
Code of Conduct and Conflict of Interest Guidelines

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1. Code of Conduct and Conflict of Interest Guidelines

A number of independent experts and groups play a part in performing the various reviews in the evaluation process. These include:

- Evaluation Panel Firms and individual persons appointed by the Panel Firm to conduct an evaluation
- Dispute Resolution Service Providers and dispute resolution expert panelists
- Independent Objectors Firms and Independent Objectors.

[Placeholder for full list]

These Code of Conduct and Conflict of Interest Guidelines explained below apply to all these entities and individuals.

1.1 Code of Conduct

The purpose of the New gTLD Program (“Program”) Code of Conduct (“Code”) is to prevent actual, potential, or perceived conflicts of interest and unethical behavior by the entities and individuals named above (“the Parties”), for the New gTLD Program. The Applicant Guidebook is intended to set forth the principles of the Code of Conduct and nothing in this Code should be considered or interpreted as limiting duties, obligations or legal requirements with which the Parties must comply.

The ethical obligations of the Parties begin upon acceptance of the appointment. The Parties shall conduct themselves as thoughtful, competent, well prepared, and impartial professionals throughout the application evaluation, objection, and dispute resolution processes. The Parties are expected to comply with equity and high ethical standards while assuring the Internet community, its constituents, and the public, of the Parties’ objectivity, integrity, confidentiality, and credibility. Unethical actions, or even the appearance of conflicts of interest, are not acceptable.

Once the Parties have accepted an appointment, the Parties should not withdraw or abandon the appointment unless compelled to do so by unanticipated circumstances that would render it impossible or impracticable to continue, or if the Parties become aware of a conflict of interest situation, as described in the “New gTLD Program Conflicts of Interest Guidelines” (see subsection 4).

Parties that withdraw prior to the completion of the application evaluation or objection and dispute resolution processes, whether upon the Parties’ initiative or upon the request of one or more of the applicants, should take reasonable steps to protect the interests of the

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applicants/parties in the application evaluation or objection and dispute resolution processes, including return of evidentiary materials and maintaining the confidentiality of any confidential information or materials.

1.1.1 Principles

The Parties are expected to be guided by the following principles in carrying out their respective responsibilities.

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1.1.1.2 Bias

The Parties shall:

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- not advance personal agendas or non-ICANN approved agendas in the evaluation of applications or dispute resolution proceedings;
- examine facts as they exist and not be influenced by past reputation, media accounts, or unverified statements about the applications being evaluated or the matter(s) at issue in the dispute resolution proceeding;
- exclude themselves from participating in the evaluation of an application or a dispute resolution proceeding if, to their knowledge, there is some predisposing factor that could prejudice them with respect to such evaluation or proceeding;
- exclude themselves from evaluation activities or dispute resolution proceedings if they are philosophically opposed to or are on record as having made criticisms about a specific type of applicant, application, or matter at issue in the evaluation or the dispute resolution proceeding; and
- conduct themselves in a way that is fair to all parties and should not be swayed by outside pressure, public clamor, and fear of criticism or self-interest. The Parties should avoid conduct and statements that give the appearance of partiality toward or against any applicant, application, or party to the dispute resolution proceeding.

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1.1.1.3 Compensation/Gifts

The Parties shall not request or accept any compensation whatsoever or any gifts of substance from the applicant being reviewed, anyone affiliated with the applicant, or any party or party affiliate involved in the dispute resolution proceeding. (Gifts of substance would include any gift greater than USD 25 in value). If in doubt, the Parties should err on the side of caution by declining gifts of any kind. Note, however, that during a dispute resolution proceeding, an applicant who is the objector is required to submit payment directly to the applicable dispute resolution service provider to cover the applicant's share of fees and expenses of the members of the Panel. Accepting this payment does not mean a dispute resolution panelist is in violation of the Code of Conduct in this section. Refer to the Dispute Resolution Procedures document contained in the Applicant Guidebook for more information about fees and payments.

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1.1.1.4 Conflicts of Interest

The Parties shall act in accordance with the “New gTLD Program Conflicts of Interest Guidelines” (see subsection [\[cross-reference\]](#)).

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1.1.1.5 Confidentiality

Confidentiality is an integral part of the application evaluation as well as objection and dispute resolution processes. The Parties must have access to sensitive information in order to conduct evaluations or dispute resolution proceedings. The Parties must maintain confidentiality of information entrusted to them by ICANN and the applicant and any other confidential information provided to them from whatever source, except when disclosure is legally mandated or has been authorized by ICANN. “Confidential information” includes materials submitted to, or obtained or generated by, ICANN and the ICANN evaluators, dispute resolution panelists or independent objectors in connection with an application, including evaluations, analyses and any other materials prepared in connection with the evaluation of an Application; provided, however, that information will not be disclosed or published to the extent that the Applicant Guidebook expressly states that such information will be kept confidential, except as required by law or judicial process (see Provision XX of the Terms and Conditions for more information).

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1.1.1.6 Data Protection and Privacy

All Parties are required to comply with the New gTLD Program’s data protection principles. For more information, see Section [\[cross-reference Data Protection and Privacy\]](#) in the Applicant Guidebook.

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1.1.1.7 Affirmation

All Parties shall read this Code prior to commencing evaluation or participating in a particular dispute resolution proceeding and shall certify in writing that they have done so, agree to comply with, and understand the Code.

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2. Conflict of Interest Guidelines for Parties

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It is recognized that third-party providers may have a large number of employees in several countries serving numerous clients. In fact, it is possible that a number of Panelists may be very well known within the registry /registrar community and have provided professional services to a number of potential applicants. To safeguard against the potential for inappropriate influence and ensure applications are evaluated in an objective and independent manner, ICANN has established the following Conflict of Interest guidelines and procedures for the Parties for the New gTLD Program. ICANN will require the the Parties to ensure that all entities and individuals.

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- Document acknowledgement and understanding of the Conflict of Interest guidelines.
- Agree to comply with the Conflict of Interest guidelines.
- Disclose all business relationships engaged in at any time during the past six months from initial appointment that are directly or indirectly related to ICANN's new gTLD Program

Where possible, ICANN will identify and secure primary and backup providers for evaluation and dispute resolution. In conjunction with the Parties, ICANN will identify conflicts and re-assign applications as appropriate to secondary or contingent third-party providers to perform the reviews.

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2.1 Guidelines

The following guidelines are the minimum standards with which all Parties must comply.¹ A fundamental principle underlying these Guidelines is that each Party must be impartial and independent of the application(s), applicant(s), and parties at the time they accept an appointment to act as a Vendor, and must remain so during the entire course of the application evaluation or dispute resolution processes.

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The Parties shall decline to accept an appointment or, if the evaluation or proceeding has already been commenced, refuse to continue to act if they have any doubt as to their ability to be impartial or independent. The same principle applies if such facts or circumstances existed prior to appointment or have arisen since the appointment.

If facts or circumstances exist that may give rise to doubts as to the Parties' impartiality or independence, the Parties shall disclose such facts or circumstances to the applicant(s), other relevant third-parties, and the Service Provider or other appointing authority prior to accepting the appointment or, if thereafter, as soon as they learn of them. Any doubt as to whether any Party should disclose certain facts or circumstances should be resolved in favor of disclosure.

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It is recognized that it is impossible to foresee and cover all circumstances in which a potential conflict of interest might arise. In these cases the Parties should evaluate whether the existing facts and circumstances would lead a reasonable person to conclude that there is an actual conflict of interest. If conflicts of interest are found to exist, ICANN will work with the Parties to reassign applications as appropriate.

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The Parties and Immediate Family Members:

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- Must not be under contract, have or be included in a current proposal to provide Professional Services for or on behalf of the applicant or any party(ies) to a dispute

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¹ These Guidelines do not apply to applicants, which are covered under separate Codes of Conduct [reference]. These Guidelines do apply to Registry Service Providers [reference].

resolution proceeding during the compliance period, which begins upon acceptance of the appointment.

- Must not currently hold or be committed to acquire any interest in a privately-held applicant or any party(ies) to a dispute resolution proceeding.
- Must not currently hold or be committed to acquire more than 1% of any publicly listed applicant's or any party(ies) to a dispute resolution proceeding outstanding equity securities or other ownership interests.
- Must not be involved or have an interest in a joint venture, partnership or other business arrangement with the applicant or any party(ies) to a dispute resolution proceeding.
- Must not have been named in a lawsuit with or against the applicant or any party(ies) to a dispute resolution proceeding.
- Must not be a:
 - Director, officer, or employee, or in any capacity equivalent to that of a member of management of the applicant or any party(ies) to a dispute resolution proceeding;
 - Promoter, underwriter, or voting trustee of the applicant or any party(ies) to a dispute resolution proceeding; or
 - Trustee for any pension or profit-sharing trust of the applicant or any party(ies) to a dispute resolution proceeding.

Note that service providers also maintain their own conflict of interest procedures that Panelists are required to comply with.²

3. Definitions

Panelist: An evaluation panelist or a dispute resolution service provider panelist is any primary, secondary, and contingent third party Panelist engaged by a service provider, to review new gTLD applications.

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Immediate Family Member: Immediate Family Member is a spouse, spousal equivalent, or dependent (whether or not related) of an Evaluation Panelist or a dispute resolution service provider panelist.

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Professional Services: Professional Services include but are not limited to legal services, financial audit, financial planning / investment, outsourced services, consulting services such as business / management / internal audit, tax, information technology, registry / registrar services.

Service Provider: Firms contracted by ICANN to conduct evaluation or dispute resolution services. A service provider will choose and contract with the panelists described above.

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² More information on the Code of Conduct and Conflicts of Interest guidelines of service providers can be found here: [\[link to page that will be published on the Next Round website including links to service provider's code of conduct and conflicts of interest guidelines\]](#)

The Parties; Individuals and entities providing services or supporting processes for the New gTLD Program, including but not limited to the application evaluation, objection processes, or dispute resolution processes.

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4. Code of Conduct Violations

Breaches of the Code of Conduct by the Parties, whether intentional or not, shall be reviewed by ICANN, which may make recommendations for corrective action, if deemed necessary. Breaches of the Code may be cause for removal of the person, persons or provider committing the infraction, in accordance with relevant contract provisions.

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In a case where ICANN determines that a Party has failed to comply with the Code of Conduct, the results of the Parties' review for all assigned applications may be discarded and the affected applications will undergo a review by new Parties.

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Concerns of applicants regarding the Parties should be communicated via the defined support channels (see subsection 1.4.2). Concerns of the general public regarding the Code of Conduct (i.e., non-applicants) can be raised via the Community Action Forum, as described in Module [X] or through other avenues such as the Ombudsman and the Reconsideration Request process.

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Annex: Relevant Recommendations

Recommendation 8.1: ICANN must develop a transparent process to ensure that dispute resolution service provider panelists, Independent Objectors, and application evaluators are free from conflicts of interest. This process must serve as a supplement to the existing Code of Conduct Guidelines for Panelists, Conflict of Interest Guidelines for Panelists, and ICANN Board Conflicts of Interest Policy.³

³ <https://www.icann.org/resources/pages/governance/coin#:~:text=The%20purpose%20of%20this%20Board,the%20Internet%20community%2C%20as%20a>