2.4.1 Applicant Guidebook

a. Recommendations and/or implementation guidelines

Affirmation xx: The Working Group affirms that an Applicant Guidebook should be utilized for future new gTLD procedures as was the case in the implementation 2012 application round.

Recommendation xx: The Working Group recommends focusing on the user when drafting future versions of the Applicant Guidebook (AGB) and prioritizing **usability, clarity**, and **practicality** in developing the AGB for subsequent procedures. The AGB should effectively address the needs of new applicants as well as those already familiar with the application process. It should also effectively serve those who do not speak English as a first language in addition to native English speakers.

> Implementation Guidance xx: To promote **usability and clarity**, write the Applicant Guidebook using Plain Language standards to the extent possible and avoid complex legal terminology when it is not necessary.[1]

> Implementation Guidance xx: To ensure that the AGB is a **practical** resource for users, the core text of the AGB should be focused on the application process. Historical context and policy should be included in appendices or a companion guide, while remaining linked to relevant AGB provisions. The Working Group suggests including step-by-step instructions for applicants with clear guidance about how the process may vary in the case of applications for different categories of TLDs or other variable situations.

> Implementation Guidance xx: In service of **usability**, ensure that the AGB has a robust Table of Contents and Index. The online version should be tagged and searchable, so that users may easily find sections of text that are applicable to them.

> Implementation Guidance xx: In addition to the base Registry Agreement and the Applicant Terms and Conditions, any other Agreements or Terms of Use associated with systems access (including those required to be "clicked-through") should be referenced in the Applicant Guidebook and published at the same time as the final Applicant Guidebook. See also Implementation Guidance xx in Section 2.4.3 (Systems).

b. Deliberations and rationale for recommendations and/or implementation guidelines.

The Working Group generally agreed that an AGB of some form should continue to be utilized in future waves of applications. The Working Group recommendations and Implementation Guidance therefore focus on ways to improve the AGB to better serve key programmatic goals. The Working Group considered the importance of ensuring that the New gTLD Program is

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[1] https://www.plainlanguage.gov/about/definitions/

widely accessible and easy to understand for a broad, global audience. Noting that the AGB is the central resource for applicants to find information and instructions regarding the application process, the Working Group developed recommendations and implementation guidance that support usability, clarity, and practicality of the AGB for its primary audience.

c. New issues raised in deliberations since publication of the Initial Report, if applicable.

In reviewing public comments on the Initial Report, the Working Group found that respondents were largely supportive of the preliminary recommendations included in this Section. Therefore, additional discussions on this topic focused on ensuring that recommendations are as clear and concise as possible to support effective interpretation and implementation by ICANN org. In particular, the Working Group discussed and agreed that greater specificity should be provided with respect to any Implementation Guidance related to Agreements/Terms of Use for applicants. Revised Implementation Guidance has been clarified in this regard.

d. Dependencies/relationships with other areas of this report or external efforts.

None identified.

2.4.2 Communications

a. Recommendations and/or implementation guidelines

Affirmation xx: The Working Group affirms Implementation Guideline C, Implementation Guideline E, Implementation Guideline M, and Implementation Guideline O from the 2007 Final Report:
- Implementation Guideline C: "ICANN will provide frequent communications with applicants and the public including comment forums which will be used to inform evaluation panels."
- Implementation Guideline E: ""The application submission date will be at least four (4) months after the issue of the Request for Proposal and ICANN will promote the opening of the application round."
- Implementation Guideline M: "ICANN may establish a capacity building and support mechanism aiming at facilitating effective communication on important and technical Internet governance functions in a way that no longer requires all participants in the conversation to be able to read and write English."
- Implementation Guideline O: "ICANN may put in place systems that could provide information about the gTLD process in major languages other than English, for example, in the six working languages of the United Nations."

Recommendation xx: The Working Group believes that an effective communications strategy and plan is needed to support the goals of the program. Accordingly, the Working Group *recommends* that the New gTLD communications plan must be developed with **timeliness, broad outreach and accessibility** as key priorities. The communications plan must be targeted

to achieve the goals of the New gTLD Program as articulated. The plan must include a communications period commensurate in length to achieve those goals [==TBD, include reference(s)==].

> Implementation Guidance xx.a: For **timeliness**, the Working Group believes that for the next subsequent round there should continue to be a minimum of four (4) months from the time when the Applicant Guidebook is finalized and the application submission period begins. While this Implementation Guidance should serve as the minimum, additional time may be needed based on other factors such as the RSP pre-approval process, the level of substantive change to the program during implementation, etc. Essentially, the communications plan should be commensurate with the time needed to perform elements like the non-exhaustive list below:
> - Outreach related to Applicant Support
> - Establishing and allowing interested parties to engage in the RSP pre-approval process
>
> Implementation Guidance xx.b: Consistent with the recommendations in section 2.2.3 Applications Assessed in Rounds, the Working Group believes that a shorter communications period (i.e., less than the minimum 4 months stated above) may be needed for subsequent rounds if and when a steady state for application submission windows is established.
>
> Implementation Guidance xx.c: For **broad outreach**, the Working Group believes that consistent with recommendation 8.4.b from ICANN org's Program Implementation Review Report, the program should "Leverage ICANN's Global Stakeholder Engagement (GSE) team to promote awareness of the New gTLD Program within their regions/constituencies." The Working Group believes that the GSE team could be leveraged to support the dissemination of program information and supporting education and overall outreach. The various Supporting Organizations and Advisory Committees are also important partners in sharing information.
>
> Implementation Guidance xx.d: For **accessibility**, the Working Group stresses the need for a single, well-designed website dedicated to the New gTLD Program to support the sharing and accessibility of program information, which is consistent with recommendation 8.4.a from ICANN org's Program Implementation Review Report. Once on the site, broadly speaking, users should be able to obtain information they are seeking in an effective manner. To that end, the Working Group has suggested specific elements for consideration:
> - Continue to maintain an online knowledge base, but ensure that it is robust, easy to search and navigate, is updated on a timely basis, and emphasizes issues with wide-ranging impact.
> - Create an opt-in based notification system for applicants to receive program updates and application-specific updates.

Implementation Guidance xx.e: For **timeliness and accessibility as it relates to applicant communications**, the Working Group believes that robust customer support is needed to address substantive and logistical questions as well as inquiries regarding use of applicant-facing systems. Real-time communication methods are preferred (e.g., telephone, online chat), but the Working Group recognizes that these forms of communication are costly. Further, the Working Group also recognizes that there may need to be different methods utilized. For instance, technical support for submitting an application may be different than responding to substantive inquiries about completing an application.

b. Deliberations and rationale for recommendations and/or implementation guidelines

The Working Group was in wide agreement that the New gTLD Program's communications plan should serve the goals of raising awareness about the New gTLD Program to as many potential applicants as possible around the world and making sure that potential applicants know about the program in time to apply. To serve this objective, the WG determined that the focus should be on **timeliness, broad outreach and accessibility**. As a result, the Working Group focused on specific suggestions that would further those high-level goals. Public comment received was largely supportive of the Working Group's preliminary outcomes and accordingly, they have been carried forth as Implementation Guidance in this report.

c. New issues raised in deliberations since publication of the Initial Report, if applicable.

Public comments received suggested that while there may be goals specific to the communications plan, the communications plan itself should be designed to help achieve the goals for the New gTLD Program. The Working Group felt this was a helpful distinction and accordingly, integrated this element into the recommendation above.

d. Dependencies/relationships with other areas of this report or external efforts

- The communications plan should be consistent with the overall goals of the program (e.g., metrics established in section 2.2.1 Continuing Subsequent Procedures), as well as goals specific to certain elements (e.g., the success factors in 2.5.4 Applicant Support).
- The structure of application windows (see 2.2.3 Applications Assessed in Rounds) may impact the length of time needed to perform outreach.

2.4.3 Systems

a. Recommendations and/or implementation guidelines

Affirmation xx: The WG affirms Implementation Guideline O from the 2007 Final Report, which states: ""ICANN may put in place systems that could provide information about the gTLD process in major languages other than English, for example, in the six working languages of the United Nations."

Recommendation xx: The design, development, and deployment of applicant-facing systems should prioritize **security, stability, usability, and a positive user experience** following industry best practices.

> Implementation Guidance xx: In support of **security, stability, usability, and a positive user experience,** systems must be designed and developed well in advance of the point that they need to be used by applicants, so that there is sufficient time for system testing without causing undue delay. System tests should follow industry best practices and ensure that all tools meet security, stability, and usability requirements and that confidential data will be kept private. This recommendation affirms recommendation 8.1.a in the Program Implementation Review Report, which states: "In developing timelines for future application rounds, provide an appropriate amount of time to allow for the use of best practices in system development."

> Implementation Guidance xx: In support of improved **usability**, the Working Group advises that ICANN org may want to leverage prospective end-users to beta test systems, perhaps by setting up an Operational Test and Evaluation environment. The Working Group notes that if beta testing is conducted, users who test the tools should not receive any unfair advantage in the application process. The Working Group notes however that the mere access to users beta testing does not in and of itself constitute such an unfair advantage. It further notes, that ICANN org did not have an end user beta testing program in 2012 because it asserted that allowing some users to have access to the system for beta testing system provided those users with an advantage over others.

> This implementation guidance affirms recommendation 8.1.b in the Program Implementation Review Report, which states: "Explore beta testing for systems to allow for lessons learned, to increase effectiveness of such systems, and to provide further transparency, clarity, and opportunity for preparation to applicants."

> Implementation Guidance xx: In support of improved **usability**, the Working Group suggests integrating systems to the extent possible and simplifying login management. Specifically, if the use of multiple systems are required, the Working Group encourages enabling users to access different systems using a single login and, as recommended in the Program Implementation Review Report (recommendation 1.1.b), "Implement a system that would allow applicants the flexibility to associate as many applications as desired to a single user account."

> Implementation Guidance xx: In support of improved **usability**, the Working Group suggests that specific data entry fields in applicant-facing systems should accept non-

ASCII characters. Examples of appropriate fields include applied-for string, name, and contact information.

Implementation Guidance xx: The Working Group suggests a number of feature enhancements to support an improved **user experience**. Specifically, the Working Group suggests the following capabilities for applicant-facing systems:
- provide applicants with automated confirmation emails.
- provide applicants with automated invoices for application-related fees.
- allow applicants to view historical changes that have been made to the application both during the application and evaluation phases.   [changes made by whom? Need to clarify].
- allow applicants to upload application documents into the application system.
- allow applicants to auto-fill information/documentation in multiple fields across applications. This functionality should only be enabled in a limited number of fields where it would be appropriate for responses to be identical. It should not be possible to auto-fill mission, purpose and non-standard services to be rendered.
- allow applicants to specify additional contacts to receive communication about the application and/or access the application and specify different levels of access for these additional points of contact.

Recommendation xx: The principles of **predictability and transparency** should be observed in the deployment and operation of applicant-facing systems.

Implementation Guidance xx.a: To ensure **predictability** and minimize obstacles and legal burdens for applicants, any Agreements or Terms of Use associated with systems access (including those required to be "clicked-through") should be finalized in advance of the Applicant Guidebook's publication and published with the AGB. See also Implementation Guidance xx in Section 2.4.1 (Applicant Guidebook).

Implementation Guidance xx.b: In service of **transparency**, once the systems are in use, ICANN should communicate any system changes that may impact applicants or the application process. Processes described under Section 2.2.2 (Predictability) should be followed.

b. Deliberations and rationale for recommendations and/or implementation guidelines

The Working Group believes that applicant-facing systems should facilitate the application process in an effective manner consistent with industry best practices. Recommendations and Implementation Guidance aimed at improving usability and user experience seek to minimize unnecessary logistical barriers to completing the application process. The Working Group further emphasizes security and stability to ensure that trust with potential applicants is maintained and users have a high-level of confidence that data is being handled safely and appropriately. In developing recommendations regarding security and stability, the Working Group carefully reviewed and considered security incidents related to systems in the 2012

round that are detailed in the Program Implementation Review Report. Recommendations and Implementation Guidance regarding predictability and transparency reflect broader goals for the New gTLD Program that are discussed throughout this Report.

The Working Group understands that some of the system enhancements included in the Implementation Guidance for this section would result in added complexity, cost, and time to implement systems. The Working Group recognizes that ICANN org will need to balance different priorities in the implementation of applicant-facing systems and consider this guidance in the broader context of different objectives and constraints. Nonetheless, the Working Group sees value in detailing specific changes that it believes would improve the applicant experience and make systems easier to use.

c. New issues raised in deliberations since publication of the Initial Report, if applicable.

In preliminary recommendations, the Working Group considered providing guidance on disclosure requirements regarding data breaches in applicant-facing systems. In its public comment on the Initial Report, ICANN org clarified that the ICANN organization's Cybersecurity Transparency Guidelines and Coordinated Vulnerability Disclosure Reporting at ICANN[2] governs how ICANN org discloses major security vulnerabilities and resulting incidents that cause significant risk to the security of ICANN's systems, or to the rights and interests of data subjects, or otherwise require disclosure under applicable legal requirements. Given that these guidelines cover the data breach scenarios discussed in the Working Group, the Working Group emphasizes the importance of timely disclosure of data breaches to potentially affected parties but does not feel that any additional specific guidance is needed at this time.

In reviewing public comments, the Working Group reviewed the preliminary recommendation to allow applicants to reproduce, or "auto-fill", responses from one application into another application. Concerns were raised by some Working Group members that each application should be unique and that by enabling auto-fill, systems would undermine the distinct and individualized nature of applications. Others challenged whether the Working Group was in agreement that unique applications are a goal of the program and even if so, whether the Systems topic was the appropriate venue for discussion on program goals. In further deliberations, the Working Group nevertheless agreed that auto-fill could be allowed in a limited number of fields without jeopardizing the unique nature of applications, as long as it was not allowed in fields related to mission, purpose, and services to be rendered.

d. Dependencies/relationships with other areas of this report or external efforts

Predictability, Customer Support/Global Support Center/[Applicant Support?], Applicant Guidebook [Regarding Agreements and Terms of Use]

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2 https://www.icann.org/cybersecurityincidentlog

2.5.1 Application Fees & 2.5.2 Variable Fees

a. Recommendations and/or implementation guidelines

Affirmation xx (rationale 1)**:** The Working Group affirms that as was the case in the 2012 round, all applications in subsequent procedures should pay the same base application fee regardless of the type of application or the number of applications that the same applicant submits. This would not preclude the possibility of additional fees in certain circumstances, as was the case in the 2012 round of the program (e.g., Community Priority Evaluation, Registry Service Evaluation Process, etc.). The Working Group notes that as was the case in the 2012 round, successful candidates for the Applicant Support Program will be eligible for a reduced application fee.

Affirmation xx (rationale 2): The Working Group affirms Implementation Guideline B: "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."

Affirmation xx (rationale 2)**:** The Working Group generally affirms the principle of cost recovery reflected in the 2012 Applicant Guidebook: "The gTLD evaluation fee is set to recover costs associated with the new gTLD program. The fee is set to ensure that the program is fully funded and revenue neutral and is not subsidized by existing contributions from ICANN funding sources, including generic TLD registries and registrars, ccTLD contributions and RIR contributions." As noted in the implementation guidance below, however, if a cost recovery calculation based on the revenue neutral principle results in a projected fee that is too low, the fee should be set to a cost floor instead.

> Implementation Guidance xx (rationale 3): In the event that the estimated application fee, based on the revenue neutral principal, falls below a predetermined threshold amount (i.e., the application fee floor), the actual application fee should be set at that higher application fee floor instead.

Recommendation xx (rationale 4): In managing funds for the New gTLD Program, ICANN should have a plan in place for managing any excess fees collected or budget shortfalls experienced. The plan for the management and disbursement of excess fees, if applicable, should be communicated in advance of accepting applications and collecting fees for subsequent procedures.

> Implementation Guidance xx (rationale 4): If excess fees are collected in subsequent procedures, either due to the use of a fee floor or because collected fees exceed program costs, at least some portion of these excess fees should be returned to applicants. The disbursement mechanism should be communicated before applicants submit applications and fees to ICANN.

Implementation Guidance xx (rationale 4): In the event that an application fee floor is used to determine the application fee, excess fees received by ICANN should be used to benefit one or more of the following categories:

        (a) general outreach and awareness for the New gTLD Program (e.g., Universal Awareness and Universal Acceptance initiatives);
        (b) long-term program needs such as system upgrades, fixed assets, etc.;
        (c) Application Support Program; or
        (d) Top-up any shortfall in the segregated fund as described below.

Implementation Guidance xx (rationale 4): To help alleviate the potential burden of an overall budget shortfall, a separate segregated fund should be set up that can be used to absorb any shortfalls and topped-up in a later round. The amount of the contingency should be a predetermined value that is reviewed periodically to ensure its adequacy.

b. Deliberations and rationale for recommendations and/or implementation guidelines

Rationale for Affirmation xx (rationale 1): The Working Group considered different perspectives on whether a single base fee should apply to all applications (with the exception of successful applications for Applicant Support), or whether different fees may be appropriate for certain applications or applicants, for example IDNs, applications for IDN strings in multiple scripts, .brands, all community applications, only community applications with non-profit intentions, or in the case of applicants who intend to use a pre-approved RSP or who apply for multiple strings.

In addition to considering proposals from Working Group members and input received through public comment, the Working Group reviewed GAC Advice in the Nairobi Communiqué (2010) which stated the following with respect to fees in the 2012 round, "instead of the currently proposed single-fee requirement, a cost-based structure of fees appropriate to each category of TLD would a) prevent cross subsidisation and b) better reflect the project scale, logistical requirements and financial position of local community and developing country stakeholders who should not be disenfranchised from the new TLD round."

With respect to this advice, the Working Group noted that the fee structure included a single base fee, but also included additional fees for certain circumstances where additional costs were incurred, therefore avoiding excessive cross-subsidization. At the same time, given the numerous factors that could apply to each application that could impact the cost of processing, the Working Group agreed that it is not possible to categorize applications in a way that would have a corresponding simple fee structure based on cost of processing. Further, the Working Group considered that the Applicant Support Program was established to assist applicants that might otherwise be disenfranchised from the program due to the cost of the application fee. The Working Group has provided recommendations to enhance the Applicant Support Program so that it better serves this goal in subsequent procedures. Ultimately, the Working Group did not come to any agreement to recommend charging different fees for different types of applications and further, did not agree on a feasible path for implementing such an approach; as discussed during deliberations for TLD Types, the Working Group is cognizant of the unintentional impacts

and potentially inappropriate incentives created by the establishment of different application tracks. Therefore, the Working Group recommends maintaining the single base fee charged in the 2012 application round.

Rationale for Affirmation xx-xx (rationale 2): The Working Group supports the overall approach to funding outlined prior to the 2012 application round, namely, that the New gTLD Program should be self sustaining without the need for funding from other sources and that the program should operate on a cost recovery basis with the goal of being revenue neutral.

Rationale for Implementation Guidance xx (rationale 3): The Working Group believes that it is appropriate to establish an application fee floor, or minimum application fee that would apply regardless of projected program costs that would need to be recovered through application fees collected. The purpose of an application fee floor is to deter speculation and potential warehousing of TLDs, as well as mitigate against the use of TLDs for abusive or malicious purposes. The Working Group's support for a fee floor is also based on the recognition that the operation of a domain name registry is akin to the operation of a critical part of the Internet infrastructure.

Rationale for Recommendation xx and Implementation Guidance xx-xx (rationale 4): The Working Group agreed that while cost recovery is the objective of budget planning for the New gTLD Program, it can be difficult to project costs precisely due to numerous variables that are hard to predict, especially the number of applications that will be received in a given application window. Therefore the Working Group agreed that it is important for ICANN to have a clear plan to address any budget surpluses or shortfalls that might take place. The Working Group agreed that in principle, as the fee is set to fund Program costs, any fee charged that is in excess of what is needed should be returned, at least in part, to applicants. Further, if the use of an application fee floor (see explanation above) results in additional surplus, the Working Group suggests several appropriate uses of excess fees collected. Finally, the Working Group agreed that it is important for ICANN to have a contingency fund to support the program if fees are insufficient to support program activities in the short term. The Working Group notes that the fund could later be replenished through additional application fees collected.

c. New issues raised in deliberations since publication of the Initial Report, if applicable.

The Working Group considered ICANN org's request for guidance on what the fee floor amount should be, or criteria by which it is established, as well as any thoughts on ongoing reviews of that fee floor amount. While the Working Group did not come to an agreement on a specific amount or set of criteria, it noted that some of the public comments received on the Initial Report suggested further study in the implementation phase of what level of fee floor would effectively deter the behaviors that a fee floor seeks to prevent.

d. Dependencies/relationships with other areas of this report or external efforts

None identified.