek clarifications (but not new material) from applicant or opposers on items where panellists have questions or issues with.</p> <p>With opposers, questions regarding claims as to their identity and level of representativeness to affected community would help weed out frivolous letters of opposition, and limit to opposition by real entities, persons and communities.</p>	<p>Concept exists in 2012 AGB; utilization of Clarification Questions process should be strictly adhered to and not be exploited to allow support/ opposition which would otherwise be out-of-scope or out-of-time.</p>	To monitor work of the IRT and provide inputs through IRT (if possible)
4. Clarity and consistency in determinations of CPE	If there was research relied on for the decision, it should be cited and a link should be provided	Yes, we advocated for this	To monitor work of the IRT and provide inputs through IRT (if possible)
5. CPE determinations should be appealable	CPEs to be part of new Accountability Framework.	Yes	To monitor work of the IRT and provide inputs through IRT (if possible); in particular monitor cost of filing, losing appeals

What has SubPro PDP WG concluded?	<u>What SubPro PDP WG will likely omit?</u>	Is this acceptable? If not, why so?	What else needs to be done and by/with whom?
6. In order to maintain independence in evaluation outcomes, best for CPE to be conducted by third-party professional entity, subject to determinations being appealable	Any reference to CPE evaluation team to include representatives from grassroots community organization or ICANN community volunteers to serve as panel members or advisors	Yes, in order to avoid perceived conflict of interest arguments? Reliance on third-party professional entity is not unacceptable so long as procedures adopted are clear, conflicts of interest avoided and determinations are appealable	To monitor work of the IRT and provide inputs through IRT (if possible) It's more important for us to be able to advocate for appropriate revisions to CPE Guidelines for SubPro to better guide panellists/evaluators
<u>PENDING ISSUES:</u>	SubPro PDP WG reaction	Anything missing?	What else needs to be done and by/with whom?
7. Any preferential treatment for community applications <u>beyond ability to participate in CPE</u> , in event of string contention?	No consensus to accord such preferential treatment	NB. ALAC's comment to provide experts to assist Community Applicants from underserved regions in preparing applications (eg. ASP applicants) or first-time applicants has been noted, likely to be addressed in other sections including Application Support Program.	To cross-check with ASP topic; monitor work of the IRT and provide inputs through IRT (if possible)
8. Geoname issues			See Geonames (pending)
9. Priority in application round?	No consensus		See Applications Assessed in Rounds
Position:	TBD		