

## 4.6.2 Applicant Reviews: Technical/Operational and Financial

- *4.6.2.1 Explanation of the Subject*

The 2007 Final Report provided general guidance about how to ensure applicants were financially and technically capable to run a registry, but stopped short in providing specific guidance on how an evaluation questionnaire should be comprised. Over the course of the many iterations of the AGB, the Technical/Operational and Financial criteria were refined with a collaborative effort from the community, ICANN, and its selected evaluators.

According to Module 2 of the AGB, ICANN will review the applicant's technical and operational capability, its financial capability, and its proposed registry services. Those reviews are described in greater detail in the following subsections in the AGB:

2.2.2.1 Technical/Operational Review: Intended to gather information about the applicant's technical capabilities and its plans for operation of the proposed gTLD. Note, this review is discussed in a different context above in section 4.6.1 on Security and Stability.

2.2.2.2 Financial Review: Intended to gather information about the applicant's financial capabilities for operation of a gTLD registry and its financial planning in preparation for long-term stability of the new gTLD.

The evaluation questions, 1-50, are found in the Attachment to Module 2.

2.2.2.3 Evaluation Methodology: Dedicated technical and financial evaluation panels will conduct the technical/operational and financial reviews, according to the established criteria and scoring mechanism included as an attachment to this module. These reviews are conducted on the basis of the information each applicant makes available to ICANN in its response to the questions in the Application Form.

2.2.3 Registry Services Review: Review the applicant's proposed registry services for any possible adverse impact on security or stability. Note, this review is discussed in greater detail above in section 4.6.1 on Security and Stability.

- *4.6.2.2 Questions and Concerns Related to Subject*

While the pass rate for Initial Evaluation was extremely high, the road to achieving that outcome required substantial back and forth between ICANN's evaluators, through ICANN, to the applicants (sometimes to RSPs and/or consultants) to provide responses, which went back to ICANN, and finally back to the evaluators. A great number of DG members noted that a vast majority of applicants received clarification questions, meaning either an adjustment is needed in the composition of the questions and associated guidance, or there is a disconnect between the criteria, the evaluators, and applicants, other issue, or a combination of issues.

Analyzing the clarification questions should provide guidance on how the questions, communications, and evaluation process can be improved.

In addition, as noted above, the vast majority of applicants engaged a RSP to provide their registry services and other technical functions, which may have contributed to a communication gap as clarifying questions were directed at applicants who in turn needed to seek answers from their RSPs.

The application submission and evaluation processes may benefit from discussions about how to streamline the process. Acknowledging that most applicants will use a RSP will greatly benefit applicants and ICANN operationally, even in the absence of an accreditation program. As well, facilitating the submission and evaluation of essentially identical applications will also help to streamline the process.

A number of DG members highlighted the Continuing Operations Instrument (COI) as a distinct source of frustration, as it took great effort in many circumstances to get satisfactory language. Many applicants in the previous round found the financial instrument requirements to be onerous and required extensive multilateral negotiations between the applicant, their financial institutions, and ICANN. The DG suggested that at a minimum, the process and guidance needed to be evaluated, but the mechanism itself, and its applicability for all applicants may need to be evaluated (e.g., a .Brand registry may not need extensive registrant protection mechanisms).

Public comment noted that it may be valuable to collect data on applicant background screening checks to determine their effectiveness in identifying bad actors to help determine their applicability for subsequent procedures. In addition, it was suggested that any background screening issues identified be addressed prior to Registry Agreement (RA) negotiations, rather than perhaps being included in the RA.

- *4.6.2.3 Relevant Guidance*
  - Principle D
  - Principle E
  - Recommendation 7
  - Recommendation 8
  
- *4.6.2.4 Rationale for Policy Development*

As noted, the 2007 Final Report did not provide specific guidance on the actual criteria to evaluate applications against. Consequently, the criteria was developed during the implementation phase, leveraging the questionnaires from the “proof of concept” rounds, over the course of several years and with considerable input from the community. A potential PDP-WG on New gTLD Subsequent Procedures may want to consider providing specific guidance on the criteria to be used for the program. Other potential changes to the

program that have been discussed, such as application types or an accreditation program, would factor heavily in this discussion. Policy work may be needed to refine the evaluation criteria.

As the COI was highlighted as an acute pain point for many DG members, a PDP-WG may want to consider procedural issues relating to the COI and how they may be resolved, or perhaps an alternative mechanism that achieves defined policy goals.