

Next Round of NgTLDs / Subsequent Procedures

- The 38 Pending SubPro Recommendations
- SubPro Implementation Review Team (IRT)

Update #6 to the At-Large CPWG

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Recap: The 38 Pending SubPro Recommendations ^{1/3}

- ⦿ ICANN Board resolved,
 - On 16 Mar to adopt 98 recs and marked **38 recs as pending**
 - On 10 Sep, of the pending 38 recs, to
 - adopt 7 recs after further consideration / discussion with GAC
 - adopt 12 recs with GNSO Council's First Clarifying Statement
 - not adopt 7 recs as being not in the best interest of ICANN / Community
 - retain **13 recs as pending** for further consideration
 - On 26 Oct, of the pending 13 recs, to
 - adopt 10 recs with GNSO Council's Second Clarifying Statement
(these are to do with enforceability of RVCs)
 - not adopt 3 recs as being not in the best interest of ICANN / Community
 - Thus, no recs left as pending

- ⦿ Leaving GNSO Council with **10 not adopted recs** 'to work on'
 - These being Recs 9.2, 17.2, 18.1, 18.3, 22.7, 24.3, 24.5, 32.1, 32.2, 32.10
 - Through the work of the GNSO Council SubPro Pending Recs Small Team
(which helped produce the First and Second Clarifying Statements)

Recap: What are the 10 not adopted SubPro Recs? ^{2/3}

SubPro Topic	Relevant Recs	Summary of Board Concern (paraphrased)
Topic 9: Registry Voluntary Commitments / Public Interest Commitments	9.2	Waiver of Spec 11 3(a) & 3(b) for single registrant TLDs could lead to unforeseen harm on different business models
Topic 17: Applicant Support	17.2	Open-ended nature of potential payees and potential fiduciary concerns
Topic 18: Terms and Conditions	18.1	Does not want to unduly restrict ICANN's discretion to reject an application in circumstances that fall outside the specific grounds set out in the recommendation.
Topic 18: Terms and Conditions	18.3	Covenant not to sue subject to challenge/ appeal mechanism leading to undue legal exposure (tied to Recs 32.1, 32.2, 32.10)
Topic 22: Registrant Protections	22.7	Exemption of COI means no EBERO funds – better to be case-by-case than blanket exemption (similar to Rec 9.2)
Topic 24: String Similarity	24.3, 24.5	Enforcing “intended use” of singular-plural through PICs may fall outside ICANN mission
Topic 32: Limited Challenge / Appeal	32.1, 32.2, 32.10	Co-existence with Bylaw-driven Accountability Mechanisms, duplication, add unnecessary cost and delay

For details, see:

- Scorecard: Subsequent Procedures dated 10 September 2023 (the "September 2023 Scorecard")
- Scorecard: Subsequent Procedures dated 26 October 2023 (the "October 2023 Scorecard")

- ⦿ GNSO Council SubPro Pending Recommendations **Small Team Plus**

- Expansion of original Small Team to include 1 “subject matter expert” (SME) + 1 alternate from all participating AC/SG/C
- Began meeting on 27 Nov, starting with Rec 17.2
- **Where are we at with Rec 17.2 - expanding scope of financial support?**

- Strawman of revision

***Supplemental Rec 17.2:** ~~The Working Group~~ **GNSO Council** recommends expanding the scope of **Applicant Support** ~~financial support~~ provided to Applicant Support Program beneficiaries beyond the application fee to **provide access to an array of resources useful for the capacity building, planning, application, evaluation, pre-delegation and post-delegation phases of the lifecycle of the application and registry. For avoidance of doubt, this recommendation does not obligate ICANN to provide support for all phases of the lifecycle of the application process as well as the registry.** ~~also cover costs such as application writing fees and attorney fees related to the application process.~~*

***Community suggestions for implementation of supplemental rec 17.2:** Below are some ideas from the community which Council believes should be considered for possible implementation:*

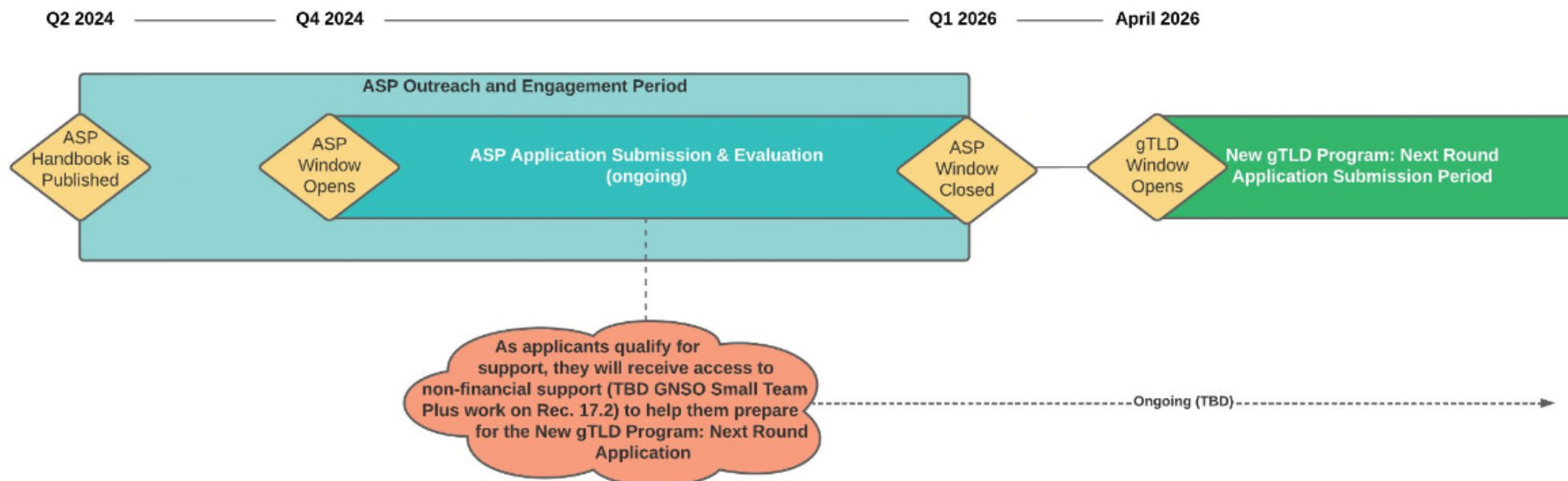
- 5 proposals are expected to be forwarded to the SubPro IRT for “sorting out”

Update on SubPro Implementation Review Team 1/4

- ⦿ Since the SubPro IRT began meeting in May 2023 and to-date, AGB draft text on topics reviewed:
 1. Predictability (incl. Standing Predictability IRT – SPIRT) (“*Spirit*”)
 2. Applicant Freedom of Expression
 3. Universal Acceptance
 4. Conflicts of Interest
 5. String Similarity Evaluations
 6. Reserved Names
 7. Geographic Names
 8. Applications Assessed in Rounds
 9. Role of Application Comment
 10. Registry Service Provider Pre-Evaluation
 11. Applicant Support – *Research & Preliminaries*
 12. GAC Advice & Early Warning

SubPro IRT: ASP Implementation Discussion 2/4

- What we understand as at 7 Dec in respect of Application Support Program (ASP)
 - Inputs/assumptions drawn from
 - SubPro PDP Final Report Recs / IG (noting Rec 17.2 is pending revision)
 - GNSO Guidance Process (GGP) outputs
 - GAC Advice & Issues of importance
 - Per IG 17.7 - Research on other globally recognized programs, presented at ICANN78
 - Community input through IRT
 - Expected launch 18 months before opening of string application period
 - Hence, ASP Handbook separate from Applicant Guidebook



SubPro IRT: ASP Implementation Discussion ^{3/4}

- ⦿ What we understand as at 7 Dec in respect of Application Support Program (ASP)
 - Focus is on applicant entity, not requiring disclosure of (intended applied-for) string
 - Evaluation criteria development:
 - What is the goal of ASP?

To enhance the diversity, competition, and utility of the DNS (Affirmation 1.3)...by providing fair, meaningful financial and non-financial support with the aim of increasing the number and diversity of gTLD applicants—that may otherwise face barriers in applying to the gTLD Program.
 - How to widen, deepen applicant pool? How to increase number of qualified, diverse applicants?
 - What factors do others consider in assessing an applicant's eligibility around previous high level criteria of (1) public interest (2) financial need (3) financial capability?
 - How to equitably and objectively assess applications from applicants of diverse backgrounds?
 - What strategies do others use to support applicant success beyond application process?
 - What are the potential barriers and possible solutions?

SubPro IRT: ASP Implementation Discussion 4/4

- What we understand as at 7 Dec in respect of Application Support Program (ASP)

- Evaluation criteria development (cont'd)

- **Pre-screening**: background screen, legal compliance check, etc.
- **Due Diligence Exclusions**: to reduce risk of supporting misaligned applicants that presents significant reputational risk.
- **Financial Need**: no change
- **Financial Stability**: lighter touch financial assessment to reduce risk that supported applicants struggle will not pass gTLD Program Financial Capability evaluation
- **Eligible Entities**: to articulate entities reflective of Affirmation 1.3 that would be eligible to apply based upon objective, evidence-based criteria rather than qualitative, subjective assessment of the string and its public interest benefit

2012 Criteria Category	Proposed Next Round Criteria Category
n/a	Pre-screening
n/a	Due Diligence Exclusions
Financial Need	Financial Need
Financial Capability	Financial Stability
Public Interest Benefit	Eligible Entities, based upon Affirmation 1.3; not asking for intended string

- Evaluation panel (SARP) will be drawn from professional service provider (like other evaluation panels)

Background on Small Team Plus & SubPro IRT

⦿ **GNSO Subsequent Procedures Pending Recommendations Small Team Plus (Small Team +)**

- Review the ten (10) GNSO Subsequent Procedures Policy recommendations that have NOT been adopted by the ICANN Board against the rationale provided by the Board
- Determine if any or all of those 10 policy recommendations can be revised to meet the concerns of the Board as raised in their rationale for non-adoption of those recommendation
- Develop revised recommendations to be submitted to the GNSO Council for consideration – thereby supporting the GNSO Council's work in this matter
- Comprises (a) GNSO Councilor volunteers; (b) ICANN Board SubPro Caucus Co-Chairs; (c) nominated Subject Matter Experts (SME) and alternates from each participating AC/SG/C
- Lead by GNSO

⦿ **Subsequent Procedures Implementation Review Team (SubPro IRT)**

- Guides the implementation by ICANN org of all GNSO Subsequent Procedures Policy recommendations that have been adopted by the ICANN Board
- Determine if applicable assumptions made by ICANN org in interpreting the approved Policy recommendations are consistent with rationale provided by the SubPro PDP WG
- Input on draft text of the next Application Guidebook, progressively and prior to public comment process
- Comprises (a) ICANN org Staff; (b) GNSO Council Co-Liaisons; (c) nominated representatives and alternates from each participating AC/C/SG; and (d) any individual who signs up.
- Lead by ICANN org