
1.5 Application Withdrawals and Refunds

1.5.1 Introduction

“Application withdrawal” refers to the applicant-initiated process to withdraw an application from the Program. Depending on when an application is withdrawn, applicants may be eligible for a partial refund of the evaluation fee. This section of the Program Implementation Review report discusses the withdrawal and refund processes.

1.5.2 Relevant Guidance

The following guidance is relevant to the topic of Contracting and will be discussed in further detail in Sections 1.5.3 and 1.5.4 of this report:

- GNSO 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.⁴²*

- Applicant Guidebook, Section 1.5.1: gTLD Evaluation Fee⁴³

- ICANN Board Resolution 2012.05.06.NG01 (6 May 2012): New gTLD Program Application Fee Refund⁴⁴

1.5.3 Background

The AGB anticipated that applicants might choose to withdraw applications at various points during the Program. Section 1.5.1 of the AGB provided a schedule of refunds for withdrawal of applications at these various points. The refund amount is estimated to be commensurate with the Program work associated with processing of the application up to the point of the withdrawal.

Based on available Program information such as the number of contention sets (see Chapter 4: Contention Resolution of this report) and the refund schedule in Section 1.5.1 of the AGB, the annual New gTLD Program budgets (see Section 8.3: Financial Management of this report) forecast the number of withdrawals and total refund amounts.

⁴² ICANN. (8 August 2007) ICANN Generic Names Supporting Organization Final Report Introduction of New Generic Top-Level Domains, Part A. Retrieved from <http://gnso.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

⁴³ ICANN. (4 June 2012) gTLD Applicant Guidebook Version 2012-06-04. Retrieved from <http://newgtlds.icann.org/en/applicants/agb/guidebook-full-04jun12-en.pdf>

⁴⁴ ICANN. (6 May 2012) Approved New gTLD Program Committee Resolution | Meeting of the New gTLD Program Committee. Retrieved from <https://www.icann.org/resources/board-material/resolutions-new-gtld-2012-05-06-en>

As of 31 July 2015, 542 applications have been withdrawn from the Program. Figure 1.5.i provides a summary of the number of withdrawals as of 31 July 2015 and the refund amount they were eligible to receive.

Figure 1.5.i: Summary of Number of Withdrawals and Refund Amount

Program Phase	# of Applications Withdrawn	Refund Amount (USD)	% of Total Withdrawal
Prior to Reveal Day (see section 1.1 of this report)	1	185,000	<1
Within 21 days of receipt of GAC Early Warning (see Section 3.1 of this report)	2	148,000	<1
Before IE results released (see Section 2.1 of this report)	101	130,000	19
Before RA signed – no EE, objection, or contention resolution (see Sections 5.1, 2.1, 3.1, and 4 of this report)	340	65,000	63
Before RA signed – EE, objection, or contention resolution required	97	37,000	16
After Application Support evaluation	1	47,000	<1
After RA signed	0	0	0

1.5.4 Assessment

1.5.4.1 WITHDRAWAL PROCESS

Section 1.5.1 of the AGB stated that withdrawal of applications must be initiated in the TLD Application System (TAS) (see Section 1.1: Application Submission and Section 8.1: Processes, Systems, and Resources of this report). Consistent with the AGB, ICANN implemented a withdrawal process in TAS that allowed applicants to withdraw applications and request refunds. Withdrawals performed in TAS allowed the applicant to instantaneously withdraw an application, which was important as the date of withdrawal could impact the refund amount that the applicant was eligible to receive.

At the close of the application window (see Section 1.1: Application Submission of this report), 30 May 2012, access to TAS was closed. Applicants that wished to withdraw applications while TAS was closed could submit withdrawal requests to the Customer Service Center. Withdrawal requests were processed manually by the Customer Service Center during this time. The manual process required ICANN to first confirm and validate the request, then to generate a withdrawal form that was sent to the applicant. The applicant must then complete and send the form back to ICANN. Once ICANN completed review of the form and verified the information provided, the applicant was then notified that the application had been withdrawn. Because the process was not instantaneous during this

period, ICANN used the date of the withdrawal request submission to determine the refund amount. The manual process was not efficient for the applicant or ICANN.

On 26 November 2012, ICANN announced the reopening of TAS to release Clarifying Questions (see Section 2.1: Initial and Extended Evaluation of this report).⁴⁵ The reopening of TAS allowed applicants to again withdraw applications via the system.

At the end of Initial Evaluation (see Section 2.1: Initial and Extended Evaluation of this report), ICANN migrated application materials from TAS to the Customer Service Portal (see Section 8.5: Customer Service of this report) to provide a centralized location for applicants to access information, and TAS was once again closed. To retain efficiency in the withdrawal process, ICANN built application withdrawal functionality into the Customer Service Portal (see Section 8.5: Customer Service of this report) that allowed applicants to instantaneously withdraw applications.

Consistent with the AGB, when withdrawing applications, applicants had to confirm that they understood that withdrawal of the application was final and irrevocable. This step was required whether the application was withdrawn in TAS, in the Customer Service Portal, or by submitting a request to the Customer Service Center.

Once the application was withdrawn, ICANN updated the status of the application on the application status page of the microsite, which showed descriptive and administrative information (e.g., applicant name, evaluation results, string contention information) about all applications to provide transparency about where particular applications were in the process.⁴⁶ The update was typically reflected within 24 hours of the withdrawal, which provided visibility of application statuses to the community and other applicants as quickly as possible. If the withdrawn application belonged to a contention set (see Section 4: Contention Resolution of this report), updates to contention set information were then made.⁴⁷

While the AGB anticipated withdrawal of applications initiated by applicants, it did not account for cases where the application could not proceed in the Program (e.g., did not prevail in the objection process, did not prevail contention resolution), but where the applicant did not withdraw the application. These applications were assigned an application status of “Will Not Proceed.” Applicants of some of the applications with the “Will Not Proceed” status did not agree with the outcome of their objections or contention resolution processes and filed an ICANN Accountability Mechanism in the hopes of being able to continue in the Program. This is one potential reason that applications in a “Will Not Proceed” status have not been withdrawn as of 31 July 2015.

⁴⁵ ICANN. (26 November 2012) Announcement: The TLD Application System Reopens. Retrieved from <http://newgtlds.icann.org/en/announcements-and-media/announcement-26nov12-en>

⁴⁶ ICANN. New gTLD Current Application Status. Retrieved from <https://gtldresult.icann.org/application-result/applicationstatus>

⁴⁷ ICANN. Contention Set Status. Retrieved from <https://gtldresult.icann.org/application-result/applicationstatus/stringcontentionstatus>

1.5.4.2 REFUND PROCESS

The refund process occurred after the completion of the withdrawal of the application. Refunds were based on the fee schedule in Section 1.5.1 of the AGB.

The refund schedule presumed that Program processes were completed successively. While most Program processes were indeed completed in a linear fashion, in some cases, processes took longer than expected and overlapped with succeeding ones. For example, an application might have completed Extended Evaluation (EE), but the objection process was still ongoing. (In this round, ICANN implemented a refund amount of USD 37,000 if the application was withdrawn under the example scenario.)

Additionally, the AGB and the defined refund schedule could not account for all unique situations regarding each application. For example, if two applications that were in a contention set self-resolved (see Chapter 4: Contention Resolution of this report), and one of the applications was withdrawn, the refund amount would be USD 65,000 if the application was not subject to EE or objections. The lower amount of refund, USD 37,000, was only applicable to contention resolution via an ICANN mechanism such as CPE or auction. In those cases, the application that did not prevail in CPE or auction received a USD 37,000 refund when the application was withdrawn.

In processing refunds, ICANN observed that some applicants requested the refund to be sent to a party other than the party that paid the USD 185,000 evaluation fee. Although Section 1.5.1 of the AGB stated that “Refunds will only be issued to the organization that submitted the original payment”, out of practicality, ICANN allowed some refunds to parties and bank accounts other than those that submitted the original payment. Scenarios under which this was allowed included cases where the original bank account had been closed as of the time of withdrawal and if the party that made the original payment provided written authorization for ICANN to direct the refund amount to another party affiliated with the application.

1.5.5 Conclusion

The AGB anticipated that applicants would withdraw applications at various stages after application submission and stipulated an evaluation fee refund schedule that corresponded to the stage at which an application was withdrawn. ICANN implemented the withdrawal and refund processes in accordance with the AGB. Based on the implementation of the withdrawal and refund process this first round, there are valuable lessons learned that would be useful input to the development of procedures for future rounds.

While the AGB anticipated withdrawal of applications initiated by applicants, it did not account for cases where the application could not proceed in the Program (e.g., did not prevail objections, did not prevail contention resolution), but the applicant did not withdraw the application. These applications were assigned an application status of “Will Not Proceed.” As of 31 July 2015, there were 45 applications with a “Will Not Proceed” status that had not been withdrawn, so considerations

should be given to defining a process to move these applications to a final state if the applicant does not initiate an application withdrawal.

Regarding refunds, there were various application scenarios that were not contemplated by the AGB's refund schedule (e.g., EE complete but objections were still ongoing). These various scenarios should be reviewed and the refund schedule should be updated to reflect these scenarios. A final financial review of the Program should also be undertaken and should include analysis of the refund schedule (see Section 8.3: Financial Management of this report).

In summary:

1.5.a Consider defining a process to move applications that may not proceed in the Program to a final status and provide a refund if they are not withdrawn

1.5.b Review Program financials at the conclusion of this application round to determine whether the refund schedule accurately mapped to the costs incurred at the specified Program phases