

At-Large's Subsequent Procedures Scorecard: Applicant Support Program (ASP)

CPWG SubPro Small Team

At-Large Consolidated Policy Working Group (CPWG) Call
Wednesday, 6 May 2020, 13:00 UTC



APPLICATION SUBMISSION

Topic/Area:	[15] APPLICANT SUPPORT PROGRAM (ASP)	Priority:	HIGH	Settled On:	05.05.2020
Related:	<ul style="list-style-type: none"> • Global South/Middle Applicant outreach – <i>Communication [2.4.2]</i> • Nature of support – use of funds, beyond funds, funding source • Criteria – Metrics • Accountability Mechanism – appeal against SARP evaluation determination • Contention set resolution involving ASP Applicants • Support – Accreditation Programs [2.2.6] • Application Fees [2.5.1] & Variable Fees [2.5.2] 				
Key Issues:	<p>The ASP for the 2012 application round offered USD2mil in financial support but yielded only 3 ASP applicants. Only 1 of the 3 ASP applicants was found to have met the selection criteria, resulting in 2 of the 3 applications being terminated. In hindsight, the selection criteria standard was said to have been set too high, driven primarily by overwhelming caution against risk of ‘gaming’.</p> <p>Four other issues which arise are to do with:</p> <ul style="list-style-type: none"> • Metrics for measuring success of ASP Program; • <i>Appeals process to SARP determinations (which did not exist before);</i> • <i>If successful ASP applicants should receive priority in contention sets (and under what circumstances); and</i> • <i>How far should ICANN-funded financial support be contemplated for successful ASP applicants? Should it be limited to just the application process or for eg, should it extend to registry fees for up to a limited period post delegation?</i> 				
Policy Goals:	<ul style="list-style-type: none"> • Increase “success” of program, using a set of metrics – awareness/outreach, total EOIs, total applicants, total ASP “grantees” etc • Provide financial support and non-financial support/pro-bono services to certain eligible applicants • Ensure that information about the program and participation in the program is accessible to the target audience. 				
Assigned CCT-RT Rec’s:	<ul style="list-style-type: none"> • Rec. 32: Revisit the Applicant Financial Support Program (prerequisite for SubPro) • Rec. 29: Set objectives/metrics for applications from the Global South (prerequisite for SubPro) • Rec. 30: Expand and improve outreach into the Global South (prerequisite for ICANN Org) • Rec. 31: ICANN Org to coordinate the pro bono assistance program (prerequisite for ICANN Org) 				
References:	<ul style="list-style-type: none"> • 06. SubPro Applicant Support – CPWG consensus summary, 22 April 2020 • 05. SubPro Applicant Support – CPWG consensus summary, 14 April 2020 • 04. SubPro Applicant Support – CPWG consensus building, 6, April 2020 • Working Document_SubPro ICANN67 Discussion Topics, 1 April 2020 				

	<ul style="list-style-type: none"> SubPro PDP WG Application Submission_Summary Document, 7 January 2020 02. SubPro Applicant Support Update to CPWG, 31 July 2019 	
What has SubPro PDP WG concluded?	<u>What will/might SubPro PDP WG recommend?</u>	Is this acceptable? If not What else needs to be done & by/with whom?
	WG notes CCT-RT Rec 32, “Revisit the Applicant Financial Support Program” has puts forward the following recommendations to support improving ASP in subsequent procedures.	CCT-RT Rec 32 not met satisfactorily: <ul style="list-style-type: none"> Actual metrics to measure success of ASP per CCT-RT Rec 29 or success of outreach and awareness to Global South per CCT-RT Rec 30 are not established but instead punted to IRT to develop. Subject to edits to Recommendation #2 re: CCT-RT Rec 31, ICANN must actively coordinate the pro-bono assistance program.
1. No objection to ASP continuing, successful applicants should enjoy financial support vis application fee reduction	<u>Affirmation (1) with modification:</u> WG affirms Implementation Guidance B from 2007, “Application fees will be designed to ensure that adequate resources exist to cover the total cost to administer the new gTLD process. Application fees may differ for applicants that qualify for applicant support. ” <u>WG’s Rationale</u> <ul style="list-style-type: none"> Supports general approach to application fees taken in 2012 round, and Implementation Guidance B, supports maintaining a reduced application fee for ASP recipients 	Yes, since impact is: <ul style="list-style-type: none"> Applicants that qualify will enjoy reduced application fee (the Financial Support limb) No further intervention needed.
2. ASP should: <ol style="list-style-type: none"> Be open to applicants regardless of their location as long as they meet program criteria – ie eligibility 	<u>Recommendation (2):</u> As per 2012 round, fee reduction must be available for select applicants who meet evaluation criteria through ASP.	Yes and no, meaning: <ul style="list-style-type: none"> Yes, ASP will continue in subsequent procedures & be available to eligible applicants

<p>b) Extend financial support beyond subsidy on application fees</p> <p>c) Target Global South & “Middle Applicant” (ie still struggling regions which may not be underserved or underdeveloped)</p>	<ul style="list-style-type: none"> • That ICANN continue to <u>facilitate</u> non-financial assistance including provision of pro-bono assistance to applicants in need. • WG believes high-level goals and eligibility requirements for ASP remain appropriate, noting however that since ASP not limited to LD countries in 2012 round, it should continue to be open to applicants regardless of location as long as they meet other program criteria. • Amend Implementation Guidance N to “ICANN must retain the ASP, which includes fee reduction for eligible applicants and facilitate the provision of pro-bono non-financial assistance to applicants in need.” <p><u>WG’s Rationale</u></p> <ul style="list-style-type: none"> • Believes financial assistance should continue to be provided to eligible applicants in order “to serve the global public interest by ensuring worldwide accessibility to, and competition within, the new gTLD Program” per 2012 round. • Believes high-level ASP eligibility requirements from 2012 remain appropriate – applicants must demonstrate financial need, provide public interest 	<ul style="list-style-type: none"> • No, per CCT-RT Rec 31, <u>ICANN Org must actively encourage and coordinate</u> participation of parties wishing to offer pro-bono assistance as well as communication between those parties and eligible applicants to ensure eligible applicants have effective access to pro-bono assistance, and not be left with just a list of offerors – advocate for this change. • Yes, since ASP will be available to applicants which meet eligibility criteria, <u>regardless of location.</u> <u>However, there is still need to press for requirement on demonstration of specific service to beneficiary target region or community</u> - advocate for IRT to ensure requirement that applicant must demonstrate how they would serve beneficiary target region or community, not propose merely a general public interest benefit as an evaluation criterion. • Yes, amendment is needed to regularize/ update existing Implementation Guidance N of “ICANN <u>may</u> put in place a <u>fee reduction scheme</u> for gTLD applicants from economies classified by the UN as <u>least developed.</u>”
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	benefit, and possess necessary management and financial capabilities – and for ASP to remain open to applicants regardless of location	
d) Extend financial support towards expenses like application writing fees, related attorney fees, <i>[ICANN registry-level fees]</i>	<p><u>Recommendation (3):</u> Expand scope of financial support to ASP beneficiaries beyond application fee to also cover costs such as application writing fees, attorney fees related to application process.</p> <p><u>WG's Rationale</u> Recognizes costs of applying for a TLD extend beyond application fee and these additional costs could be uncertain and prohibitive for applicants with limited financial resources.</p>	<ul style="list-style-type: none"> • Need to push the envelope on financial support to include operational costs, consistent with the ICANN Board's decision made in Nairobi in initiating the ASP which is for ICANN Community to find a way to support applicants that are in need of means to make the application and to operate. <p>Joint financing of Applicant Support applications</p> <ul style="list-style-type: none"> • ICANN Applicant Support must take account of the overall investment costs necessary for the success of the proposed independent Registry, including how these costs will be financed. • The financial evaluation of the application must be undertaken by qualified staff within ICANN Org. The applicant's submitted financial data should be kept confidential, except that in the event of joint financing by third party entities (e.g. regional development banks) such data would have to be shared under conditions of confidentiality and with the applicant's consent. • 'Portfolio applicants' or incumbent Registry/Registrar entities with 10 or more delegated gTLDs (new and legacy) are ineligible to apply for Applicant Support. • To be eligible for Applicant Support, an applicant for: <ul style="list-style-type: none"> ○ A geographic name string, must be incorporated in the jurisdiction corresponding to that geographic name,

		<p>on the basis of prior authorization and regardless of intended use of the string.</p> <ul style="list-style-type: none"> ○ A non-geographic name string, must not be incorporated in the jurisdiction of considered as tax havens by the OECD. ● To implement joint financing, ICANN Org must: <ul style="list-style-type: none"> (a) Undertake a review of the financing of independent gTLD applications arising from the 2012 Round. And publish the anonymised data arising from that review. This is not to be out-sourced. (b) Conduct a proactive information and promotional activity with possible third party entities to facilitate subsequent approaches from ICANN and applicants for Applicant Support. (c) Establish confidentiality rules and procedures with respect to the sharing of the applicants' information with third party entities, including all of the applicant's financial data.
<p>e) Employ longer lead times to create awareness, draw on regional experts, leverage tools & expertise to evaluate applicant business cases</p>	<p><u>Recommendation (4):</u></p> <ul style="list-style-type: none"> ● ICANN to improve outreach, awareness-raising, application evaluation, and program evaluation elements of the ASP, as proposed in the Implementation Guidance below <p><u>Implementation Guidance</u></p> <ul style="list-style-type: none"> ● Outreach and awareness-raising activities should be delivered well in advance to application window opening, as longer lead times help to promote more widespread knowledge about the program. Such 	<ul style="list-style-type: none"> ● The element of education around the business model for applicants as identified by AM Global Study is missing - advocate for the inclusion of this element business model education (eg. business case studies) to increase the utility of the ASP either within this recommendation or in a separate recommendation. ● Yes, outreach was very poor for 2012 round.

<p>f) Consider number of successful applicants as a measure of success – PROGRAM METRICS framework for measuring success</p>	<p>outreach and education should commence no later than the start of the Communication Period.</p> <ul style="list-style-type: none"> • A dedicated IRT be established / charged with developing implementation elements of ASP – giving regard to the JAS WG Final Report and 2012 implementation of ASP. • Outreach efforts should not only target the Global South, but also “middle applicants” (those located in struggling regions that are further along in development compared to underserved or underdeveloped regions. Evaluation criteria in ASP must treat “middle applicants” similar to those benefiting LDCs, LLDCs, SIDS per UNDESA list • Support PIRR rec 6.1.b, “Consider researching globally recognized procedures that could be adopted for implementing ASP” • Have dedicated IRT should draw on experts with relevant knowledge, including from targeted regions, to develop appropriate program elements related to outreach, education and application evaluation. Regional experts may be particularly helpful in providing insight on the evaluation of business plans from different parts of the world. <ul style="list-style-type: none"> • Dedicated IRT should seek advice from experts in the field to develop framework for analysis of metrics to evaluate success of ASP (egs given) <p><u>WG’s Rationale</u></p> <ul style="list-style-type: none"> • Need to exploit opportunities for improvement in outreach, awareness-raising, application evaluation, 	<ul style="list-style-type: none"> • Work with ICANN Org on definition of “Global South”, or agreement on how to describe underserved or underrepresented regions. <ul style="list-style-type: none"> • This highly necessary yet it has been punted off to IRT; CCT-RT Rec. 29 not met.
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	<p>program evaluation elements of ASP, best done through a dedicated IRT</p> <ul style="list-style-type: none"> • Believes main factor in low uptake due to limited time to conduct outreach between finalization of ASP details – application window launch • Notes AM Global Report – importance of timely and effective outreach and communications re New gTLD Program to better reach potential applicants in Global South and emerging markets – conclusion can be applied to ASP • Considered ALAC Advice to Board of 2011 emphasizing importance of outreach in implementing ASP • Notes CCT-RT Rec 30, “Expand and improve outreach into the Global South.” • Believes “middle applicants” are an important potential target of ASP because better positioned to operate a TLD or in a market more ready for expansion but may still require some assistance – IRT to define “middle applicant” • Agrees with PIRR that globally recognized procedures eg from World Bank, could potentially be adapted for use in ASP – IRT to identify such procedures in implementation phase • Important for dedicated IRT to consult relevant experts in implementing ASP to allow best practices, leveraging knowledge on target regions • Dedicated IRT should work with experts to develop metrics to evaluate success of ASP • WG notes CCT-RT Rec 29, “Set objectives/metrics for application from the Global South.” 	
	<p><u>Recommendation (5):</u></p>	<p>Yes, since impact:</p>

	<p>Support PIRR rec 6.1.a, “Consider leveraging the same procedural practices used for other panels, incl. publication of process documents and documentation of rationale.”</p> <p><u>WG’s Rationale</u> Agrees with PIRR conclusion that lessons learned from implementation of other evaluation panels, where applicable, to SARP.</p>	<ul style="list-style-type: none"> Assists with transparency and predictability for applicants and community. Documentation of rationale particularly assist with appeals process. <p>No further intervention needed.</p>
3. Source of ASP funding	<p><u>Recommendation (6):</u> ICANN Org must develop plan for funding ASP, as proposed in IG below</p> <p><u>Implementation Guidance</u></p> <ul style="list-style-type: none"> ICANN Org should evaluate whether it can provide funds (per 2012) or whether additional funding is needed for the ASP in subsequent rounds ICANN Org should seek funding partners to help financially support the ASP as appropriate <p><u>WG’s Rationale</u></p> <ul style="list-style-type: none"> Need for clear plan for funding ASP ICANN needs to evaluate extent to which funds will be provided from ICANN Org budget and if additional funding is needed, additional funding sources 	<p>Need more concrete steps</p> <ul style="list-style-type: none"> Advocate for ICANN Org to actively inform, encourage and liaise with National banks and aid agencies worldwide to participate in sponsoring applicants or ASP funding.
4. No automatic termination of applications which do not meet ASP criteria	<p><u>Recommendation (7):</u></p> <ul style="list-style-type: none"> Unless the SARP reasonably believes there was willful gaming, applicants who are not awarded Applicant Support (whether “Qualified” or “Disqualified”) must have the option to pay balance of full standard application fee and transfer to standard application process. 	<p>Yes, we advocated strongly for this. Unsuccessful ASP applicants should be allowed to choose either withdraw or transfer to standard application regime, with reasonable time given to pay balance application fee amount if choose to transfer.</p> <p>Mirrors, in part, our comments of</p>

	<ul style="list-style-type: none"> Applicants must have limited period of time to provide any additional information necessary to convert theirs to a standard application, without causing unreasonable delay to other elements or other applicants eg in a contention set. <p><u>WG's Rationale</u></p> <ul style="list-style-type: none"> A number of groups raised in PC concerns that candidates who were good match for the ASP may have been deterred to apply in 2012 because of "automatic termination if do not pass ASP evaluation" limitation Because of low update in 2012, beneficial to adjust rules to invite more prospective candidates in target groups – allowing opportunity to transfer to standard application is important equation to attract eligible applicants Re concerns on there being no penalties / mechanism to prevent gaming, no geographic limitations may lead to increased ASP applications, impact costs to process applications and to fund applicants, that SARP be tasked to weed out wilful gaming Additional measures, like quick look mechanism, to help reduce gaming risk – further consideration needed in implementation phase 	<ul style="list-style-type: none"> Allowing applicants whose applications do not meet requirements of ASP to choose whether to withdraw or transfer those applications to standard application regime, with reasonable time give to pay balance application fee amount if choose to transfer Provided no wilful gaming determined by Support Application Review Panel (SARP) during evaluation – wilful gamers should be penalized via ban for specified period i.e. No automatic termination of applications which do not meet ASP criteria <p>Monitor during implementation:</p> <ul style="list-style-type: none"> Expanding SARP's evaluation methodology to include determination of wilful gaming Development of broad agreement on penalty to be applied to applicants found to be wilful gamers.
	<p><u>Recommendation (8):</u> The Financial Assistance Handbook or its successor, subject to changes included in the above recommendations, must be incorporated into the AGB for subsequent rounds.</p> <p><u>WG's Rationale</u></p>	<p>Yes, since impact:</p> <ul style="list-style-type: none"> Updating of Financial Assistance Handbook. Incorporation of Financial Assistance Handbook into AGB means has to be ready prior to and becomes part of AGB. <p>No further intervention needed.</p>

	<ul style="list-style-type: none"> In service of transparency and predictability, the Financial Assistance Handbook should be published as part of the AGB 	
5. SARP evaluations ought to be appealable	SARP evaluations to be part of new Accountability Framework	Yes, but need to monitor cost of filing, losing appeals.
What has SubPro PDP WG concluded?	<u>What SubPro PDP WG will likely omit?</u>	Is this acceptable? If not, what else needs to be done and by/with whom?
6. No consensus for priority to successful ASP applicant in string contention	Any recommendation on priority for successful ASP applicant in string contention	<ul style="list-style-type: none"> We commented, “Applicants who are subject to string contention resolution procedures and auctions are expected to have the financial wherewithal to see through the resolution procedure or participate in an auction as a last resort. Applicants who qualify for ASP are by default disadvantaged in this regard given their need to obtain Application Support in the first place. On this basis, propose that <u>an applicant who qualifies for ASP should be given priority in any string contention set, and not be subjected to any further string contention resolution process.</u>” “In advocating for greater participation in New gTLD Program – to meet need for diversity, competition, choice etc – priority in string contention ought to be given to successful ASP applicants.” A denial of outright priority in string contention to a successful ASP applicant demands inclusion of provisions to help level the playing field for successful ASP applicants to effectively compete in an auction of last resort against applicants that are better resourced and not in need of application or operational support.
7. Dedicated Application Round for ASP potential applicants	<ul style="list-style-type: none"> Any recommendation for separate application windows based on types of applications 	<ul style="list-style-type: none"> We commented, “Some support for dedicated round for applicants from developing countries

		<p>and which proposes to benefit communities in developing countries or indigenous communities.”</p> <ul style="list-style-type: none"> • Some support = no consensus • To be revisited under “Applications Assessed in Rounds” topic
PENDING ISSUES:	SubPro PDP WG reaction	What else needs to be done and by/with whom?
8. Priority to successful applicants – Method for selecting recipients if applicants exceeds funds allocated	WG did not come to a conclusion on whether to depart from 2012 approach in establishing priority between application if there were more qualified applicants than funds available – therefore did not recommend departure	<ul style="list-style-type: none"> • If expecting uptake to improve then more consideration ought to be given to having established approach • We had suggested: <ul style="list-style-type: none"> ▪ Using points earned during evaluation to determine dispersion of funds if there are more applicants than funds ▪ Using “quota per region” approach
9. Dealing with risk of gaming – Effect of Transfer on timing of ASP process	<ul style="list-style-type: none"> • WG noted recommendation to allow unsuccessful ASP candidates to transfer to a standard application raises questions about timing of the ASP process relative to timing of overall application evaluation process • WG considered a proposal to address concerns about gaming associated with transfer but found that under that proposal, ASP applicant had no information to gain, and is therefore not in a position to game the system. 	No further intervention needed
Main Positions of Concern:	<p><u>On CCT-RT Recommendations</u></p> <ul style="list-style-type: none"> • CCT-RT Rec 32 not met satisfactorily: <ul style="list-style-type: none"> ○ Actual metrics to measure success of ASP per CCT-RT Rec 29 or success of outreach and awareness to Global South per CCT-RT Rec 30 are not addressed by way of policy but instead ‘delegated’ to implementation ○ Subject to edits to Recommendation #2 re: CCT-RT Rec 31, ICANN must actively coordinate the pro-bono assistance program. <p><u>On SubPro Recommendations</u></p>	

- Need to push the envelope on financial support to include operational costs, consistent with the ICANN Board’s decision made in Nairobi in initiating the ASP which is for ICANN Community to find a way to support applicants that are in need of means to make the application and to operate.
- Need to advocate for inclusion of business model education (eg. business case studies) to increase the utility of the ASP either within this recommendation or in a separate recommendation.
- Need more concrete steps to secure funding for ASP - advocate for ICANN Org to actively inform, encourage and liaise with National banks and aid agencies worldwide to participate in sponsoring applicants or ASP funding.
- In advocating for greater participation in New gTLD Program – to meet need for diversity, competition, choice etc – an applicant who qualifies for ASP should be given priority in any string contention set, and not be subjected to any further string contention resolution process, especially an auction which such an application would be inherently disadvantaged in this regard given their need to obtain Application Support in the first place.
 - A denial of outright priority in string contention to a successful ASP applicant demands inclusion of provisions to help level the playing field for successful ASP applicants to effectively compete in an auction of last resort against applicants that are better resourced and not in need of application or operational support – eg allowing benefit of multiplier in auction bids for successful ASP applicants.
- If expecting uptake in applications for ASP then more consideration must be given for an established approach or method for further selection of recipients if the number of applicants who qualify exceeds funds allocated.
- At-Large to monitor during implementation:
 - (i) Expanding SARP’s evaluation methodology to include determination of wilful gaming
 - (ii) Development of broad agreement on penalty to be applied to applicants found to be wilful gamers.