

Annex D – Data Elements Workbooks

Table of Contents:

#	Purpose	Link
1A	TBD	LINK
1B	TBD	LINK
2	TBD	LINK
3	TBD	LINK
4A	TBD	LINK
4B	TBD	LINK
5	TBD	LINK
6	TBD	LINK
7	TBD	LINK

Commented [BC1]: Purpose statements, once finalized, will be updated last in this summary table.

In previous version of this document, the term “ICANN Purpose” was used in the title of the Purpose Statement to describe purposes for processing personal data that should be governed by ICANN Org via a Consensus Policy. “ICANN” has been removed, but the principle still applies. Note there are additional purposes for processing personal data, which the contracted parties may pursue, such as billing customers, but these are outside of what ICANN and its community should develop policy on or contractually enforce. It does not necessarily mean that such purpose is solely pursued by ICANN Org.

For those data elements marked as “optional”, these are optional for the RNH to provide. (Note, the EPDP Team is still considering whether optional also means optional for the registrar to offer the ability to the RNH to provide these data elements, or whether it would be required for the registrar to offer this ability).

Commented [BC2]: Update based on latest recommendation

Note that data elements are either collected from the data subject, or automatically generated by the registrar or registrar. These are designated to data elements “*” in the tables below.

Commented [BC3]: Review at end. Does this still apply?

Note, the Responsible Party (as denoted in columns for Processing Activity) is not necessarily the party carrying out the processing activity.

Commented [BC4]: If correct, how does this define Registries “collecting” the registration data in Purpose 1 we discussed in the skeleton vs. how it is displayed in Annex D as a transfer from Rr to Ry, where it is only the Registrar that collects from the Data Subject?

Primary Processing Activity Definitions:

Collection - The processing action whereby the Controller or processor gains (or gains access to) the data.

Commented [AW5R4]: Berry, your question is perfectly correct. Collection for the Ry and the Rr occur at different times. The Rr collect the data from the Data Subject. The Registry Collects data upon transmission (disclosure) of the data from the Registrar.

Transfer - The disclosure of data to another party when those parties are involved in the processing of those data.

Our problem is that the Workbook assumed that the data map is uniform and linear. It is not

Publication - The publication of data, for the use of 3rd parties.

Commented [AW6]: The problem here is that Transfer is a subset of Disclosure, therefore we cannot call the next category disclosure, as this is just confusing, legally speaking. This should be ‘disclosure’

Commented [AW7]: Although we also mean disclosure here, I can see the merit, for our purposes in calling out the specific subset – i.e. publication here.

Retention – When the primary purpose of data processing has been achieved, and/or the data is no longer required for that purpose, such data may be retained by a controller (or processor¹), where the controller (or processor²) has established additional specific and stated purposes, and where such retention is:

- a) Not incompatible with the primary/original purpose for the processing of the data; or
- b) Reasonably necessary to demonstrate the fulfilment of the original purpose. (e.g. the retention of data to demonstrate completion, by the Controller/processor, of a contractual obligation in contemplation of defending against claims of breach of contract etc.); and
- c) Processing of retained data is limited only that the purpose(s) for which such data are retained.

Commented [AW8]: Retention must have a purpose.

¹ Where a processor retains data at the direct instruction of a controller (as per Art 28) this shall be considered to be a processor duty; however, where the Processor retains data outside of the direct instruction of the data controller, in that instance, that processor, shall be acting as a sole controller, and must establish their own separate controllership, including maintaining requisite privacy policies, and established a defined purpose and legal basis for such processing i.e. a reason for retention.

² See fn1

Data Elements Issues from ICANN Org:

1. Tech contact - "Which purpose covers the processing activities associated with technical contacts (Purpose 3 has been narrowed to RNH only)?"
2. CL&D - "Provides for consistent output to improve user experience. Temp Spec broke it. Leave broken or go back to CL&D and have consistent output (e.g., labeling of redacted fields)?"
3. From Section 13 of the Consistent Labeling and Display Policy: Registry Operator MAY output additional RDDS fields, as defined in the WHOIS Advisory, without further approval by ICANN. The key and the value of each additional field MUST NOT: include browser executable code (e.g., Javascript); provide confidential information of any sort; or cause a negative impact to the security, stability, or resiliency of the Internet's DNS or other systems. Prior to deployment, Registry Operator SHALL provide the list of all additional RDDS fields to ICANN. Registry Operator SHALL provide to ICANN any changes to the list of additional RDDS fields prior to deploying such changes. - "Question for EPDP Team: should this obligation remain or be discontinued? This ties also purpose 7 that was discussed yesterday."
4. Transfer - ICANN org previously asked what the impact is to the Thick WHOIS policy
5. Retention - There are many other data elements currently required to be retained under the Data Retention Specification. Is it the intent that those additional data elements will no longer be retained?
6. Availability of contact data - Grandfathered domain names do not have registrant phone and email contact info. If admin fields are no longer required and tech fields are option, there may be cases where there is no contact data available. How does the EPDP Team want to address this?
7. Optional - For those data fields that are optional, are they optional for the registrar to offer, or must the registrar offer, but the registrant can choose or not choose to do it?

Commented [BC9]: To be deleted after resolution

Global Changes:

1. Confirm and make consistent Purpose Rationale statements, especially for #3 and picket fence
2. Confirm and make consistent Processing Activity - Retention across Purposes
3. Confirm and make consistent Responsible Party identification for each Processing Activity – (Depends on final outcome of Joint Controller, Controller, Processor roles assignments); need to define a principle in how these are documented across the PAs.
4. Confirm and make consistent Lawful Basis designations of 6(1)(b) or 6(1)(f) - depends on Legal Committee processing this legal question.
5. Confirm and make consistent Lawful Basis statements/rationale for each Processing Activity
6. Confirm and update Data Elements Flow maps across all Purposes
7. Confirm consolidated Data Elements matrices for Collection, Transfer, Disclosure; create new screen shots for body of final report (see PDF, XLS)

Commented [BC10]: To be deleted after resolution

1A

PURPOSE:

In accordance with the relevant Registry Agreements and Registrar Accreditation agreements, activate a registered name and allocate it to the Registered Name Holder.

Purpose Rationale:

1) If the purpose is based on an ICANN contract, cite the relevant section of the ICANN contracts that corresponds to the above purpose, if any.

- RAA - <https://www.icann.org/resources/pages/approved-with-specs-2013-09-17-en>

Yes, this purpose is lawful based on ICANN's mission to coordinate the allocation and assignment of names in the root zone of the Domain Name System. Specifically, Section 3.2 of the RAA "Submission of Registered Name Holder Data to Registry" refers to what data elements must be placed in the Registry Database as a part of the domain registration (<https://www.icann.org/resources/pages/approved-with-specs-2013-09-17-en>).

2) Is the purpose in violation with ICANN's bylaws?

No, it is not in violation of ICANN's Bylaws. Specifically, Article 1, Section 1.1 Mission (a)(i) Coordinates the allocation and assignment of names in the root zone of the Domain Name System ("DNS") and coordinates the development and implementation of policies concerning the registration of second-level domain names in generic top-level domains ("gTLDs"). In this role, ICANN's scope is to coordinate the development and implementation of policies <https://www.icann.org/resources/pages/governance/bylaws-en/#article1>.

Further, Articles G-1 and G-2 stipulate, "issues for which uniform or coordinated resolution is reasonably necessary to facilitate interoperability, security and/or stability of the Internet, registrar services, registry services, or the DNS;" and "Examples of the above include, without limitation: principles for allocation of registered names in a TLD (e.g., first-come/first-served, timely renewal, holding period after expiration);"

3) Are there any "picket fence" considerations related to this purpose?

This purpose is related to WHOIS, which is within the Picket Fence. Specifically, Specification 1 of the Registry Agreement (Section 3.1(b) (iv) and (v) of legacy RA) and Specification 4 of the Registrar Accreditation Agreement both refer to categories of issues and principles of allocation of registered names in a TLD.

Lawfulness of Processing Test:

Processing Activity:	Responsible Party: <small>(Charter Questions 3k, 3l, 3m)</small>	Lawful Basis: <small>(Is the processing necessary to achieve the purpose?)</small>
1A-PA1: Collection of registration data to allocate domain name string to registrant	ICANN – Joint Controller Registrars – Processors	6(1)(b) for Registrars This is a 6(1)(b) purpose for Registrars because it is necessary to collect registrant data to allocate a string to a registrant.

Commented [BC11]: 6(1)b/6(1)f – to be in the context of recommendations #13 & #14 (responsible parties) following input from legal counsel

Designations suggested in the workbooks below is based on the EPDP Team's best current thinking but that in the end the determination is a result of law not opinion.

<p>(Charter Question 2b)</p>	<p>Registries – Processor / Joint Controller (where applicable)</p>	<p>Without collecting minimal registrant data, the contracted party has no way of tracing the string back to registrant and is not able to deliver its side of the contract.</p> <p>6(1)(f) for Registries and ICANN</p> <p>This is a 6(1)(f) purpose for Registries receiving such data from Registrars to allocate the domain name at the Registry level, this collection is based on 6(1)(f) purpose.</p> <p>(NOTE: that registries collection of the data occurs only when the data is disclosed to them by the registrar as per 1A-PA2)</p>
<p>1A-PA2: Transmission of registration data from Registrar to Registry</p> <p>(Charter Questions 2c, 2d, 2e, 2i)</p>	<p>ICANN – Controller Registrars – Processor</p>	<p>Certain data elements (domain name and nameservers) would be required to be transferred from the Registrar to Registry. The lawful basis would be 6(1)(b) (vis á vis the processing of the Registrar), should personal data be involved.</p> <p>(NOTE: the Registry’s receipt of this data is the collection, as per 1A-PA1)</p>
<p>1A-PA3: Disclosure/Publication of registration data</p> <p>(Charter Questions 2f (gating questions), 2j)</p>	<p>ICANN – Controller Registrars – Processor Registries - Processor</p>	<p>Activation of the domain name registration in the DNS requires the publication of certain data elements, namely domain name and name servers. The lawful basis would be 6(1)(f), should personal data be involved.</p> <p>Due to the minimal discretion in the requirements of 1A this is a direction from ICANN on what and how to achieve the result. We retain minimal discretion and thus are acting as processors in 1A.</p>
<p>1A-PA4: Retention of registration data by Registrar, Registry</p> <p>(Charter Questions 2g)</p> <p>Note, this PA is not represented on the data elements table, because data processed above represents what data elements will be retained</p>	<p>ICANN –N/A Registrar – Controller (should they deem it necessary)</p>	<p>6(1)(f) for Registrars</p> <p>This is a 6(1)(f) purpose because although there is likely a legitimate interest in providing mechanisms for safeguarding Registered Name Holders' Registration Data in the event of a dispute over ownership or an improper transfer, it is not necessary from a technical perspective to retain the data in order to allocate a string to a registered name holder, and therefore is not necessary to perform the registration contract.</p> <p>The EPDP Team agreed to a period of one year following the life of the registration a registration as the retention period in order to conform with the Transfer Dispute Resolution Policy</p>

Commented [BC12]: Return to party assignments only, and remove role?

Commented [BC13]: In general, will a PA need to be defined for transfer of data from Registry to Registrar for any of our 7 Purposes?
If not, delete this comment

Commented [BC14]: Needs to be resolved.

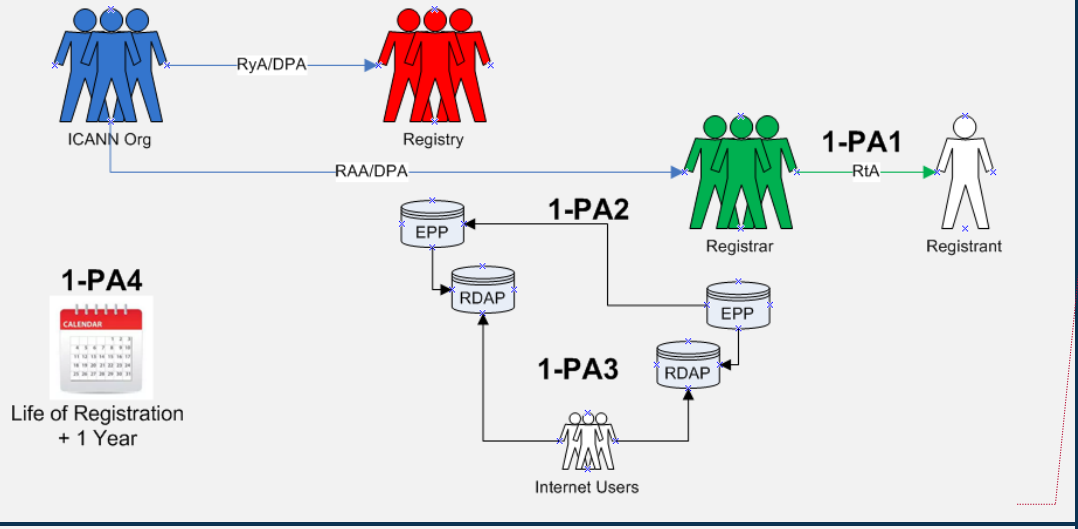
Commented [BC15]: Should this be Registries instead of We?

requirements. Refer to the details around retention in Recommendation #11

6(1)(f) for Registries

Registries need only retain data for the duration of the life of the domain.

Data Flow Map:



Commented [BC16]: Deleted as an existing procedure exists for waivers to be established with ICANN Org. GNSO Council will in the near term launch the Whois Procedure Advisory Group.

Commented [BC17]: All data flow maps will be updated after confirmation of Processing Activities and Data Elements.

Data Elements Matrix:

R=required, O=optional, N/A=not applicable

Data Elements (Collected & Generated*)	Collection 1A-PA1	Transmission 1A-PA2	Disclosure 1A-PA3			
Domain Name	R	R	R			
Registry Domain ID*						
Registrar Whois Server* ³	R					
Registrar URL*	R					
Updated Date*	R					
Creation Date*	R					
Registry Expiry Date*	R					
Registrar Registration Expiration Date*	O					
Registrar*	R					
Registrar IANA ID*	R					
Registrar Abuse Contact Email*	R					
Registrar Abuse Contact Phone*	R					
Reseller*	O					
Domain Status(es)* ⁴	R					
Registry Registrant ID*						
Registrant Fields						
<input checked="" type="checkbox"/> Name	R					
<input checked="" type="checkbox"/> Organization (opt.)						
<input checked="" type="checkbox"/> Street	R					
<input checked="" type="checkbox"/> City	R					
<input checked="" type="checkbox"/> State/province	R					
<input checked="" type="checkbox"/> Postal code	R					
<input checked="" type="checkbox"/> Country	R					
<input checked="" type="checkbox"/> Phone	R					
<input checked="" type="checkbox"/> Phone ext (opt.)						
<input checked="" type="checkbox"/> Fax (opt.)						
<input checked="" type="checkbox"/> Fax ext (opt.)						
<input checked="" type="checkbox"/> Email	R					
2nd E-Mail address						
Admin ID*						

Commented [BC18]: Deleting column from all workbooks - this PA is not represented on the data elements table, because data processed to left already represents what data elements will be retained.

Commented [BC19]: "Registrar Registration Expiration Date" is an optional field, i.e., not all the registrars add their own expiration date. However, if a registrar sets this field, they must transmit it to the registry.

³ "Registrar Whois Server", "Registrar URL", "Registrar Abuse Contact Email" and "Registrar Abuse Contact Phone" are not transmitted to the registry with each registration in EPP; they are provided to the registry once by each registrar and used for each registration a registrar has. I'm not sure if you want to flag this or not.

⁴ "Domain Status" (which is a field that can appear multiple times) may or may not be set by the registrar; some status are set by the registrar, some are set by the registry.

Data Elements (Collected & Generated*)	Collection 1A-PA1	Transmission 1A-PA2	Disclosure 1A-PA3			
Admin Fields						
<input type="checkbox"/> Name						
<input type="checkbox"/> Organization (opt.)						
<input type="checkbox"/> Street						
<input type="checkbox"/> City						
<input type="checkbox"/> State/province						
<input type="checkbox"/> Postal code						
<input type="checkbox"/> Country						
<input type="checkbox"/> Phone						
<input type="checkbox"/> Phone ext (opt.)						
<input type="checkbox"/> Fax (opt.)						
<input type="checkbox"/> Fax ext (opt.)						
<input type="checkbox"/> Email						
Tech ID*						
Tech Fields						
<input type="checkbox"/> Name						
<input type="checkbox"/> Organization (opt.)						
<input type="checkbox"/> Street						
<input type="checkbox"/> City						
<input type="checkbox"/> State/province						
<input type="checkbox"/> Postal code						
<input type="checkbox"/> Country						
<input type="checkbox"/> Phone						
<input type="checkbox"/> Phone ext (opt.)						
<input type="checkbox"/> Fax (opt.)						
<input type="checkbox"/> Fax ext (opt.)						
<input type="checkbox"/> Email						
NameServer(s)	R	R	R			
DNSSEC	O					
Name Server IP Address	R	O	O			
Last Update of Whois Database*	R					

Commented [BC20]: Note: this was listed as option in the Initial Report, as not all 2nd level domains are DNSSEC enabled. But if one is, then the Registrar would be required to collect it and process the data.

Commented [BC21]: "DNSSEC" is not transmitted by the registrar to the registry. The registry derives this from other information provided by the registrar, i.e., DNSKEY or DS records.

Commented [BC22]: In zone IP NS Address

Commented [BC23]: "Last Update of Whois Database" is not transmitted by the registrar to the registry. The registry knows when this happened, i.e., when the registry updated the database that contains the record being asked for.

Commented [BC24]: Pending change in Plenary

1B

PURPOSE:
 As subject to registry and registrar terms, conditions and policies, and ICANN consensus policies:
 (i) establish the rights of a Registered Name Holder in a registered name, and
 (ii) ensure that a Registered Name Holder may exercise its rights in the use and disposition of the registered name.

Purpose Rationale:

1) If the purpose is based on an ICANN contract, cite the relevant section of the ICANN contracts that corresponds to the above purpose, if any.

- RAA - <https://www.icann.org/resources/pages/approved-with-specs-2013-09-17-en>

Yes, this purpose is lawful based on ICANN’s mission to coordinate the allocation and assignment of names in the root zone of the Domain Name System. Specifically, Section 3.2 of the RAA “Submission of Registered Name Holder Data to Registry” , Spec. 4, section 1.5 and Spec. 2 of the RA, all refers to what data elements must be placed in the Registry Database as a part of the domain registration (<https://www.icann.org/resources/pages/approved-with-specs-2013-09-17-en> & <https://www.icann.org/resources/pages/registries/registries-agreements-en>).

2) Is the purpose in violation with ICANN's bylaws?

No, it is not in violation of ICANN’s Bylaws. Specifically, Article 1, Section 1.1 Mission (a)(i) Coordinates the allocation and assignment of names in the root zone of the Domain Name System (“DNS”) and coordinates the development and implementation of policies concerning the registration of second-level domain names in generic top-level domains (“gTLDs”). In this role, ICANN's scope is to coordinate the development and implementation of policies <https://www.icann.org/resources/pages/governance/bylaws-en/#article1>.

Further, Articles G-1 and G-2 stipulate, “issues for which uniform or coordinated resolution is reasonably necessary to facilitate interoperability, security and/or stability of the Internet, registrar services, registry services, or the DNS;” and “Examples of the above include, without limitation: principles for allocation of registered names in a TLD (e.g., first-come/first-served, timely renewal, holding period after expiration);”

3) Are there any “picket fence” considerations related to this purpose?

This purpose is related to WHOIS, which is within the Picket Fence. Specifically, Specification 1 of the Registry Agreement (Section 3.1(b)(iv) and (v) and Specification 4 of the Registrar Accreditation Agreement both refer to categories of issues and principles of allocation of registered names in a TLD.

Lawfulness of Processing Test:

Processing Activity:	Responsible Party: <small>(Charter Questions 3k, 3l, 3m)</small>	Lawful Basis: <small>(Is the processing necessary to achieve the purpose?)</small>
1B-PA1: Collection of registration data to establish registrant’s rights in a domain name string (Charter Question 2b)	ICANN – Joint Controller Registrars – Processors Registries – Processor / Joint Controller (where applicable)	6(1)(b) for Registrars This is a 6(1)(b) purpose for Registrars because it is necessary to collect registrant data to allocate a string to a registrant. Without collecting minimal registrant data, the contracted party has no way of tracing the string back to registrant and is not able to deliver its side of the contract.

Commented [BC25]: 6(1)b/6(1)f – to be in the context of recommendations #13 & #14 (responsible parties) following input from legal counsel

Designations suggested in the workbooks below is based on the EPDP Team’s best current thinking but that in the end the determination is a result of law not opinion.

		<p>6(1)(f) for Registries and ICANN</p> <p>This is a 6(1)(f) purpose for Registries that require the collection of data to fulfill their terms, conditions and policies, this is a 6(1)(f) purpose.</p> <p>(NOTE: that registries collection of the data occurs only when the data is disclosed to them by the registrar as per 1B-PA2)</p>
<p>1B-PA2: Transmission of registration data from Registrar to Registry</p> <p>(Charter Questions 2c, 2d, 2e, 2i)</p>	<p>ICANN – Joint Controller Registries – Processor Registries – Processor / Joint Controller (where applicable)</p>	<p>Registries may direct a Registrar to provide a limited data set, (i.e. data set that differs from the from the Minimum Data Set as required as per the relevant consensus policy), where such a Registry Operator , due to varying business model and legal interpretations of obligations, require an alternate data set to fulfill, in their subjective evaluation, their specific policies, terms and conditions (for example, for the purpose of administering the application of a Registry Acceptable Use Policy (AUP)) in cases where such policies exist.</p> <p>The disclosure of the data by the registrar to the registry is justified under 6(1)(b) (vis á vis the registrar’s processing) for the valid purpose of enabling the registry to then, where necessary, directly enforce the registration terms or acceptable use policy of the registry, where such a registry chooses to do so.</p> <p>Note: Joint controllership results in a required element of the RA (Spec 11) vs. the interpretation of the Registry, where in some instances this is not considered to be required as this is a RA pass on. It is also accepted that some registry operators have the ability to ‘choose’ how to interpret their obligations under Spec 11, and therefore this additional exercising of control would tend to suggest that registries retain a relationship closer to a Joint Controller in the realization of purpose 1B.</p> <p>(NOTE: the Registry’s receipt of this data is the collection, as per 1B-PA1)</p>
<p>1B-PA3: Disclosure/Publication of registration data</p>	<p>ICANN – Controller Registries - Joint Controller Registries – Processor</p>	<p>Establishing the rights of a RNH, and ensuring, subject to T&Cs, that a RNH may exercise such benefits, may require disclosure of certain data elements, namely registrant details, IP</p>

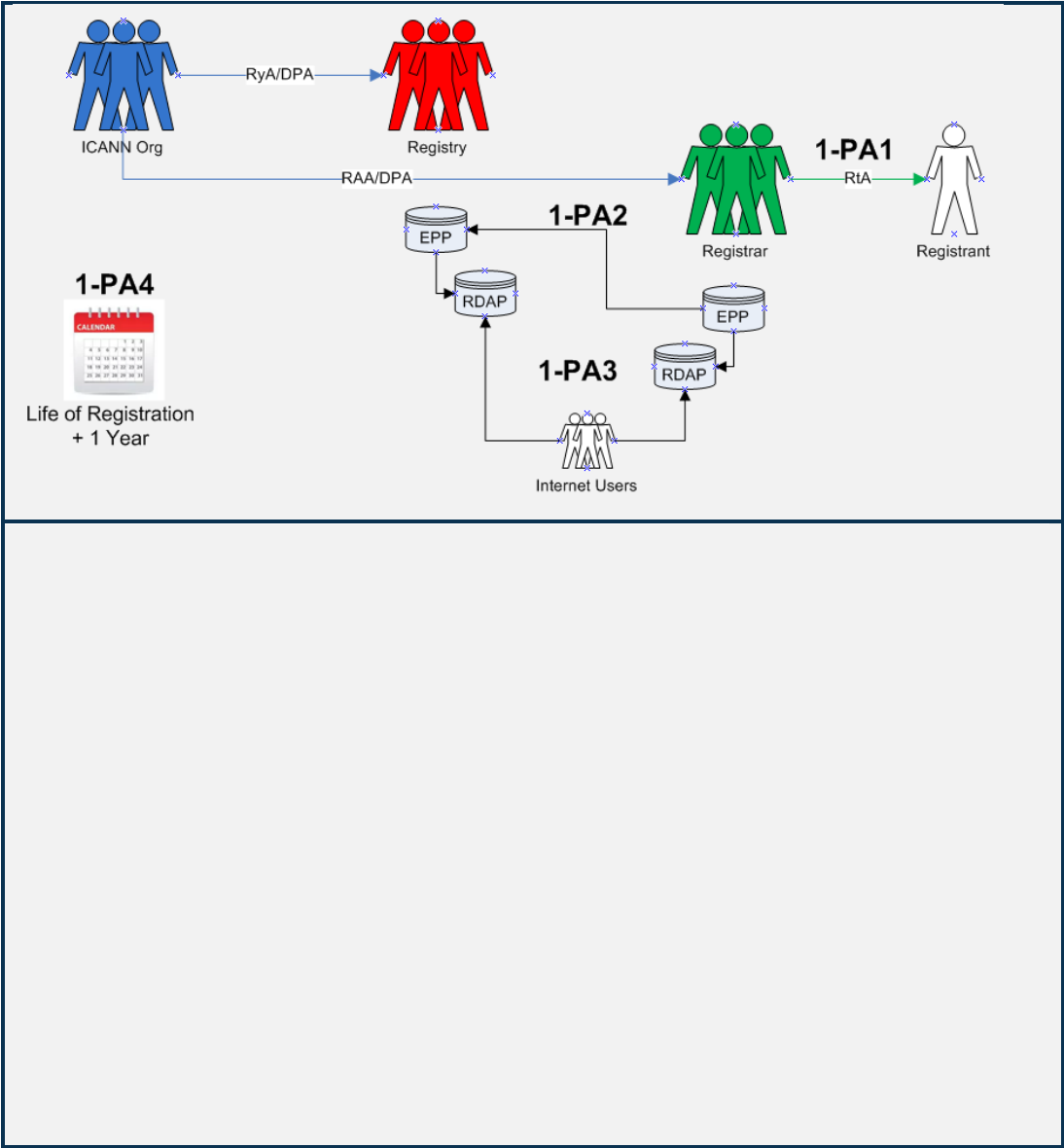
Commented [BC26]: Needs to be resolved.

(Charter Questions 2f (gating questions), 2j)		addresses, domain names and name servers. The lawful basis would be 6(1)(f), should personal data be involved.
<p>1B-PA4: Retention of registration data by Registrar, Registry</p> <p>(Charter Questions 2g)</p> <p>Note, this PA is not represented on the data elements table, because data processed above represents what data elements will be retained</p>	<p>ICANN – Controller Registrar (ICANN mandated)– Processor Retention in excess of ICANN minimum (see recommendation 7) Controller</p>	<p>This is a 6(1)(f) purpose because although there is likely a legitimate interest in providing mechanisms for safeguarding Registered Name Holders' Registration Data in the event of a dispute over ownership or an improper transfer, it is likely necessary for the registrar to retain the data to enforce their terms and conditions, however after the expiration of a domain, this retention is as per the register's own controllership.</p> <p>-----</p> <p>6(1)(f) for Registrars</p> <p>This is a 6(1)(f) purpose because although there is likely a legitimate interest in providing mechanisms for safeguarding Registered Name Holders' Registration Data in the event of a dispute over ownership or an improper transfer, it is not necessary from a technical perspective to retain the data in order to allocate a string to a registered name holder, and therefore is not necessary to perform the registration contract.</p> <p>The EPDP Team agreed to a period of one year following the life of the registration a registration as the retention period in order to conform with the Transfer Dispute Resolution Policy requirements. Refer to the details around retention in Recommendation #11</p> <p>6(1)(f) for Registries</p> <p>Registries need only retain data for the duration of the life of the domain.</p>

Commented [BC27]: Need to confirm

Commented [BC28]: This is all that remained from the RySG version. Below is what was carried over from 1A. Can these two be reconciled for increased consistency?

Data Flow Map:



Data Elements Matrix:

R=required, O=optional, N/A=not applicable

Data Elements (Collected & Generated*)	Collection 1B-PA1	Transmission 1B-PA2	Disclosure 1B-PA3			
Domain Name	R	R	R			
Registry Domain ID*						
Registrar Whois Server* ⁵	R					
Registrar URL*	R					
Updated Date*	R					
Creation Date*	R					
Registry Expiry Date*	R					
Registrar Registration Expiration Date*	O					
Registrar*	R					
Registrar IANA ID*	R					
Registrar Abuse Contact Email*	R					
Registrar Abuse Contact Phone*	R					
Reseller*	O					
Domain Status(es)* ⁶	R					
Registry Registrant ID*						
Registrant Fields						
<input checked="" type="checkbox"/> Name	R	O	R			
<input checked="" type="checkbox"/> Organization (opt.)		O				
<input checked="" type="checkbox"/> Street	R	O	R			
<input checked="" type="checkbox"/> City	R	O	R			
<input checked="" type="checkbox"/> State/province	R	O	R			
<input checked="" type="checkbox"/> Postal code	R	O	R			
<input checked="" type="checkbox"/> Country	R	O	R			
<input checked="" type="checkbox"/> Phone	R	O	R			
<input checked="" type="checkbox"/> Phone ext (opt.)		O				
<input checked="" type="checkbox"/> Fax (opt.)		O				
<input checked="" type="checkbox"/> Fax ext (opt.)		O				
<input checked="" type="checkbox"/> Email	R	O	R			
2nd E-Mail address						
Admin ID*						

⁵ "Registrar Whois Server", "Registrar URL", "Registrar Abuse Contact Email" and "Registrar Abuse Contact Phone" are not transmitted to the registry with each registration in EPP; they are provided to the registry once by each registrar and used for each registration a registrar has. I'm not sure if you want to flag this or not.

⁶ "Domain Status" (which is a field that can appear multiple times) may or may not be set by the registrar; some status are set by the registrar, some are set by the registry.

Data Elements (Collected & Generated*)	Collection 1B-PA1	Transmission 1B-PA2	Disclosure 1B-PA3			
Admin Fields						
<input type="checkbox"/> Name						
<input type="checkbox"/> Organization (opt.)						
<input type="checkbox"/> Street						
<input type="checkbox"/> City						
<input type="checkbox"/> State/province						
<input type="checkbox"/> Postal code						
<input type="checkbox"/> Country						
<input type="checkbox"/> Phone						
<input type="checkbox"/> Phone ext (opt.)						
<input type="checkbox"/> Fax (opt.)						
<input type="checkbox"/> Fax ext (opt.)						
<input type="checkbox"/> Email						
Tech ID*						
Tech Fields						
<input type="checkbox"/> Name						
<input type="checkbox"/> Organization (opt.)						
<input type="checkbox"/> Street						
<input type="checkbox"/> City						
<input type="checkbox"/> State/province						
<input type="checkbox"/> Postal code						
<input type="checkbox"/> Country						
<input type="checkbox"/> Phone						
<input type="checkbox"/> Phone ext (opt.)						
<input type="checkbox"/> Fax (opt.)						
<input type="checkbox"/> Fax ext (opt.)						
<input type="checkbox"/> Email						
NameServer(s)	R	R				
DNSSEC	R					
Name Server IP Address	R					
Last Update of Whois Database*	R					

Commented [BC29]: Reconcile w/ RySG version, this is Optional, cause not all 2nd level domains have DNSSEC enabled.

Commented [BC30]: In 1A, In zone IP was mentioned. Should this section be reconciled with 1A?

2

PURPOSE:

Contributing to the maintenance of the security, stability, and resiliency of the Domain Name System in accordance with ICANN’s mission through enabling responses to lawful data disclosure requests.

Purpose Rationale:

1) If the purpose is based on an ICANN contract, cite the relevant section of the ICANN contracts that corresponds to the above purpose, if any.

- RAA - <https://www.icann.org/resources/pages/approved-with-specs-2013-09-17-en>

Yes, this purpose is lawful based on ICANN’s mission to coordinate the allocation and assignment of names in the root zone of the Domain Name System. Specifically, ICANN contracts reference the requirement for the maintenance of and access to accurate and up-to-date information concerning domain name registrations.

2) Is the purpose in violation with ICANN's bylaws?

No, it is not in violation of ICANN’s Bylaws, see ICANN Bylaws - Section 1.1(d)(ii), Section 1.2(a), Section 4.6(e)(i), Annex G1 and G2.

3) Are there any “picket fence” considerations related to this purpose?

This is within the Picket Fence, as the purpose specially refers to data already collected.

The WHOIS system, including 3rd party access, is within the Picket Fence, note specifically the Consensus Policies and Temporary Policies specification in the Registrar Accreditation Agreement (RAA) and Registry Agreement (RAA - 1.3.4. maintenance of and access to accurate and up-to-date information concerning Registered Names and name servers; Registry Agreement - maintenance of and access to accurate and up-to-date information concerning domain name registrations).

Lawfulness of Processing Test:

Processing Activity:	Responsible Party:: <small>(Charter Questions 3k, 3l, 3m)</small>	Lawful Basis: <small>(Is the processing necessary to achieve the purpose?)</small>
2-PA1: Collection of registration data by Registrar (Charter Question 2b)	ICANN Registrars Registries	The lawful basis for this processing activity is Art.6(1)(f) of the GDPR because although there may be a legitimate interest in disclosing non-public RDDS/WHOIS to third parties (such as law enforcement, IP interests, etc.), this disclosure is not technically necessary to perform the registration contract between the registrant and registrar.

Commented [BC31]: Responsible Parties will only note the Party and not the role of Controller/Processor, etc until the final determination by the EPDP.

Add global footnote referring to Rec# 13, 14?

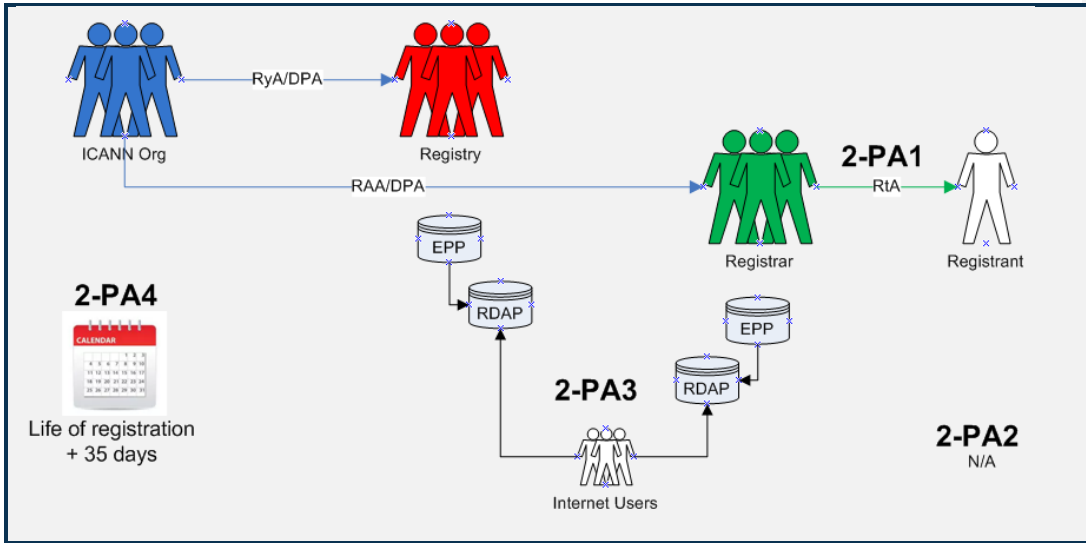
Commented [BC32]: 6(1)b/6(1)f – to be in the context of recommendations #13 & #14 (responsible parties) following input from legal counsel

Designations suggested in the workbooks below is based on the EPDP Team’s best current thinking but that in the end the determination is a result of law not opinion.

		(NOTE: that registries collection of the data occurs only when the data is disclosed to them by the registrar as per 2-PA2)
<p>2-PA2: Transmission of registration data from Registrar to Registry</p> <p>(Charter Questions 2c, 2d, 2e, 2i)</p>	ICANN Registrars Registries	<p>This would be a 6(1)(f) processing activity because while there may be a legitimate interest in third parties contacting the registrant (for example, to inform the registrant or designee of a technical issue with the domain name), this is not necessary for the performance of the contract from a registry perspective.</p> <p>(NOTE: the Registry's receipt of this data is the collection, as per 2-PA1)</p>
<p>2-PA3: Disclosure of non-public, already collected, registration data to third parties</p> <p>(Charter Questions 2f (gating questions), 2j)</p>	ICANN Registrars Registries	<p>This is a 6(1)(f) processing activity because although there may be a legitimate interest in disclosing non-public RDDS/WHOIS to third parties (such as law enforcement, IP interests, etc.), this disclosure is not technically necessary to perform the registration contract between the registrant and registrar.</p> <p>(Note: the requisite balancing test must be performed for each third-party type of disclosure.)</p>
<p>2-PA4: Retention of registration data by registrar</p> <p>(Charter Questions 2g)</p>	ICANN Registrars Registries	TBD

Commented [BC33]: Document retention lawful basis statement. Is it required, if not document as to why?

Data Flow Map:



Data Elements Matrix:

R= required, O=optional, N/A= not applicable

Data Element (Collected & Generated*)	Collection 2-PA1	Transmission 2-PA2	Disclosure 2-PA3			
Domain Name	R	R	R			
Registry Domain ID*		R	R			
Registrar Whois Server*	R	R	R			
Registrar URL*	R	R	R			
Updated Date*		R	R			
Creation Date*		R	R			
Registry Expiry Date*		R	R			
Registrar Registration Expiration Date*	O	R	R			
Registrar*	R	R	R			
Registrar IANA ID*	R	R	R			
Registrar Abuse Contact Email*	R	R	R			
Registrar Abuse Contact Phone*	R	R	R			
Reseller*	O	R	R			
Domain Status(es)*	R	R	R			
Registry Registrant ID*		R	R			
Registrant Fields						
☐ Name	R	R	R			

Commented [BC34]: Based on our principle of considering purposes in isolation, I took the liberty to add "R" for all cells that original showed Collection.

2-PA1 - Rr - Collected from Rt or Generated
 2-PA2 - Ry - Collected from Rr and Generated at Ry

Data Element (Collected & Generated*)	Collection 2-PA1	Transmission 2-PA2	Disclosure 2-PA3			
<input checked="" type="checkbox"/> Organization (opt.)	O	O	O			
<input checked="" type="checkbox"/> Street	R	R	R			
<input checked="" type="checkbox"/> City	R	R	R			
<input checked="" type="checkbox"/> State/province	R	R	R			
<input checked="" type="checkbox"/> Postal code	R	R	R			
<input checked="" type="checkbox"/> Country	R	R	R			
<input checked="" type="checkbox"/> Phone	R	R	R			
<input checked="" type="checkbox"/> Phone ext (opt.)						
<input checked="" type="checkbox"/> Fax (opt.)						
<input checked="" type="checkbox"/> Fax ext (opt.)						
<input checked="" type="checkbox"/> Email ⁷	R	R	R			
2nd E-Mail address						
Admin ID*						
Admin Fields						
<input checked="" type="checkbox"/> Name						
<input checked="" type="checkbox"/> Organization (opt.)						
<input checked="" type="checkbox"/> Street						
<input checked="" type="checkbox"/> City						
<input checked="" type="checkbox"/> State/province						
<input checked="" type="checkbox"/> Postal code						
<input checked="" type="checkbox"/> Country						
<input checked="" type="checkbox"/> Phone						
<input checked="" type="checkbox"/> Phone ext (opt.)						
<input checked="" type="checkbox"/> Fax (opt.)						
<input checked="" type="checkbox"/> Fax ext (opt.)						
<input checked="" type="checkbox"/> Email						
Tech ID*		R	R			
Tech Fields						
<input checked="" type="checkbox"/> Name	O	R	R			
<input checked="" type="checkbox"/> Organization (opt.)						
<input checked="" type="checkbox"/> Street						
<input checked="" type="checkbox"/> City						
<input checked="" type="checkbox"/> State/province						
<input checked="" type="checkbox"/> Postal code						
<input checked="" type="checkbox"/> Country						
<input checked="" type="checkbox"/> Phone	O	R	R			

⁷ Per the current temp spec requirement: 2.5.1. Registrar MUST provide an email address or a web form to facilitate email communication with the relevant contact, but MUST NOT identify the contact email address or the contact itself.

Data Element (Collected & Generated*)	Collection 2-PA1	Transmission 2-PA2	Disclosure 2-PA3			
<input type="checkbox"/> Phone ext (opt.)						
<input type="checkbox"/> Fax (opt.)						
<input type="checkbox"/> Fax ext (opt.)						
<input type="checkbox"/> Email ⁸	O	R	R			
NameServer(s)	R	R	R			
DNSSEC		R	R			
Name Server IP Address	R	R	R			
Last Update of Whois Database*		R	R			

⁸ Idem

3

PURPOSE:

Enable communication with the Registered Name Holder on matters relating to the Registered Name.

Purpose Rationale:

1) If the purpose is based on an ICANN contract, cite the relevant section of the ICANN contracts that corresponds to the above purpose, if any.

Yes, this purpose is lawful based on ICANN's mission to coordinate the allocation and assignment of names in the root zone of the Domain Name System. Specifically, section 3.7.7.3 of the RAA refers to providing and updating contact information to facilitate timely resolution of any problems that arise in connection with the Registered Name.

2) Is the purpose in violation with ICANN's bylaws?

No, it is not in violation of ICANN's Bylaws. Specifically, Article 1, Section 1.1 Mission (a)(i) Coordinates the allocation and assignment of names in the root zone of the Domain Name System ("DNS") and coordinates the development and implementation of policies concerning the registration of second-level domain names in generic top-level domains ("gTLDs"). In this role, ICANN's scope is to coordinate the development and implementation of policies <https://www.icann.org/resources/pages/governance/bylaws-en/#article1>.

Further, Articles G-1 and G-2 stipulate, "issues for which uniform or coordinated resolution is reasonably necessary to facilitate interoperability, security and/or stability of the Internet, registrar services, registry services, or the DNS;" and "Examples of the above include, without limitation: principles for allocation of registered names in a TLD (e.g., first-come/first-served, timely renewal, holding period after expiration);".

3) Are there any "picket fence" considerations related to this purpose?

This purpose is related to WHOIS, which is within the Picket Fence. Specifically, Specification 1 of the Registry Agreement and Specification 4 of the Registrar Accreditation Agreement both refer to categories of issues and principles of allocation of registered names in a TLD.

Lawfulness of Processing Test:

Processing Activity:

Responsible Party:

Lawful Basis: (Is the processing necessary to achieve the purpose?)

	(Charter Questions 3k, 3l, 3m)	
3-PA1: Collection of registration data by Registrars (Charter Question 2b)	ICANN Registrars Registries	For Registrars 6(1)(b) - For registrars: This is a 6(1)(b) purpose because it is necessary to collect registrant data so that the registrar can contact the registrant in the event a communication is necessary to maintain the domain operation. For Registries 6(1)(f) - For third parties who would like to report technical issues to a technical contact: This would be a 6(1)(f) purpose because while there may be a legitimate interest in third parties contacting the registrant (for example, to inform the registrant or designee of a technical issue with the domain name), this is not necessary for the performance of the contract.
3-PA2: Transmission of registration data from Registrar to Registry (Charter Questions 2c, 2d, 2e, 2i)	ICANN Registrars Registries	This would be a 6(1)(f) processing activity because while there may be a legitimate interest in third parties contacting the registrant (for example, to inform the registrant or designee of a technical issue with the domain name), this is not necessary for the performance of the contract from a registry perspective.
3-PA3: Disclosure of registration data to enable communication with RNH (Charter Questions 2f (gating questions), 2j)	ICANN Registrars Registries	TBD
3-PA4: Disclosure of public, already collected, registration data to Internet Users (Charter Questions 2f (gating questions), 2j)	ICANN Registrars Registries Internet Users	TBD A minimum public set of registration data will be made available for query of gTLD domains in a freely accessible directory. Where a data element has been designated as non-public, it will be redacted, see 3-PA6.
3-PA5: Redaction of registration data to Internet Users	ICANN Registrars Registries	TBD In compliance with GDPR, non-public information must not be improperly disclosed and only for a lawful and specific purpose.

Commented [BC35]: Need to develop Lawful basis and rationale

Commented [BC36]: Done in two ways, yes? 1) public query informs of Registrar or Registry that makes contact with RNH 2) webform or anonymized email to RNH

Commented [BC37]: Need to develop Lawful basis and rationale

Commented [BC38]: Refer to Recommendation #8

The EPDP Team recommends that redaction must be applied as follows to the data elements that are collected. Data elements neither redacted nor anonymized must appear in a **freely accessible directory**

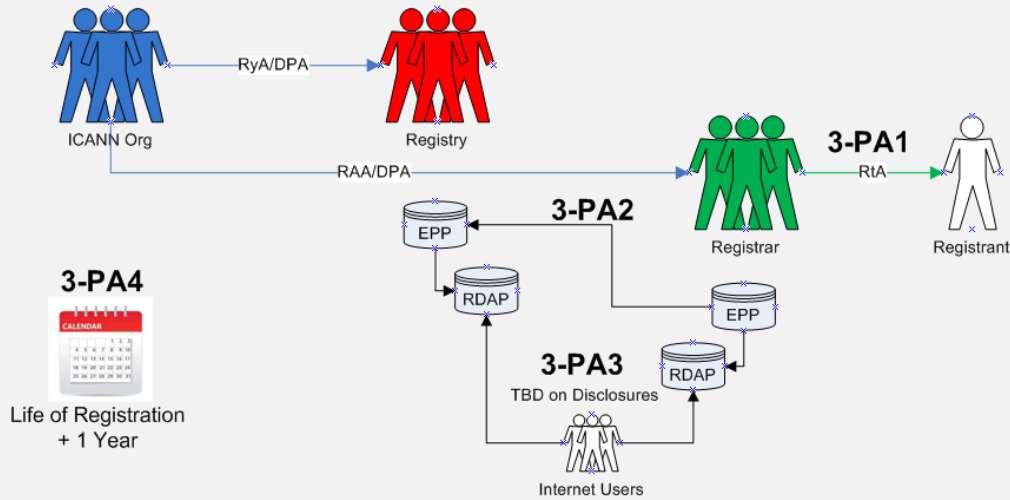
Commented [BC39]: Refer to Recommendation #8

The EPDP Team recommends that redaction must be applied as follows to the data elements that are collected. Data elements neither redacted nor anonymized must appear in a freely accessible directory

The table within the recommendation will be extracted from the table below, and also appear on the consolidated table of data elements for disclosure.

3-PA6: Retention of registration data (Charter Questions 2g)	ICANN Registrars Registries	N/A
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Data Flow Map:



Data Elements Matrix:

R= required, O=optional, N/A= not applicable

Data Element (Collected & Generated*)	Collection 3-PA1	Transmission 3-PA2	Disclosure 3-PA3	Disclosure 3-PA4	Redaction 3-PA5
Domain Name	R	R	R	R	No
Registry Domain ID*					Yes
Registrar Whois Server*					No
Registrar URL*					No
Updated Date*					No
Creation Date*					No
Registry Expiry Date*					No

Data Element (Collected & Generated*)	Collection 3-PA1	Transmission 3-PA2	Disclosure 3-PA3	Disclosure 3-PA4	Redaction 3-PA5
Registrar Registration Expiration Date*					No
Registrar*					No
Registrar IANA ID*					No
Registrar Abuse Contact Email*	R	R	R	R	No
Registrar Abuse Contact Phone*					No
Reseller*					No
Domain Status(es)*					No
Registry Registrant ID*					Yes
Registrar Fields					
<input type="checkbox"/> Name	R	R	R	R	Yes
<input type="checkbox"/> Organization (opt.)	O	O	O	O	No
<input type="checkbox"/> Street	R	R	R	R	Yes
<input type="checkbox"/> City	R	R	R	R	Yes
<input type="checkbox"/> State/province	R	R	R	R	No
<input type="checkbox"/> Postal code	R	R	R	R	Yes
<input type="checkbox"/> Country	R	R	R	R	No
<input type="checkbox"/> Phone	R	R	R	R	Yes
<input type="checkbox"/> Phone ext (opt.)	O	O	O	O	
<input type="checkbox"/> Fax (opt.)	O	O	O	O	
<input type="checkbox"/> Fax ext (opt.)	O	O	O	O	
<input type="checkbox"/> Email	R	R	R	R	No ⁹
2nd E-Mail address					
Admin ID*					
Admin Fields					
<input type="checkbox"/> Name					
<input type="checkbox"/> Organization (opt.)					
<input type="checkbox"/> Street					
<input type="checkbox"/> City					
<input type="checkbox"/> State/province					
<input type="checkbox"/> Postal code					
<input type="checkbox"/> Country					
<input type="checkbox"/> Phone					
<input type="checkbox"/> Phone ext (opt.)					
<input type="checkbox"/> Fax (opt.)					
<input type="checkbox"/> Fax ext (opt.)					
<input type="checkbox"/> Email					

Commented [BC40]: Collect, Transfer, Retain, Registry must NOT display, Registrar MUST display anonymized email or web form

Question for EPDP Team: Does EPDP Team want to consider aligning anonymized email/web form and other data element labels with the CL&D policy?

Commented [BC41]: Confirm based on deliberations about being able to properly log web form based email traffic.

⁹ The current temp spec requirement: 2.5.1. Registrar MUST provide an email address or a web form to facilitate email communication with the relevant contact, but MUST NOT identify the contact email address or the contact itself.

Data Element (Collected & Generated*)	Collection 3-PA1	Transmission 3-PA2	Disclosure 3-PA3	Disclosure 3-PA4	Redaction 3-PA5
Tech ID*	O		O	O	No
Tech Fields					
<input checked="" type="checkbox"/> Name	O	O	O	O	Yes
<input checked="" type="checkbox"/> Organization (opt.)					
<input checked="" type="checkbox"/> Street ¹⁰					
<input checked="" type="checkbox"/> City					
<input checked="" type="checkbox"/> State/province					
<input checked="" type="checkbox"/> Postal code					
<input checked="" type="checkbox"/> Country					
<input checked="" type="checkbox"/> Phone	O	O	O	O	Yes
<input checked="" type="checkbox"/> Phone ext (opt.)					
<input checked="" type="checkbox"/> Fax (opt.)					
<input checked="" type="checkbox"/> Fax ext (opt.)					
<input checked="" type="checkbox"/> Email	O	O	O	O	No
NameServer(s)					No
DNSSEC					No
Name Server IP Address					No
Last Update of Whois Database*					No

¹⁰ The GAC representatives are of the view that physical address should also be requested by the registrar (but optional for the RNH to provide)

4A

PURPOSE:

--For Registrars Only--

Provide mechanisms for safeguarding Registered Name Holders' Registration Data in the event of a business or technical failure of a Registrar or Registry Operator, or unavailability of a Registrar or Registry Operator, as described in the RAA and RA, respectively.

Purpose Rationale:

1) If the purpose is based on an ICANN contract, cite the relevant section of the ICANN contracts that corresponds to the above purpose, if any.

- Registrar Data Escrow Program: <https://www.icann.org/resources/pages/registrar-data-escrow-2015-12-01-en>
- Data Fields Source: <https://www.icann.org/en/system/files/files/rde-specs-09nov07-en.pdf>

Escrowing the data is supported by ICANN's mandate to provide for security and stability in the DNS and this purpose is primarily protecting the registrant's rights. Escrow exists because Registrants have a reasonable expectation of business continuity.

It is reasonable to expect that a DPA would consider the escrow of customer data critical to the delivery of the service being provided to be common business practice and legal under GDPR provided appropriate contractual relationships are in place with the escrow agent to ensure that the data, once transferred to the escrow agent is afforded appropriate protection.

While technical and business resiliency could be achieved via other mechanisms, the escrow of data necessary to deliver the service is a generally accepted practice that is likely to be considered necessary to achieve the purpose of "...safeguarding registered name holder's registration data in the event of a business or technical failure, or other unavailability..."

While all contracted parties that have to be compliant with GDPR need to make sure there are protections against data loss and mechanisms to enable swift data recovery, ICANN is operating at the global level where customers can register domain names with registrars globally and the registry operators are based in numerous jurisdictions, it is important to have interoperability of escrow agents. Requiring all contracted parties to use the same policies for both escrowing data and applying the same standards to escrow agents for making data available, is necessary for contingency planning at the global level.

2) Is the purpose in violation with ICANN's bylaws?

No, providing a safety net for registrants in the event of registry technical or business failure seems within ICANN's remit.

1.1(a)(i) Coordinates the allocation and assignment of names in the root zone of the Domain Name System ("DNS") and coordinates the development and implementation of policies concerning the registration of second-level

domain names in generic top-level domains ("gTLDs"). In this role, ICANN's scope is to coordinate the development and implementation of policies:

- For which uniform or coordinated resolution is reasonably necessary to facilitate the openness, interoperability, resilience, security and/or stability of the DNS including, with respect to gTLD registrars and registries, policies in the areas described in Annex G-1 and Annex G-2; and
- That are developed through a bottom-up consensus-based multistakeholder process and designed to ensure the stable and secure operation of the Internet's unique names systems.

The issues, policies, procedures, and principles addressed in Annex G-1 and Annex G-2 with respect to gTLD registrars and registries shall be deemed to be within ICANN's Mission.

3) Are there any "picket fence" considerations related to this purpose?

Only with respect to the data model(s) defined within RDDS/Whois consensus policies. Agreements between ICANN and escrow providers are not within scope of the picket fence.

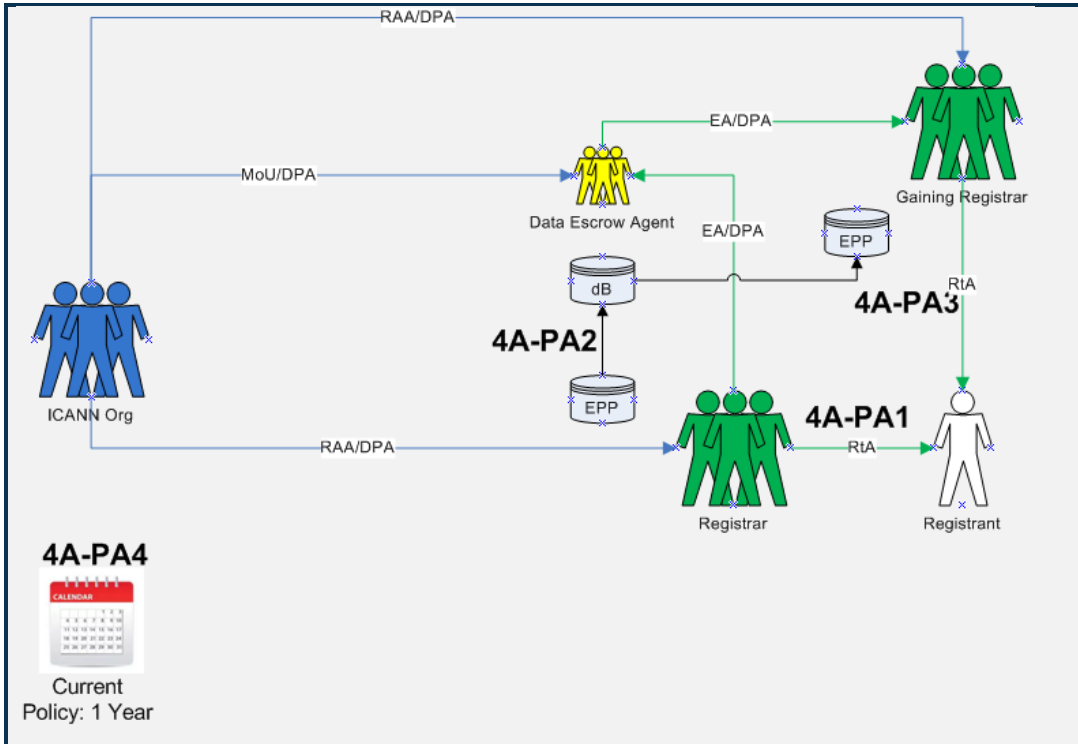
Lawfulness of Processing Test:

Processing Activity:	Responsible Party: <small>(Charter Questions 3k, 3l, 3m)</small>	Lawful Basis: <small>(Is the processing necessary to achieve the purpose?)</small>
<p>4A-PA1: Collection of registration data for escrow</p> <p><small>(Charter Question 2b)</small></p>	ICANN	<p>6(1)(f)</p> <p>This Processing Activity of Collection is not required to be documented within the Purpose for Registrar Escrow because the processing activity for transmission of registration data to the Data Escrow Agent (as noted below) has already been collected or generated from other ICANN Purposes that also contain processing activities for the collection of registration data.</p> <p>However, the transparency of collection to the Registrant/Data Subject for the purpose of escrow is required. Refer to the Purpose for establishing the rights of the Registered Name Holder.</p>
<p>4A-PA2: Transmission of registration data to Data Escrow Agent</p> <p><small>(Charter Questions 2c, 2d, 2e, 2i)</small></p>	ICANN	<p>This is a 6(1)(f) lawful basis because although there is likely a legitimate interest in providing mechanisms for safeguarding Registered Name Holders' Registration Data in the event of a business or technical failure, or other unavailability of a Registrar or Registry Operator, it is not technically necessary to transmit data to an escrow agent in order to allocate a string to a registered name holder, and is therefore not necessary to perform the registration contract.</p>

<p>4A-PA3: Disclosure of registration data to Gaining Registrar</p> <p>(Charter Questions 2f (gating questions), 2j)</p>	<p>ICANN</p>	<p>This is a 6(1)(f) lawful basis because although there is likely a legitimate interest in providing mechanisms for safeguarding Registered Name Holders' Registration Data in the event of a business or technical failure, or other unavailability of a Registrar or Registry Operator, it is not technically necessary to transmit data to an escrow agent in order to allocate a string to a registered name holder, and is therefore not necessary to perform the registration contract.</p> <p>Data is not made public for escrow purposes, but a transfer to the escrow agent and - in case of contingencies - the transfer to a Gaining Registrar is required to ensure that operations are not impaired.</p> <p>How and who ICANN chooses as the Gaining Registrar may have additional implications to the lawfulness should the Gaining Registrar not reside within the EU when the Losing Registrar did reside within the EU.</p>
<p>4A-PA4: Retention of registration data by Data Escrow Agent</p> <p>(Charter Questions 2g)</p>	<p>ICANN</p>	<p>This is a 6(1)(f) lawful basis due to the connection of Retention with Transmission of registration data to the Data Escrow Agent from the Registry.</p> <p>From the Escrow Specification (3.3.1.6), deposits to Third-Party Escrow Agents two copies are held for one year.</p> <p>Questions about the validity of the one year for TPP, noting that no retention is listed for ICANN approved vendors, given that once a new deposit occurs and is verified, it renders prior deposits useless.</p> <p>The EPDP also discussed that perhaps some minimal retention could be necessary from an overall continuity perspective.¹¹</p>

Data Flow Map:

¹¹ Refer to the preliminary recommendation on Retention of Purpose E-Ry. A retention change should be validated to ensure technical requirements are not jeopardized by lowering the retention duration.



Data Elements Matrix:

R= required, O=optional, N/A= not applicable

Data Element (Collected & Generated*)	Collection 4A-PA1	Transmission 4A-PA2	Disclosure 4A-PA3	Retention 4A-PA4		
Domain Name		R	R	R		
Registry Domain ID*						
Registrar Whois Server*						
Registrar URL*						
Updated Date*						
Creation Date*						
Registry Expiry Date*						
Registrar Registration Expiration Date*		R	R	R		
Registrar*		R	R	R		
Registrar IANA ID*						

Commented [BC42]: Purpose E-Rr, Escrow for Registrars (and by extension for data transferred to Registries, Purpose E-Ry) depends on the collection of all registration data across all purposes as part of this Processing Activity where Registrars collect registration data from the Registrant (Data Subject). Transparency of collection to the Registrant (Data Subject) is a requirement for purpose of escrow.

Commented [BC43]: Confirm the distinct Rr data elements that will only be transmitted to the escrow provider.

Data Element (Collected & Generated*)	Collection 4A-PA1	Transmission 4A-PA2	Disclosure 4A-PA3	Retention 4A-PA4		
Registrar Abuse Contact Email*						
Registrar Abuse Contact Phone*						
Reseller*		R	R	R		
Domain Status(es)*						
Registry Registrant ID*						
Registrant Fields						
<input checked="" type="checkbox"/> Name		R	R	R		
<input checked="" type="checkbox"/> Organization (opt.)						
<input checked="" type="checkbox"/> Street		R	R	R		
<input checked="" type="checkbox"/> City		R	R	R		
<input checked="" type="checkbox"/> State/province		R	R	R		
<input checked="" type="checkbox"/> Postal code		R	R	R		
<input checked="" type="checkbox"/> Country		R	R	R		
<input checked="" type="checkbox"/> Phone		R	R	R		
<input checked="" type="checkbox"/> Phone ext (opt.)						
<input checked="" type="checkbox"/> Fax (opt.)						
<input checked="" type="checkbox"/> Fax ext (opt.)						
<input checked="" type="checkbox"/> Email		R	R	R		
2nd E-Mail address						
Admin ID*						
Admin Fields						
<input checked="" type="checkbox"/> Name						
<input checked="" type="checkbox"/> Organization (opt.)						
<input checked="" type="checkbox"/> Street						
<input checked="" type="checkbox"/> City						
<input checked="" type="checkbox"/> State/province						
<input checked="" type="checkbox"/> Postal code						
<input checked="" type="checkbox"/> Country						
<input checked="" type="checkbox"/> Phone						
<input checked="" type="checkbox"/> Phone ext (opt.)						
<input checked="" type="checkbox"/> Fax (opt.)						
<input checked="" type="checkbox"/> Fax ext (opt.)						
<input checked="" type="checkbox"/> Email						
Tech ID*						
Tech Fields						
<input checked="" type="checkbox"/> Name						
<input checked="" type="checkbox"/> Organization (opt.)						
<input checked="" type="checkbox"/> Street						
<input checked="" type="checkbox"/> City						
<input checked="" type="checkbox"/> State/province						

Commented [BC42]: Purpose E-Rr, Escrow for Registrars (and by extension for data transferred to Registries, Purpose E-Ry) depends on the collection of all registration data across all purposes as part of this Processing Activity where Registrars collect registration data from the Registrant (Data Subject). Transparency of collection to the Registrant (Data Subject) is a requirement for purpose of escrow.

Commented [BC43]: Confirm the distinct Rr data elements that will only be transmitted to the escrow provider.

Data Element (Collected & Generated*)	Collection 4A-PA1	Transmission 4A-PA2	Disclosure 4A-PA3	Retention 4A-PA4		
<input checked="" type="checkbox"/> Postal code						
<input checked="" type="checkbox"/> Country						
<input checked="" type="checkbox"/> Phone						
<input checked="" type="checkbox"/> Phone ext (opt.)						
<input checked="" type="checkbox"/> Fax (opt.)						
<input checked="" type="checkbox"/> Fax ext (opt.)						
<input checked="" type="checkbox"/> Email						
NameServer(s)						
DNSSEC						
Name Server IP Address						
Last Update of Whois Database*						

Commented [BC42]: Purpose E-Rr, Escrow for Registrars (and by extension for data transferred to Registries, Purpose E-Ry) depends on the collection of all registration data across all purposes as part of this Processing Activity where Registrars collect registration data from the Registrant (Data Subject). Transparency of collection to the Registrant (Data Subject) is a requirement for purpose of escrow.

Commented [BC43]: Confirm the distinct Rr data elements that will only be transmitted to the escrow provider.

4B

PURPOSE:

--For Registries Only--

Provide mechanisms for safeguarding Registered Name Holders' Registration Data in the event of a business or technical failure of a Registrar or Registry Operator, or unavailability of a Registrar or Registry Operator, as described in the RAA and RA, respectively.

Purpose Rationale:

1) If the purpose is based on an ICANN contract, cite the relevant section of the ICANN contracts that corresponds to the above purpose, if any.

- Registry EBERO Program - <https://www.icann.org/resources/pages/ebero-2013-04-02-en>
- Registry Data Escrow Specification: <https://newgtlds.icann.org/sites/default/files/agreements/agreement-approved-31jul17-en.html#specification2>
- Data Fields Sources:
 - <http://tools.ietf.org/html/draft-arias-noguchi-registry-data-escrow>
 - <https://tools.ietf.org/html/draft-arias-noguchi-dnrd-objects-mapping-09>

Escrowing the data is supported by ICANN's mandate to provide for security and stability in the DNS and this purpose is primarily protecting the registrant's rights. Escrow exists because Registrants have a reasonable expectation of business continuity.

It is reasonable to expect that a DPA would consider the escrow of customer data critical to the delivery of the service being provided to be common business practice and legal under GDPR provided appropriate contractual relationships are in place with the escrow agent to ensure that the data, once transferred to the escrow agent is afforded appropriate protection.

While technical and business resiliency could be achieved via other mechanisms, the escrow of data necessary to deliver the service is a generally accepted practice that is likely to be considered necessary to achieve the purpose of "...safeguarding registered name holder's registration data in the event of a business or technical failure, or other unavailability..."

While all contracted parties that have to be compliant with GDPR need to make sure there are protections against data loss and mechanisms to enable swift data recovery, ICANN is operating at the global level where customers can register domain names with registrars globally and the registry operators are based in numerous jurisdictions, it is important to have interoperability of escrow agents. Requiring all contracted parties to use the same policies for both escrowing data and applying the same standards to escrow agents for making data available, is necessary for contingency planning at the global level.¹²

¹² Draft Recommendation: Data processing agreements are necessary to ensure GDPR compliance. Recognizing that different escrow agreements exist depending on the TLD, the working group recommends that ICANN and/or the registry review the applicable escrow agreement and where necessary negotiate new GDPR compliant escrow agreements.

Within the Temporary Specification, EBERO is mentioned as Processing Activity under Appendix C. The Charter Question, Part 2i, tasks the EPDP to consider if this Processing Activity should be eliminated or adjusted. Based on initial research of the EBERO process, Registry Escrow is invoked as a component of the overall process with no indication that registration data other than what is identified here is transferred within any of the other EBERO components. The EPDP concluded that documentation of EBERO can be satisfied within the processing activities defined for this purpose of Registry Escrow.

2) Is the purpose in violation with ICANN's bylaws?

No, providing a safety net for registrants in the event of registry technical or business failure seems within ICANN's remit.

1.1(a)(i) Coordinates the allocation and assignment of names in the root zone of the Domain Name System ("DNS") and coordinates the development and implementation of policies concerning the registration of second-level domain names in generic top-level domains ("gTLDs"). In this role, ICANN's scope is to coordinate the development and implementation of policies:

- For which uniform or coordinated resolution is reasonably necessary to facilitate the openness, interoperability, resilience, security and/or stability of the DNS including, with respect to gTLD registrars and registries, policies in the areas described in Annex G-1 and Annex G-2; and
- That are developed through a bottom-up consensus-based multistakeholder process and designed to ensure the stable and secure operation of the Internet's unique names systems.

The issues, policies, procedures, and principles addressed in Annex G-1 and Annex G-2 with respect to gTLD registrars and registries shall be deemed to be within ICANN's Mission.

3) Are there any "picket fence" considerations related to this purpose?

Only with respect to the data model(s) defined within RDDS/Whois consensus policies. Agreements between ICANN and Data Escrow Providers are not within scope of the picket fence.

Lawfulness of Processing Test:

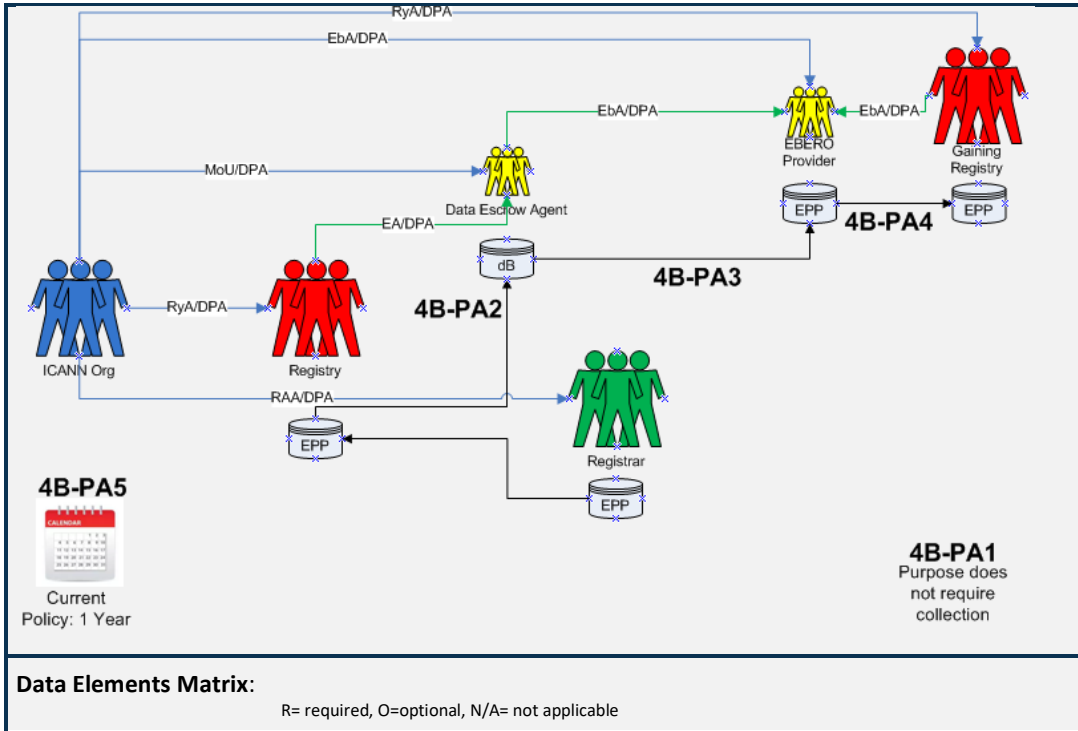
Processing Activity:	Responsible Party: <small>(Charter Questions 3k, 3l, 3m)</small>	Lawful Basis: <small>(Is the processing necessary to achieve the purpose?)</small>
4B-PA1: Collection of registration data for escrow <small>(Charter Question 2b)</small>	ICANN	6(1)(f) This Processing Activity of Collection is not required to be documented within the Purpose for Registry Escrow because the processing activity for transmission of registration data to the Data Escrow Agent (as noted below) has already been

		<p>collected or generated from other ICANN Purposes that also contain Processing Activities for the transfer of registration data from the Registrar to the Registry.</p> <p>However, the transparency of collection to the Registrant/Data Subject for the purpose of escrow is required. Refer to the Purpose for establishing the rights of the Registered Name Holder.</p>
<p>4B-PA2: Transmission of registration data to Data Escrow Agent</p> <p>(Charter Questions 2c, 2d, 2e, 2i)</p>	ICANN	<p>This is a 6(1)(f) lawful basis because although there is likely a legitimate interest in providing mechanisms for safeguarding Registered Name Holders' Registration Data in the event of a business or technical failure, or other unavailability of a Registrar or Registry Operator, it is not technically necessary to transmit data to an escrow agent in order to allocate a string to a registered name holder, and is therefore not necessary to perform the registration contract.</p>
<p>4B-PA3: Disclosure of registration data to EBERO Provider</p> <p>(Charter Questions 2f (gating questions), 2j)</p>	ICANN	<p>This is a 6(1)(f) lawful basis because although there is likely a legitimate interest in providing mechanisms for safeguarding Registered Name Holders' Registration Data in the event of a business or technical failure, or other unavailability of a Registrar or Registry Operator, it is not technically necessary to transmit data to an escrow agent in order to allocate a string to a registered name holder, and is therefore not necessary to perform the registration contract.</p> <p>Specification 2, Part B "Legal Requirements", #6 under "Integrity and Confidentiality" stipulates how the release of a deposit is made.</p> <p>How and who ICANN chooses as the EBERO Provider may have additional implications to the lawfulness should the EBERO Provider not reside within the EU when the Losing Registry did reside within the EU.</p>
<p>4B-PA4: Disclosure of registration data to Gaining Registry</p> <p>(Charter Questions 2f (gating questions), 2j)</p>	ICANN	<p>This is a 6(1)(f) lawful basis because although there is likely a legitimate interest in providing mechanisms for safeguarding Registered Name Holders' Registration Data in the event of a business or technical failure, or other unavailability of a Registrar or Registry Operator, it is not technically necessary to transmit data to an escrow agent in order to allocate a string to a registered name holder, and is therefore not necessary to perform the registration contract.</p>

		Specification 2, Part B “Legal Requirements”, #6 under “Integrity and Confidentiality” stipulates how the release of a deposit is made.
4B-PA5: Retention of registration data by Data Escrow Agent (Charter Questions 2g)	ICANN	<p>This is a 6(1)(f) lawful basis due to the connection between the Retention processing activity with that of the Transmission of registration data to the Data Escrow Agent from the Registry.</p> <p>Specification 2, Part B “Legal Requirements”, #4 under “Integrity and Confidentiality” stipulates “(iii) keep and safeguard each Deposit for one (1) year.”</p> <p>Once a full escrow deposit has been successfully received and validated by the escrow agent, any previous deposits are obsolete and of no value. In the event of differential deposits, a 1-week retention would be required. The working group recommends that a 1 month minimum retention period by the escrow agent be established to provide an additional buffer against technical failure by the escrow agent.¹³</p>

Data Flow Map:

¹³ This preliminary recommendation should be validated to ensure technical requirements are not jeopardized by lowering the retention duration.



Data Element (Collected & Generated*)	Collection 4B-PA1	Transmission 4B-PA2	Disclosure 4B-PA3	Disclosure 4B-PA4	Retention 4B-PA5	
Domain Name		R	R	R	R	
Registry Domain ID*		R	R	R	R	
Registrar Whois Server*		R	R	R	R	
Registrar URL*		R	R	R	R	
Updated Date*		R	R	R	R	
Creation Date*		R	R	R	R	
Registry Expiry Date*		R	R	R	R	
Registrar Registration Expiration Date*		R	R	R	R	
Registrar*		R	R	R	R	
Registrar IANA ID*		R	R	R	R	
Registrar Abuse Contact Email*		R	R	R	R	
Registrar Abuse Contact Phone*		R	R	R	R	
Reseller*		R	R	R	R	

Commented [BC44]: Confirm only those Ry data elements that will transferred to the escrow provider.

Data Element (Collected & Generated*)	Collection 4B-PA1	Transmission 4B-PA2	Disclosure 4B-PA3	Disclosure 4B-PA4	Retention 4B-PA5	
Domain Status(es)*		R	R	R	R	
Registry Registrant ID*		R	R	R	R	
Registrant Fields						
<input checked="" type="checkbox"/> Name		R	R	R	R	
<input checked="" type="checkbox"/> Organization (opt.)		O ¹⁴	O	O	O	
<input checked="" type="checkbox"/> Street		R	R	R	R	
<input checked="" type="checkbox"/> City		R	R	R	R	
<input checked="" type="checkbox"/> State/province		R	R	R	R	
<input checked="" type="checkbox"/> Postal code		R	R	R	R	
<input checked="" type="checkbox"/> Country		R	R	R	R	
<input checked="" type="checkbox"/> Phone		R	R	R	R	
<input checked="" type="checkbox"/> Phone ext (opt.)		O	O	O	O	
<input checked="" type="checkbox"/> Fax (opt.)		O	O	O	O	
<input checked="" type="checkbox"/> Fax ext (opt.)		O	O	O	O	
<input checked="" type="checkbox"/> Email		R	R	R	R	
2nd E-Mail address						
Admin ID*						
Admin Fields						
<input checked="" type="checkbox"/> Name						
<input checked="" type="checkbox"/> Organization (opt.)						
<input checked="" type="checkbox"/> Street						
<input checked="" type="checkbox"/> City						
<input checked="" type="checkbox"/> State/province						
<input checked="" type="checkbox"/> Postal code						
<input checked="" type="checkbox"/> Country						
<input checked="" type="checkbox"/> Phone						
<input checked="" type="checkbox"/> Phone ext (opt.)						
<input checked="" type="checkbox"/> Fax (opt.)						
<input checked="" type="checkbox"/> Fax ext (opt.)						
<input checked="" type="checkbox"/> Email						
Tech ID*						
Tech Fields						
<input checked="" type="checkbox"/> Name		O	O	O	O	
<input checked="" type="checkbox"/> Organization (opt.)						
<input checked="" type="checkbox"/> Street						
<input checked="" type="checkbox"/> City						
<input checked="" type="checkbox"/> State/province						

Commented [BC44]: Confirm only those Ry data elements that will transferred to the escrow provider.

¹⁴ "optional" fields must be escrowed if data exists

Data Element (Collected & Generated*)	Collection 4B-PA1	Transmission 4B-PA2	Disclosure 4B-PA3	Disclosure 4B-PA4	Retention 4B-PA5	
<input type="checkbox"/> Postal code						
<input type="checkbox"/> Country						
<input type="checkbox"/> Phone		O	O	O	O	
<input type="checkbox"/> Phone ext (opt.)						
<input type="checkbox"/> Fax (opt.)						
<input type="checkbox"/> Fax ext (opt.)						
<input type="checkbox"/> Email		O	O	O	O	
NameServer(s)		R	R	R	R	
DNSSEC		R	R	R	R	
Name Server IP Address		R	R	R	R	
Last Update of Whois Database*		R	R	R	R	

Commented [BC44]: Confirm only those Ry data elements that will transferred to the escrow provider.

5

PURPOSE:

- 1) Handle contractual compliance monitoring requests and audit activities consistent with the terms of the registry agreement and the registrar accreditation agreements and any applicable data processing agreements, by processing specific data only as necessary;
- 2) Handle compliance complaints initiated by ICANN, or third parties consistent with the terms of the registry agreement and the registrar accreditation agreements.

Purpose Rationale:

1) If the purpose is based on an ICANN contract, cite the relevant section of the ICANN contracts that corresponds to the above purpose, if any.

RA - <https://newgtlds.icann.org/sites/default/files/agreements/agreement-approved-31jul17-en.html>

Registry:

2.2 Compliance with Consensus Policies and Temporary Policies

2.11 Contractual and Operational Compliance Audits

Specification 4, 3.1 Periodic Access to Thin Registration Data

Specification 11 Public Interest Commitments

RAA - <https://www.icann.org/resources/pages/approved-with-specs-2013-09-17-en>

Registrar:

Registrar Obligations - 3.4.3, 3.7.7

3.15 Registrar Self-Assessment and Audits

4.1 Compliance with Consensus Policies and Temporary Policies

Data Retention Specification, 2.

If a contractual compliance complaint is filed, the complainant provides certain information regarding the issue, which may contain personal data. Depending on the nature of the issue, ICANN Compliance may ask the Registrar or Registry Operator for the minimum data needed to investigate the complaint. Compliance may also look at the public WHOIS to supplement its review or processing.

For ICANN Contractual Compliance audits, ICANN sends audit questionnaires to Registry Operators and Registrars. In responding to the questionnaire, the Registry Operator and Registrar could include personal data in its responses.

Also, as part of Registry Operator audits, ICANN Contractual Compliance requests escrowed data to cross-reference information between data escrow and zone file and bulk registration data access for a sample of 25 domain names to ensure consistency.

2) Is the purpose in violation with ICANN's bylaws?

Commented [BC45]: Alan Greenberg 24 Jan email:

Add to Rationale statement:
To allow ICANN to carry out accuracy audits of registration contact data, ICANN may request from Registry Operators and Registrars the minimum data for randomly selected registrations.

No. Per ICANN's Mission, Section 1.1(a)(i):

"..In this role, ICANN's scope is to coordinate the development and implementation of policies:
That are developed through a bottom-up consensus-based multistakeholder process and designed to ensure the stable and secure operation of the Internet's unique names systems.
 ..The issues, policies, procedures, and principles addressed in Annex G-1 and Annex G-2 with respect to gTLD registrars and registries shall be deemed to be within ICANN's Mission."

3) Are there any "picket fence" considerations related to this purpose?

No. Registration Directory Services is within the "picket fence" as noted in ICANN Mission and Bylaws and contracts with ICANN to Registries and Registrars.

Lawfulness of Processing Test:

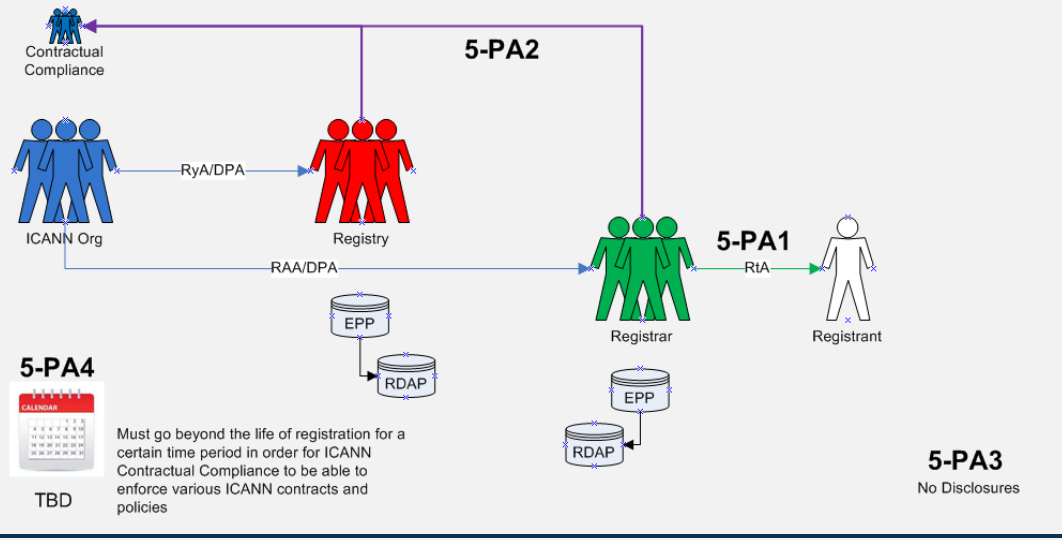
Processing Activity:	Responsible Party: (Charter Questions 3k, 3l, 3m)	Lawful Basis: (Is the processing necessary to achieve the purpose?)
5-PA1: Collection of registration data for compliance with ICANN contracts (Charter Question 2b)	ICANN	This is a 6(1)(f) purpose because although there may be a legitimate interest in collecting registration data for ICANN org compliance to confirm compliance with the RAA/RA, this collection is not technically necessary to perform the registration contract. The BC and IPC disagree that Purpose F is a 6(1)(f) purpose. The Team tentatively agreed to the following: (a) 6(1)(f) is an appropriate legal basis for the compliance purpose; (b) Some (BC and IPC) believe Purpose F may be a 6(1)(b); (c) There are concerns that 6(1)(f) may cause issues where the controller determines that the privacy rights outweigh the legitimate interest and therefore data cannot be provided.
5-PA2: Transmission of registration data to ICANN org compliance (Charter Questions 2c, 2d, 2e, 2i)	ICANN	This is a 6(1)(f) purpose because although there may be a legitimate interest in transmitting registration data to ICANN org compliance to confirm compliance with the RAA/RA, this transmission is not technically necessary to perform the registration contract.
5-PA3: Disclosure of registration data (Charter Questions 2f (gating questions), 2j)	N/A	N/A

Commented [BC46]: Alan Greenberg 24 Jan:
 Under F-PA2 replace "ICANN org compliance" with "ICANN org" (2 places)

5-PA4: Retention of registration data by ICANN Compliance (Charter Questions 2g)	ICANN	Must go beyond the life of registration for a certain time period in order for ICANN Contractual Compliance to be able to enforce various ICANN contracts and policies.
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Commented [BC47]: Under F-PA4 replace "ICANN Compliance" with "ICANN org" and add to Lawful Basis "May go beyond the life of registration in order to complete accuracy audit and compliance processing, not to exceed one year."

Data Flow Map:



Data Elements Matrix:

R= required, O=optional, N/A= not applicable

Data Element (Collected & Generated*)	Collection 5-PA1	Transmission 5-PA2	Disclosure 5-PA3	Retention 5-PA4		
Domain Name	R	R		R		
Registry Domain ID*	R	R		R		
Registrar Whois Server*	R	R		R		
Registrar URL*	R	R		R		
Updated Date*	R	R		R		
Creation Date*	R	R		R		
Registry Expiry Date*	R	R		R		
Registrar Registration Expiration Date*	R	R		R		
Registrar*	R	R		R		
Registrar IANA ID*	R	R		R		

Data Element (Collected & Generated*)	Collection 5-PA1	Transmission 5-PA2	Disclosure 5-PA3	Retention 5-PA4		
Registrar Abuse Contact Email*	R	R		R		
Registrar Abuse Contact Phone*	R	R		R		
Reseller*	R	R		R		
Domain Status(es) *	R	R		R		
Registry Registrant ID*	R	R		R		
Registrant Fields						
<input checked="" type="checkbox"/> Name	R	R		R		
<input checked="" type="checkbox"/> Organization (opt.)	O	O		O		
<input checked="" type="checkbox"/> Street	R	R		R		
<input checked="" type="checkbox"/> City	R	R		R		
<input checked="" type="checkbox"/> State/province	R	R		R		
<input checked="" type="checkbox"/> Postal code	R	R		R		
<input checked="" type="checkbox"/> Country	R	R		R		
<input checked="" type="checkbox"/> Phone	R	R		R		
<input checked="" type="checkbox"/> Phone ext (opt.)	O	O		O		
<input checked="" type="checkbox"/> Fax (opt.)	O	O		O		
<input checked="" type="checkbox"/> Fax ext (opt.)	O	O		O		
<input checked="" type="checkbox"/> Email	R	R		R		
2nd E-Mail address						
Admin ID*						
Admin Fields ¹⁵						
<input checked="" type="checkbox"/> Name						
<input checked="" type="checkbox"/> Organization (opt.)						
<input checked="" type="checkbox"/> Street						
<input checked="" type="checkbox"/> City						
<input checked="" type="checkbox"/> State/province						
<input checked="" type="checkbox"/> Postal code						
<input checked="" type="checkbox"/> Country						
<input checked="" type="checkbox"/> Phone						
<input checked="" type="checkbox"/> Phone ext (opt.)						
<input checked="" type="checkbox"/> Fax (opt.)						
<input checked="" type="checkbox"/> Fax ext (opt.)						
<input checked="" type="checkbox"/> Email						
Tech ID*	O	O		O		
Tech Fields ¹⁶						
<input checked="" type="checkbox"/> Name	O	O		O		

Commented [BC48]: Confirm

¹⁵ To be updated in line with what is decided for Purpose C – if this information is optional to provide, in those cases where it is provided, Compliance will need to be able to request those data fields if relevant for compliance requests.
¹⁶ Idem.

Data Element (Collected & Generated*)	Collection 5-PA1	Transmission 5-PA2	Disclosure 5-PA3	Retention 5-PA4		
<input type="checkbox"/> Organization (opt.)						
<input type="checkbox"/> Street						
<input type="checkbox"/> City						
<input type="checkbox"/> State/province						
<input type="checkbox"/> Postal code						
<input type="checkbox"/> Country						
<input type="checkbox"/> Phone	O	O		O		
<input type="checkbox"/> Phone ext (opt.)						
<input type="checkbox"/> Fax (opt.)						
<input type="checkbox"/> Fax ext (opt.)						
<input type="checkbox"/> Email	O	O		O		
NameServer(s)	R	R		R		
DNSSEC	R	R		R		
Name Server IP Address	R	R		R		
Last Update of Whois Database*	R	R		R		

6

PURPOSE:

Operationalize policies for the resolution of disputes regarding or relating to the registration of domain names (as opposed to the use of such domain names, but including where such policies take into account use of the domain names), namely the UDRP, URS, PDDRP, RRDRP, and the TDRP.

Purpose Rationale:

1) If the purpose is based on an ICANN contract, cite the relevant section of the ICANN contracts that corresponds to the above purpose, if any.

- RAA - <https://www.icann.org/resources/pages/approved-with-specs-2013-09-17-en>
 - Section 3.8
- RyA - <https://newgtlds.icann.org/sites/default/files/agreements/agreement-approved-31jul17-en.html>
 - Specification 7

ICANN Org to provide EPDP Team with copy of agreements with UDRP/URS providers in relation to data protection / transfer of data¹⁷ as well as the relevant data protection policies that dispute resolution providers have in place.

Rights Protection Mechanisms (RPMs) provisions exist within both the Registry and Registrar agreements as connected to ICANN Bylaws. This purpose is connected to Rights Protection Mechanisms of Uniform Dispute Resolution Mechanism (UDRP) and Uniform Rapid Suspension (URS), but it does not preclude RPMs that could be created or modified in the future.

RRDRP and PDDRP RPMs were also considered whether they should be connected to this purpose. While there was not agreement as to whether these RPMs involve registration data, they have been included in this workbook for purposes of the Initial Report.

2) Is the purpose in violation with ICANN's bylaws?

No.

ICANN bylaws, Section 1.1(a)(i), as a part of "Mission" refer to Annexes G1 and G2. Annex G-1 contains a provision for Registrars, "resolution of disputes regarding the registration of domain names (as opposed to the use of such domain names, but including where such policies take into account use of the domain names)" Annex G-2 also contains, "resolution of disputes regarding the registration of domain names (as opposed to the use of such domain names)".

3) Are there any "picket fence" considerations related to this purpose?

Commented [BC49]: After review of Purpose 6 Workbook, confirm:

- Confirm Rec #15 (john doe)
- Confirm Rec #16 (amended complaint)
- Confirm Rec #17 (standardized access changes RPM) deletion and mention of action item
- Confirm Rec #18 (DPAs w/ Org)

¹⁷ Draft Recommendation: Data processing agreements are necessary to ensure GDPR compliance. Recognizing that different agreements exist depending on the TLD, the working group recommends that ICANN and the RPM providers review the applicable agreement and where necessary negotiate new GDPR compliant data processing agreements.

Resolution of disputes regarding or relating to the registration of domain names (as opposed to the use of such domain names) are considered within the picket fence for the development of consensus policies. The purpose and the processing hereunder, as specified by the collection, transmission and disclosure of the data elements identified, are considered within the picket fence based upon the coordination, operationalization and facilitation of the dispute resolution mechanisms listed. The Temp Spec (Appendix D & E) now makes reference to who an RPM provider must contact based on Thick or Thin RDS to obtain registration data for the complaint.

Lawfulness of Processing Test:

Processing Activity:	Responsible Party: (Charter Questions 3k, 3l, 3m)	Lawful Basis: (Is the processing necessary to achieve the purpose?)
6-PA1: Collection of registration data to implement the UDRP and URS (Charter Question 2b)	ICANN Registrars	This is a 6(1)(b) purpose because it is necessary to collect registration data in order to facilitate/implement a UDRP or URS decision. For example, in the case of a UDRP/URS proceeding, the Registrant must agree to be bound by the UDRP/URS in order to register a domain name, so the collection of data for this purpose is necessary to fulfill the registration agreement.
	ICANN Registries	This is a 6(1)(f) purpose because ICANN and Registries do not have a direct contract with the registrant. The Registry must process data to fulfill its obligations regarding the RPMs, compliance with which are incorporated into the Registry Agreement. Under Article 6(1)(f) with regard to the URS and UDRP for registries and ICANN, because the processing is necessary for the purposes of pursued legitimate interests that are not overridden by the interests or fundamental rights and freedoms of the data subject. ¹⁸ With regard to this balancing test, we note that the contacts are important to ensure due process for the registrant so that they have notice of the proceedings and can avoid losing their domain name through a default.
6-PA2: Collection of registration data to implement the RDDR and PDDR	ICANN Registries Registrars	This is a 6(1)(f) with regard to the RDDR and PDDR for registrars, registries, and ICANN, because the processing is necessary for the purposes of pursued legitimate interests that are not overridden by the interests or fundamental rights and freedoms of the data subject.

¹⁸ Certain registrant contact information may be needed (e.g., in the UDRP context) for due process purposes in the registrant's benefit.

6-PA3: Transmission of registration data from Registrar to Registry (Charter Questions 2c, 2d, 2e, 2i)	ICANN Registrars	This is a 6(1)(b) purpose because transmission of (at least minimal) registration data from the Registrar to the Registry is necessary to identify the Registrant for purposes of dispute resolution.
	ICANN Registries	This is a 6(1)(f) purpose because although there is a legitimate interest in transmitting registration data to the Registry, this transmission is not technically necessary to perform the registration contract. The Registry must process data to fulfill its obligations regarding the RPMs and DRPs, compliance with which are incorporated into the Registry Agreement.
6-PA4: Transmission of registration data to dispute resolution provider to administer the UDRP, URS, RDDR, and PDDR (Charter Questions 2c, 2d, 2e, 2i)	ICANN Registries Registrars Dispute Resolution Provider – Processor or independent controller	6(1)(b) for Registrars 6(1)(f) for Registries and ICANN This is a 6(1)(f) purpose because although there may be a legitimate interest in transmitting registration data to Dispute Resolution Providers, this transmission is not technically necessary to perform the registration contract.
6-PA5: Disclosure of registration data used for complaints on dispute provider sites (Charter Questions 2f (gating questions), 2j)	Dispute Resolution Provider – Processor or independent controller	TBD
6-PA6: Retention of registration data used for complaints (Charter Questions 2g)	TBD	TBD The EPDP Team is not aware of any currently data retention requirements by dispute resolution providers. ¹⁹ Data retention requirement for registrars should be uniform with other requirements.

Commented [BC51]: Develop lawful basis text

Commented [BC50]: Should we include a Processing Activity that specifically identifies the Disclosure of registration data on an RPM Provider site for resolved disputes of URS and UDRP?

If yes, should the EPDP acknowledge that this disclosure is retained all time?

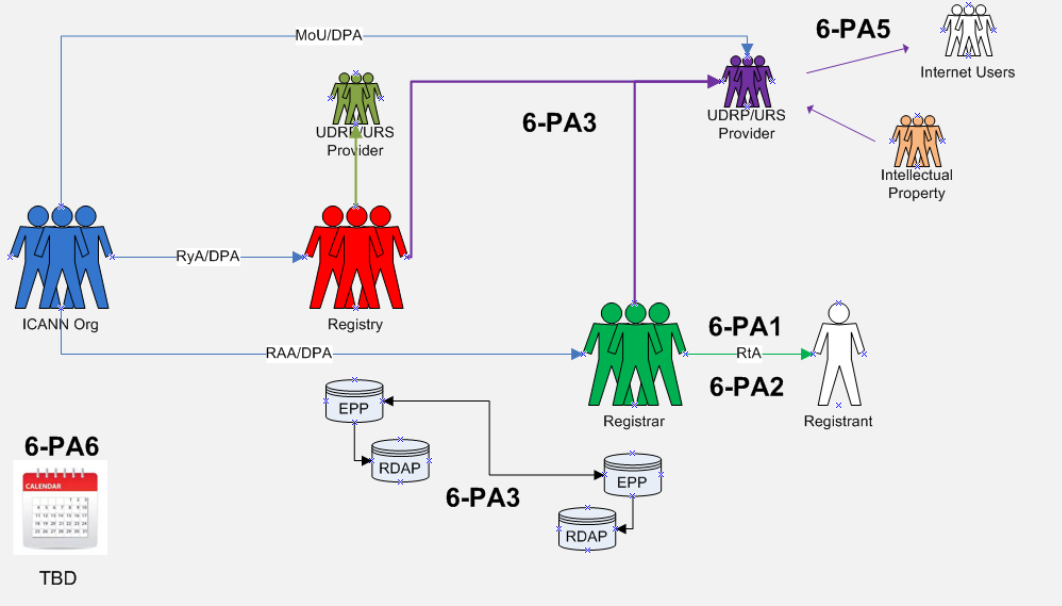
Commented [BC53]: Develop lawful basis text and footnotes.

Commented [BC52]: Should we document separate retention requirements for registration data provided to the Provider for processing the complaint versus what is ultimately displayed on complaint once processed and made available on the site?

Commented [BC54]: Deleted, as this is a recommendation within the report

¹⁹ WIPO's GDPR FAQ: Paragraph 4(j) of the UDRP mandates that "[a]ll decisions under this Policy will be published in full over the Internet, except when an Administrative Panel determines in an exceptional case to redact portions of its decision." In this respect, through their acceptance of the applicable registration terms and conditions, domain name registrants subject to a UDRP proceeding are bound by this provision as well as the other UDRP terms. Publication of party names in UDRP decisions is essential to the overall functioning of the UDRP in that it helps to explain the panel's findings, supports jurisprudential consistency, facilitates the conduct of other cases as appropriate, and furthermore can provide a deterrent effect. Against the background of the above-mentioned purposes, any request to redact a party's name from a decision should normally be submitted for the panel's consideration during the UDRP proceeding. Also in light of the above-mentioned reasons for full decision publication, any such request should be appropriately motivated.

Data Flow Map:



Data Elements Matrix:

R= required, O=optional, N/A= not applicable

Data Element (Collected & Generated*)	Collection 6-PA1	Collection 6-PA2	Transmission 6-PA3	Transmission 6-PA4	Disclosure 6-PA5	Retention 6-PA6
Domain Name	R	R	R	R	R	
Registry Domain ID*						
Registrar Whois Server*	R	R	R	R		
Registrar URL*	R	R	R	R		
Updated Date*	R	R	R	R		
Creation Date*	R	R	R	R		
Registry Expiry Date*	R	R	R	R		
Registrar Registration Expiration Date*	R	R	R	R		
Registrar*	R	R	R	R	R	
Registrar IANA ID*	R	R	R	R		
Registrar Abuse Contact Email*	R	R	R	R		
Registrar Abuse Contact Phone*	R	R	R	R		
Reseller*	R	R	R	R		
Domain Status(es)*	R	R	R	R		

Commented [BC55]: Brian Beckham; Head, Internet Dispute Resolution Section at WIPO

The ECO GDPR Domain Industry Playbook v.061 states that data for a UDRP proceeding “may be disclosed on the basis of Art. 6(1)(b).”

We submit that Art. 6(1)(f) is also applicable.

Note also that many global ccTLD policies require similar notification/due process as the UDRP.

As is also described in the WIPO Center informal Q&A concerning the GDPR as it relates to the UDRP – What is the legitimate purpose for which WIPO collects and processes personal data?

“The above-described information relates to registrar provision of non-public Whois data. As to WIPO’s role as a UDRP Provider subject to the UDRP Rules, the legitimate purpose for which personal data is collected and processed by WIPO flows from the administration of cases under the UDRP – this includes notably:

- assuring timely and reliable notice of UDRP complaints to domain name registrants (i.e., forwarding the complaint via email, and the Written Notice to all addresses available for the registrant);
- understanding the “mutual jurisdiction” in a particular case;
- relaying registrant information which a complainant is required to include in its UDRP complaint;
- allowing a UDRP complainant to amend, if it chooses, its complaint upon being apprised of the registrant’s contact details;
- providing the fullest possible record on which appointed panelists decide a UDRP case;
- within appropriate limits, providing case information legitimately retained by WIPO to parties involved in subsequent litigation;
- publishing a range of statistical information on domain name disputes.

The categories of personal data necessary for the administration of a UDRP cases are: names, postal addresses, email addresses, telephone numbers and fax numbers for complainants and domain name registrants (and any authorized representatives).”

Data Element (Collected & Generated*)	Collection 6-PA1	Collection 6-PA2	Transmission 6-PA3	Transmission 6-PA4	Disclosure 6-PA5	Retention 6-PA6
Registry Registrant ID*						
Registrant Fields						
<input checked="" type="checkbox"/> Name	R	R	R	R	R	
<input checked="" type="checkbox"/> Organization (opt.)	O	O	O	O	R	
<input checked="" type="checkbox"/> Street	R	R	R	R		
<input checked="" type="checkbox"/> City	R	R	R	R	R	
<input checked="" type="checkbox"/> State/province	R	R	R	R	R	
<input checked="" type="checkbox"/> Postal code	R	R	R	R		
<input checked="" type="checkbox"/> Country	R	R	R	R	R	
<input checked="" type="checkbox"/> Phone	O	O	O	O		
<input checked="" type="checkbox"/> Phone ext (opt.)	O	O	O	O		
<input checked="" type="checkbox"/> Fax (opt.)	O	O	O	O		
<input checked="" type="checkbox"/> Fax ext (opt.)	O	O	O	O		
<input checked="" type="checkbox"/> Email	R	R	R	R		
2nd E-Mail address						
Admin ID*						
Admin Fields						
<input checked="" type="checkbox"/> Name						
<input checked="" type="checkbox"/> Organization (opt.)						
<input checked="" type="checkbox"/> Street						
<input checked="" type="checkbox"/> City						
<input checked="" type="checkbox"/> State/province						
<input checked="" type="checkbox"/> Postal code						
<input checked="" type="checkbox"/> Country						
<input checked="" type="checkbox"/> Phone						
<input checked="" type="checkbox"/> Phone ext (opt.)						
<input checked="" type="checkbox"/> Fax (opt.)						
<input checked="" type="checkbox"/> Fax ext (opt.)						
<input checked="" type="checkbox"/> Email						
Tech ID*						
Tech Fields						
<input checked="" type="checkbox"/> Name						
<input checked="" type="checkbox"/> Organization (opt.)						
<input checked="" type="checkbox"/> Street						
<input checked="" type="checkbox"/> City						
<input checked="" type="checkbox"/> State/province						
<input checked="" type="checkbox"/> Postal code						
<input checked="" type="checkbox"/> Country						
<input checked="" type="checkbox"/> Phone						
<input checked="" type="checkbox"/> Phone ext (opt.)						

Commented [BC55]: Brian Beckham; Head, Internet Dispute Resolution Section at WIPO

The ECO GDPR Domain Industry Playbook v.061 states that data for a UDRP proceeding “may be disclosed on the basis of Art. 6(1)(b).”

We submit that Art. 6(1)(f) is also applicable.

Note also that many global ccTLD policies require similar notification/due process as the UDRP.

As is also described in the WIPO Center informal Q&A concerning the GDPR as it relates to the UDRP – What is the legitimate purpose for which WIPO collects and processes personal data?

“The above-described information relates to registrar provision of non-public Whois data. As to WIPO’s role as a UDRP Provider subject to the UDRP Rules, the legitimate purpose for which personal data is collected and processed by WIPO flows from the administration of cases under the UDRP – this includes notably:

- assuring timely and reliable notice of UDRP complaints to domain name registrants (i.e., forwarding the complaint via email, and the Written Notice to all addresses available for the registrant);
- understanding the “mutual jurisdiction” in a particular case;
- relaying registrant information which a complainant is required to include in its UDRP complaint;
- allowing a UDRP complainant to amend, if it chooses, its complaint upon being apprised of the registrant’s contact details;
- providing the fullest possible record on which appointed panelists decide a UDRP case;
- within appropriate limits, providing case information legitimately retained by WIPO to parties involved in subsequent litigation;
- publishing a range of statistical information on domain name disputes.

The categories of personal data necessary for the administration of a UDRP cases are: names, postal addresses, email addresses, telephone numbers and fax numbers for complainants and domain name registrants (and any authorized representatives).”

Data Element (Collected & Generated*)	Collection 6-PA1	Collection 6-PA2	Transmission 6-PA3	Transmission 6-PA4	Disclosure 6-PA5	Retention 6-PA6
<input type="checkbox"/> Fax (opt.)						
<input type="checkbox"/> Fax ext (opt.)						
<input type="checkbox"/> Email						
NameServer(s)						
DNSSEC						
Name Server IP Address						
Last Update of Whois Database*						

Commented [BC55]: Brian Beckham; Head, Internet Dispute Resolution Section at WIPO

The ECO GDPR Domain Industry Playbook v.061 states that data for a UDRP proceeding “may be disclosed on the basis of Art. 6(1)(b).”

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- allowing a UDRP complainant to amend, if it chooses, its complaint upon being apprised of the registrant’s contact details;
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- within appropriate limits, providing case information legitimately retained by WIPO to parties involved in subsequent litigation;
- publishing a range of statistical information on domain name disputes.

The categories of personal data necessary for the administration of a UDRP cases are: names, postal addresses, email addresses, telephone numbers and fax numbers for complainants and domain name registrants (and any authorized representatives).”

7

PURPOSE:

Enabling validation to confirm that Registered Name Holder meets gTLD registration policy eligibility criteria voluntarily adopted by Registry Operator and that are described or referenced in the Registry Agreement for that gTLD.²⁰

Purpose Rationale:

1) If the purpose is based on an ICANN contract, is this lawful as tested against GDPR and other laws?

Yes. Registry Agreement allows Registry Operators to establish, publish, and adhere to clear registration policies (e.g., Spec. 11, 3(d); Spec. 12; Spec. 13). See also ICANN Bylaws (Art. 1.1(a)(i) and Annex G-2). Enabling validation to confirm that Registered Name Holder meets registration policy eligibility criteria introduces innovation and differentiation in the gTLD space.

2) Is the purpose in violation with ICANN's bylaws?

No. This purpose is consistent with ICANN's Mission of coordinating the development and implementation of policies concerning the registration of second-level domain names in gTLDs (Introduction of New gTLDs and Applicant Guidebook), and principles for allocation of registered names in a TLD (Annex G-2)

3) Are there any "picket fence" considerations related to this purpose?

Within picket fence.

Commented [BC56]: Need to elaborate on how it's within the picket fence

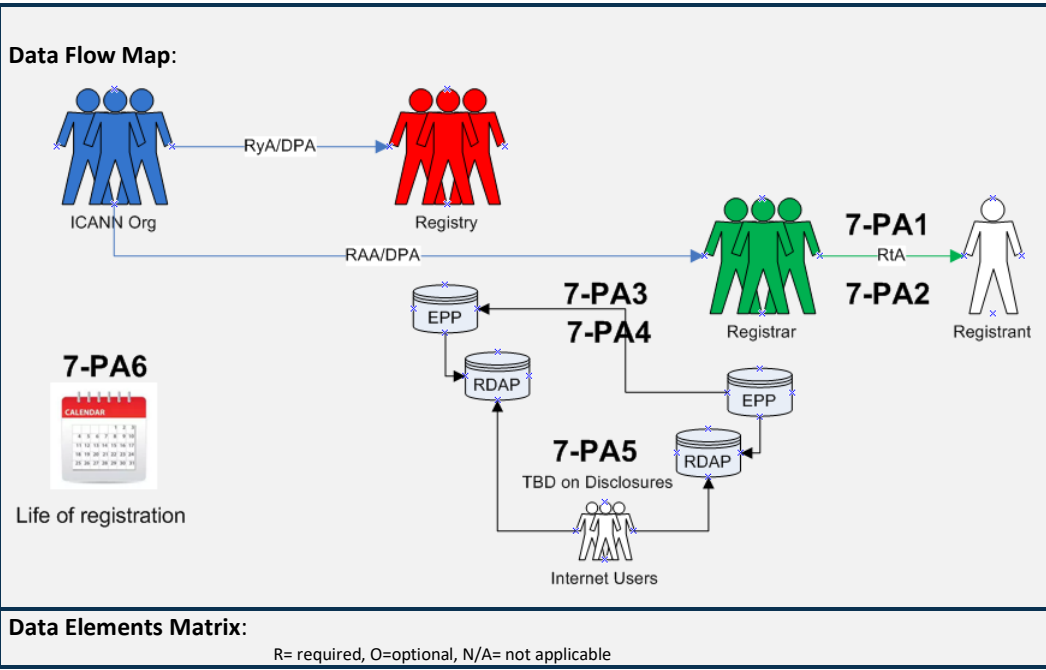
Lawfulness of Processing Test:

Processing Activity:	Responsible Party: <small>(Charter Questions 3k, 3l, 3m)</small>	Lawful Basis: <small>(Is the processing necessary to achieve the purpose?)</small>
7-PA1: Collecting specific data for Registry Agreement-mandated eligibility requirements <small>(Charter Question 2b)</small>	Registries	6(1)(b) (for ICANN, registrars- or Registry-mandated eligibility requirements) because it is necessary to collect specific Registrant data to confirm the registrant meets the specific requirements of the registration agreement, i.e., registrar needs to verify the registrant is a licensed attorney to register a .abogado domain name. 6(1)(f) for Registries, which are not parties to the registration agreement, but process the data in accordance with the obligations under the Registry-Registrar Agreement to allocate and activate domain names for registered name

²⁰ The EPDP Team's approval of Purpose 7 does not prevent and should not be interpreted as preventing Registry Operators from voluntarily adopting gTLD registration policy eligibility criteria that are not described or referenced in their respective Registry Agreements.

		holders that meet the registration policy eligibility requirements
7-PA2: Collecting specific data for Registry Operator-adopted eligibility requirements (Charter Question 2b)	Registries	6(1)(b) for Registrars because it is necessary to collect specific registrant data to confirm the registrant meets the specific requirements of the registration agreement, i.e., registrar needs to verify the registrant is a licensed attorney to register a .abogado domain name 6(1)(f) for Registries, which are not parties to the registration agreement, but process the data in accordance with the obligations under the Registry-Registrar Agreement to allocate and activate domain names for Registered Name Holders that meet the registration policy eligibility requirements
7-PA3: Transfer of registration data from registrar to registry (Charter Questions 2c, 2d, 2e, 2i)	RA-mandated eligibility requirements Registries	6(1)(b) for Registrars because transfer from Registrar to Registry of registration data elements that demonstrate satisfaction of registration policy eligibility criteria is necessary so that the registry may validate satisfaction of eligibility criteria, and comply with ICANN audit requests. 6(1)(f) for Registries. The transfer is necessary so that the Registry may validate satisfaction of eligibility criteria and comply with ICANN audit requests.
7-PA4: Transfer of registration data from registrar to registry (Charter Questions 2c, 2d, 2e, 2i)	Registry-adopted eligibility requirements Registries	6(1)(b) for registrars because transfer from registrar to registry of registration data elements that demonstrate satisfaction of registration policy eligibility criteria is necessary so that the registry may validate satisfaction of eligibility criteria. 6(1)(f) for registries. The transfer is necessary so that the registry may validate satisfaction of eligibility criteria and comply with ICANN audit requests.
7-PA5: Disclosure of registration data (Charter Questions 2f (gating questions), 2j)	Registries	N/A
7-PA6: Retention of registration data (Charter Questions 2g)	Registries	6(1)(f) Life of registration.

Commented [BC57]: Is this correct? Some Registries may want to have this published?



Data Elements Matrix:
R= required, O=optional, N/A= not applicable

Data Element (Collected & Generated*)	Collection 7-PA1	Collection 7-PA2	Transmission 7-PA3	Transmission 7-PA4	Disclosure 7-PA5	Retention 7-PA6
Domain Name						
Registry Domain ID*						
Registrar Whois Server*						
Registrar URL*						
Updated Date*						
Creation Date*						
Registry Expiry Date*						
Registrar Registration Expiration Date*						
Registrar*						
Registrar IANA ID*						
Registrar Abuse Contact Email*						
Registrar Abuse Contact Phone*						
Reseller*						
Domain Status(es)*						
Registry Registrant ID*						
Registrant Fields						

Data Element (Collected & Generated*)	Collection 7-PA1	Collection 7-PA2	Transmission 7-PA3	Transmission 7-PA4	Disclosure 7-PA5	Retention 7-PA6
- Name						
- Organization (opt.)						
- Street						
- City						
- State/province						
- Postal code						
- Country						
- Phone						
- Phone ext (opt.)						
- Fax (opt.)						
- Fax ext (opt.)						
- Email						
2nd E-Mail address						
Admin ID*						
Admin Fields						
- Name						
- Organization (opt.)						
- Street						
- City						
- State/province						
- Postal code						
- Country						
- Phone						
- Phone ext (opt.)						
- Fax (opt.)						
- Fax ext (opt.)						
- Email						
Tech ID*						
Tech Fields						
- Name						
- Organization (opt.)						
- Street						
- City						
- State/province						
- Postal code						
- Country						
- Phone						
- Phone ext (opt.)						
- Fax (opt.)						

Data Element (Collected & Generated*)	Collection 7-PA1	Collection 7-PA2	Transmission 7-PA3	Transmission 7-PA4	Disclosure 7-PA5	Retention 7-PA6
- Fax ext (opt.)						
- Email						
NameServer(s)						
DNSSEC						
Name Server IP Address						
Last Update of Whois Database*						
Other Data:						
- Additional data elements as identified by Registry Operator in its registration policy, such as (i) status as Registry Operator Affiliate or Trademark Licensee [MICROSOFT]; (ii) membership in community [ECO]; (iii) licensing, registration or appropriate permits [PHARMACY, LAW] place of domicile [NYC]; (iv) business entity or activity [BANK, BOT]	O	O	O	O	O	O