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# Background Screening

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## 1.2 Background Screening

### 1.2.1 Introduction

ICANN has designed the New gTLD Program to provide registrant protections. In addition to features of the gTLD Registry Agreement, data and financial escrow mechanisms, background screening is a key mechanism to facilitate registrant protection by ensuring only established corporations, organizations or institutions in good standing apply for a new gTLD.

Background screening is in place to protect the public interest in the allocation of critical Internet resources, and ICANN reserves the right to deny an otherwise qualified application based on any information identified during the background screening process.

### 1.2.2 Background Screening Procedures

#### 1.2.2.1 Application Form

The application form requires applicants to provide information on the legal establishment of the applying entity<sup>1</sup>, the identification of directors, officers, partners, and major shareholders of that entity as well as the ultimate parent and/or individuals with control of the applicant. The names and positions of individuals included in the application will be published as part of the application; other information collected about the individuals will not be published.<sup>2</sup> Any information shared as part of the background screening process and related to the criteria listed in Section 1.2.3 below will not be made publicly available by ICANN.

#### 1.2.2.2 Background Screening Inquiry

The inquiry is conducted on the basis of the applicant information provided during applicant onboarding (e.g., applicant information, primary and secondary contact information, proof of legal establishment). It is the responsibility of applicants to ensure that they have obtained personal data from individuals or data from entities shared in the application form in compliance with local laws and regulations. This may include, among other things, obtaining consent from individuals or entering into specific agreements with legal entities. If requested by ICANN, applicants will need to demonstrate to ICANN and/or ICANN's background screening vendor that the data of entities and/or individuals named in the Organizational Account Record, concerning background screening activities, is being shared in compliance with local laws and regulations, which may include providing consents from individuals.

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<sup>1</sup> Established corporations, organizations, or institutions in good standing may apply for a new gTLD. Applications from individuals or sole proprietorships will not be considered. Applications from or on behalf of yet-to-be- formed legal entities, or applications presupposing the future formation of a legal entity (for example, a pending Joint Venture) will not be considered.

<sup>2</sup> All data will be handled according to the Data Protection/Privacy Statements found in Section [\[Data Protection\]](#) as well as [\[here\]](#).

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### 1.2.2.3 Timing of Background Screening

Background screening will be conducted for all applications as part of Initial Evaluation during Applicant Reviews. If there is a change in the application that requires additional or repeat background screening (for example, a change in applying entity or change to major shareholders, officers, or directors of the applying entity) this additional background screening will occur during the contracting process (see Module/Section [Contracting](#)).

### 1.2.3 Background Screening Criteria

Background screening will be conducted at both the organizational and individual levels to confirm eligibility and assess risk. Information may vary based on the accessibility of data and local data protection laws. ICANN may take into account information received from any source if it is relevant to the criteria listed below and in compliance with local data protection laws, e.g., comments received via the Application Comment Forum (see [Module/Section Application Comments](#) for more information).

ICANN will perform background screening in two areas: (1) General business diligence and reputation checks; and (2) History of cybersquatting behavior, in compliance with local laws and regulations. The criteria used for criminal history are aligned with the “crimes of trust” standard sometimes used in the banking and finance industry. ICANN reserves the right to reject an application, even if the applicant is otherwise qualified, based on information uncovered during the due diligence process.

**In the absence of exceptional circumstances, applications from any entity with or including any individual not meeting the eligibility criteria listed below will be disqualified from the program.**

#### Eligibility Criteria

- Applicant and individuals named within the Organizational Account Record must be in good corporate standing under their applicable laws and regulations.
- Applicant and individuals named within the Organizational Account Record must confirm that they are free and absent of:
  - Convictions of any crime related to financial or corporate governance activities, or judgements by a court to have committed fraud or breach of fiduciary duty, or subject of a judicial determination that is the substantive equivalent of any of these within the last ten years.
  - Disciplinary actions by any government or industry regulatory body for conduct involving dishonesty or misuse of funds of others within the last ten years.
  - Convictions of any willful tax-related fraud or willful evasion of tax liabilities within the last ten years.
  - Convictions of perjury, forswearing, failing to cooperate with a law enforcement investigation, or making false statements to a law enforcement agency or Representative within the last ten years.

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- Convictions of any crime involving the use of computers, telephony systems, telecommunications or the Internet to facilitate the commission of crimes;
  - Convictions of any crime involving the use of a weapon, force, or the threat of force;
  - Convictions of any violent or sexual offense victimizing children, the elderly, or individuals with disabilities;
  - Convictions of the illegal sale, manufacture, or distribution of pharmaceutical drugs, or been convicted or successfully extradited for any offense described in Article 3 of the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988. Note: A past conviction for an offense that is no longer a criminal offense in the jurisdiction at the time of application shall not be considered.
  - Convictions or been successfully extradited for any offense described in the United Nations Convention against Transnational Organized Crime (all Protocols);
  - Convictions of aiding, abetting, facilitating, enabling, conspiring to commit, any of the listed crimes above; and
  - Entrance of a guilty plea as part of a plea agreement or has a court case in any jurisdiction with a disposition of Adjudicated Guilty or Adjudication Withheld (or regional equivalents) within the respective timeframes listed above for any of the listed crimes.
  - Systematic or repetitive engagement in cybersquatting, as defined in the Uniform Domain Name Dispute Resolution Policy (UDRP), Anti-cybersquatting Consumer Protection Act (ACPA), or other equivalent legislation, or was engaged in reverse domain name hijacking under the UDRP or bad faith or reckless disregard under the ACPA or equivalent legislation. Three or more such decisions with one occurring in the last four years will generally be considered to constitute a systematic or repetitive engagement in cybersquatting.
  - Involved in any administrative or other legal proceeding in which allegations of intellectual property infringement relating to registration or use of a domain name have been made against the applicant or any of the individuals named in the Organizational Account Record respectively, within the last 10 years.

## Applicant Onboarding Questions

An applicant must also answer the following questions in relation to the eligibility criteria: Information provided below must be provided in compliance with applicable laws and regulations.

1. Confirm to have read and understood the eligibility criteria and declare that neither the applicant nor any of the individuals named within the Organizational Account Record are subject to any of the above criteria that could impede eligibility.

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2. Confirm that neither the applicant nor any of the individuals named within the Organizational Account Record have been subject to any decisions indicating that the applicant or individual named in the Organizational Account Record was engaged in cybersquatting, as defined in the Uniform Domain Name Dispute Resolution Policy (UDRP), Anti-cybersquatting Consumer Protection Act (ACPA), or other equivalent legislation, or was engaged in reverse domain name hijacking under the UDRP or bad faith or reckless disregard under the ACPA or equivalent legislation within the last ten years. If you are unable to confirm, please provide an explanation.

*Note related to question 2 above: Three or more such decisions with one occurring in the last four years will generally be considered to constitute a pattern.*

- a. Confirm that neither the applicant nor any of the individuals named in the Organizational Account Record has been involved in any administrative or other legal proceeding in which allegations of intellectual property infringement relating to registration or use of a domain name have been made against the applicant or any of the individuals named in the Organizational Account Record respectively within the last ten years. If you are unable to confirm, please provide an explanation.

## 1.2.4 Background Screening Results

Based on the outcome of the background screening, ICANN reserves the right to approve or not approve an application to proceed in the application process. For example, a final and legally binding decision obtained by a national law enforcement or consumer protection authority finding that the applicant was engaged in fraudulent and deceptive commercial practices as defined in the Organization for Economic Co-operation and Development (OECD) Guidelines for Protecting Consumers from Fraudulent and Deceptive Commercial Practices Across Borders<sup>3</sup> may cause an application to be rejected. ICANN may also contact the applicant with additional questions based on information obtained in the background screening process.

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<sup>3</sup> See: [http://www.oecd.org/document/56/0,3746,en\\_2649\\_34267\\_2515000\\_1\\_1\\_1\\_1.00.html](http://www.oecd.org/document/56/0,3746,en_2649_34267_2515000_1_1_1_1.00.html)