

## Work Track 1: Moving Towards Consensus

### Progress Overview

A high-level overview of the various work track one topics along with the status is reflected below. The status may change as other topics are discussed further and by no means, is an indication of requesting further input or suggestions.

Topic	Status	Further Discussion Needed
4.2.5 Applicant Guidebook	Consensus on policy has been reached	No items o/s
4.2.6 Clarity of Application Process	To review progress/status – Jan 16, 2018	Yes
4.2.8 Accreditation Programs	To review progress/status - Jan 9, 2018	
4.2.9 Systems	To review progress/status – Dec 19	Yes
4.2.10 Application Fees	Consensus on some policies have been reached – revisit Jan 16, 2018	Yes, o/s items remain
4.2.11 Communications	To review progress/status – Dec 19	Yes
4.2.12 Application Queuing	To review progress/status – Dec 19	Yes
4.2.13 Application Submission Period	To review progress/status - Jan 9, 2018	
4.2.14 Support for Applicants from Developing Countries	Consensus on some policies have been reached – revisit Feb 6, 2018	Yes, o/s items remain
4.2.16 Application Submission Limits	To review progress/status	
4.2.17 Variable Fees	Consensus on some policies have been reached – revisit Jan 16, 2018 time permitting;	Yes, o/s items remain
Added: Way to provide comment and role of public comments	To review progress/status	

## Systems (4.2.9)

### Explanation of Subject

There did not appear to be any guidance specifically related to technical systems in the 2007 Final Report.

ICANN developed and deployed a number of applicant-facing systems to facilitate application submission and communications between ICANN operational staff and applicants. The TLD Application System (TAS) was used to allow applicants to submit their applications and to receive the results of the various evaluation procedures, such as Financial Capability, Technical/Operational Capability, Registry Services, overall Initial Evaluation Results, etc. The Customer Portal was responsible for allowing applicants to submit questions to ICANN and for ICANN to provide responses.

In addition to these two primary systems, there were additional solutions developed to support the program, including Digital Archery, Centralized Zone Data Service, and the Application Comments Forum.

### Questions and Concerns Related to Subject

There were several systems that applicants had to utilize throughout the application process, many requiring different logins, and many presenting a different user experience. Members of the DG suggested that a more integrated set of applicant facing systems would be a more user friendly, robust approach. There were distinct issues with some of the systems, in particular the TAS system. For instance, TAS required first logging into the Citrix ZenApp layer, which provided a browser agnostic environment, then subsequently logged into TAS itself. While there were benefits to creating a browser agnostic environment, particularly security benefits, it proved to be a poor user experience with applicants having trouble keeping track of multiple sets of login credentials, downloading required software properly, uploading supporting documentation, and even pasting their question responses into the proper fields. Additionally, TAS suffered an applicant data security glitch, which required the system to be taken offline in April of 2012. After an extensive audit, ICANN felt confident that it understood the extent of the issue. After having resolved the cause of the glitch, the system was brought back online in May of 2012.

As mentioned, many of the other applicant-facing systems did not share architecture or a credential database, so they had very little integration, creating what DG members found to be a fragmented experience. Because of issues like the TAS glitch, DG members also recommend more robust security testing and as a result of the negative comments received about user experience, user experience testing is likely also beneficial.

### Rationale for policy development

The DG did not anticipate policy development work in regards to systems. However, a potential PDP-WG on New gTLD Subsequent Procedures may want to consider providing implementation guidance, such as a minimum set of security and infrastructure standards, for consideration by ICANN during implementation of subsequent procedures.

### Discussions

Feedback Received/ Recommendations:

- Security and stability improvements: robust user testing, better integrated systems, adequate time for system development, provide a test environment
- Ability to use non-ASCII characters
- Systems to allow for automated invoices
- Tracking capabilities to allow users to confirm information has been saved
- Improved communications with live support
- Grouping of applications to reduce the number of duplicated messages and action items for the applicant to review
- Standard return email addresses – **automated?**
- Allow secondary points of contact to receive communications
- Provide user transparency on application/registry data that has been entered
- Allow for different levels of access

- Ability to update application documentation and information rather than cut & paste into a form
- There was a feeling that those who did beta testing might be given an unfair advantage
- System Click-Through Agreement/ Terms of Use should have minimum effect while not creating additional legal burdens and be provided to applicants ahead of time through the AGB. Negotiated two-sided process.
- Add more feedback on the improvements

## Consensus Items

Systems should be integrated and undergo extensive, robust testing to ensure their stability and the security of data is properly protected. Ensuring sufficient development time along with a testing environment should be employed along with transparency of changes while ensuring no unfair advantages are created.

Focus on improving the transparency of submitted information and user experience including the ability to use non-ASCII characters, live support (also in systems), group applications together, standard auto-responder email, ability to receive automated invoices, tracking capabilities and confirmation of updated/saved information, ability to update information/documentation in multiple fields without having to copy and paste, ability to add secondary contacts to receive communication along with the ability to grant access to different users related to an application.

Any system access agreements/Terms of Use and should be finalized in advance and included in the Applicant Guide Book with the goal of minimizing obstacles and/or legal burdens on applicants.

### Aspects for Further Discussion

- Means to provide answers to questions and then have it disseminated across all applications being supported.
- Need clearly defined contacts for particular questions
- Feedback on beta testing - independent people testing?  
<https://www.icann.org/en/system/files/files/program-review-29jan16-en.pdf>

## Communications (4.2.11)

### Explanation of Subject Implementation

Guideline C states that: ICANN will provide frequent communications with applicants and the public including comment forums. There are at least a few aspects to communications. One aspect relates to ICANN's communications plan that sought to increase global awareness of the significant changes that the New gTLD Program represented. The intention was to target audiences beyond potential applicants, as the expansion of the DNS impacts more than just that particular audience. ICANN published a working draft of its communications plan in May of 2011, which was authorized by the ICANN Board to serve as the basis for ICANN's global outreach and education activities for the program. Another aspect of communications is related to the processes to facilitate dialogue between applicants and ICANN, which was primarily supported through the Customer Portal, although ICANN also employed the use of

webinars, roadshows, and sessions at ICANN meetings, among other methods, to facilitate dialogue between the community and ICANN. Lastly, as noted in Implementation Guideline C, ICANN had need to support a mechanism to collect public comment, which it accomplished by establishing the Application Comments Forum.

## Questions and Concerns Related to Subject

The DG Members raised concerns primarily around the communications between ICANN and applicants and ICANN's outreach activities.

ICANN-Applicant Communications DG Members noted issues with receiving answers to questions submitted through the Customer Portal, both related to the adequacy and consistency of the response as well as timeliness in delivery. In addition, members also felt that equal access to information could be improved, perhaps with the creation of a robust knowledge base. While ICANN created knowledge base articles for the purpose of equal access to information, this approach may be less timely and expansive than a searchable knowledge base likely could be. Some DG Members expressed concerns in the way that ICANN shared information, highlighting webinars in particular as potentially insufficient in properly distributing information. **The PDP-WG could consider reaching out to ICANN's GDD team to see whether they may have statistics on their ability to achieve Service Level Agreements (SLAs) and metrics to help the PDP-WG understand, for instance, what elements of the program may have induced the most customer support cases.**

## Outreach

The DG's concerns relating to ICANN's outreach efforts were primarily focused around the perceived lack of outreach to Developing Countries, providing the lack of Applicant Support Program uptake as evidence of these shortcomings. This topic will be discussed in greater detail in section 4.2.14 on Support for Applicants From Developing Countries. In addition to that specific element, a potential PDP-WG on New gTLD Subsequent Procedures may want to consider suggesting targeted groups or sectors, communication methods, as well as metrics to help identify if the communications plan was effective. A PDP-WG may also want to consider what themes should be conveyed and to what parties, as it may be beneficial to customize messaging based on the needs of the particular demographic.

## Rationale for Policy Development

The DG did not anticipate policy development work directly related to Final Issue Report on New gTLD Subsequent Procedures. However, a potential PDP-WG on New gTLD Subsequent Procedures may want to consider providing implementation guidance related to communication methods, goals for communications, success criteria, and other elements.

## Discussions

- Knowledge database be more timely and searchable, improved communications on applicant advisories (e.g. subscription service), consolidation of program information into a single site, leverage Global Stakeholder Engagement team to promote global awareness
- Metrics to measure successful communication levels were not established; The Applicant Support Program was highlighted as an area of weakness

- Provide applicants the ability to be notified of new developments, processes and procedures including information that is germane to their own applications
- ICANN portals to allow the submission of confidential application questions with stated response times
- Use of a general "help line" and a searchable FAQ-type webpage
- Organize regional teams within underserved regions to help educate and inform potential applicants to ensure they have the right contacts including RSP and Applicant Support programs
- Program Implementation Review – Jan 29, 2016  
<https://www.icann.org/en/system/files/files/program-review-29jan16-en.pdf>
- Prioritization of cases and system issues
- Use of one website so applicants do not have to search multiple sites searching for information
- Escalation procedure for when issues arise in receiving a response
- Subscription service for applicants to allow ICANN staff to provide an answer while ensuring information is dispersed equally amongst all applicants to avoid any type of unfair advantage

### Consensus Items

The web-based knowledge base should be easily searchable with timely updated information. Concerns with wide reaching impacts should be prioritized. Additionally, applicants should be provided with the option to opt-in to a subscription service on applicant advisories, new developments, processes, daily update and procedures pertinent to their application.

Provide transparency on escalation processes and guidelines.

Timely and updated expected response times should be displayed on the website.

Program information should be contained within one website for ease of access.

Use of a general 'help line' and online tools such as a chat function would also help improve communications.

Contact information of regional teams employed in underserved regions should be easily attainable to help educate and potential applicants including RSP and Applicant Support programs (see ASP for further details)

### Aspects for Further Discussion

## Application Queuing (4.2.12)

### Explanation of Subject Implementation

Guideline D states that:

*A first come first served processing schedule within the application round will be implemented and will continue for an ongoing process, if necessary. Applications will be time and date stamped on receipt.*

The AGB had a different implementation than the 2007 Final Report recommended. The AGB anticipated that for Initial Evaluation at least, all applications would be completed and published in a timeframe of five months, unless the number of applications exceeded 500, in which case the AGB called for a secondary timestamp mechanism in order to establish batches for evaluation and subsequent application processing steps.

In the 2012 New gTLD round, 1930 complete applications were received, greatly exceeding 500 applications, and thus requiring the establishment of batches as dictated in the AGB. The initial secondary timestamp mechanism was digital archery, which was suspended due to applicants' reports of inaccuracies and inconsistencies within the system. The use of a random selection mechanism was considered by the community but was decided against as there was the possibility of violating California lottery laws. ICANN ultimately ended up utilizing a prioritization draw to establish the application processing order. The method was selected after consultation with the community and was intended to support the principles of reliability and equitability. The order would affect evaluation, release of results, and other subsequent steps of the process.

It should also be noted that in the 2012 round of the New gTLD Program, IDN strings were batched first.

### Questions and Concerns Related to Subject

The DG Members noted that the secondary timestamp process, as described in the AGB, was not developed or operationalized prior to the launch of the program. They were particularly concerned with the digital archery method, which was later cancelled after the community discovered inaccuracies and errors. The prioritization draw did not elicit specific comment, but members had comments regarding how processing took place after the order was established. Some members observed that applications with lower priority numbers seemed to be processed ahead of those with higher numbers, though these observations appeared anecdotal.

Establishing an order for processing allowed for applicants and the rest of the community to have certainty and predictability in the evaluation process. However, having the order established through a random measure introduces operational inefficiencies, as evaluators are less able to build in economies of scale when for instance, a number of applications might be using the same back-end provider, or a single applicant has submitted numerous, essentially identical applications. The prioritization draw as such, emphasizes fairness, by way of randomness, over efficiency.

As noted above, the AGB implementation, and the subsequent operationalization, did not follow the guidance in the 2007 Final Report that recommended first come first served processing scheduling. There were a number of reasons for implementing a different processing methodology, as first come first served introduces a number of potential issues, including:

- Applicants rushing to complete applications, possibly forsaking quality or Favoring applicants most familiar with the process and requirements
- Favoring applicants who are located closer to ICANN's servers
- Creating the possibility of a self-inflicted distributed denial of service attack as applicants rush to click the submit button first

A potential PDP-WG on New gTLD Subsequent Procedures may want to deliberate on a different application processing methodology, although care should be taken in considering the impact on other areas of the program. For instance, if first come first served was strictly observed, would this have an impact on the need for string contention resolution? Changes as a result of deliberations regarding section 4.2.7 on Application Rounds should also be taken into consideration and the questions/concerns posed in this section may be relevant to that discussion.

### Rationale for Policy Development

The aspect of the 2007 Final Report that provided guidance was Implementation Guideline D, though after community consultation, this guidance was not followed in implementation or operationalization. As such, a potential PDP-WG on New gTLD Subsequent Procedures may want to consider modifying the existing language to codify the actual implementation, if the PDP-WG were to agree with the implementation. Else, if a new methodology were recommended, it may require new policy development or implementation guidance.

### Discussions

- If queuing is needed, support for prioritization draw/raffle, meeting legal requirements is a priority
- Digital archery should be avoided
- Allow applicants to choose which of their applications to prioritize within a queuing process.
- No consensus on prioritization. If we start with a "round", do we support randomization without prioritization. If the process transitions to continuous, there will no longer be a need for queuing.
  - a) Some WT members expressed that applications at low risk of contention should receive prioritization
  - b) Some WT members suggested that it would be helpful to have data about whether prioritization of IDN applications met stated goals in the 2012 round
- What was the goal of prioritization - to launch first? Should priority be given to the 'Global South'? Gaming concerns

### Consensus Items

Applicants who wish to have their application prioritized may choose to participate in a random draw. If an applicant has more than one application, they may choose to alter the priority number assigned to an application.

Applicants who choose not to participate in the draw will be processed after the prioritized applicants.

Assignment of a priority number is for the processing of the application and does not necessarily reflect when the TLD will be delegated.

If applications windows become a continuous process then applications considered low risk should be given priority.

### Aspects for Further Discussion

- Implications if a continuous application process is implemented – how should the applications be prioritized?
- What about prioritization of a specific type of applications? i.e. IDNs
- How are applications who did not participate in the draw sequenced? When submitted? Other?
- Define ‘low risk’
- Do we want to address gaming concerns on prioritization?
- What do we gain in terms of prioritization? Ask for feedback in the Preliminary Report

## Applicant Guidebook (4.2.5)

### Explanation of Subject

The Applicant Guidebook (AGB) is effectively the implementation of GNSO policy recommendations from the its 2007 Final Report, although at the time, it was referred to as the Request for Proposal (RFP).

*This policy development process has been designed to produce a systemised and ongoing mechanism for applicants to propose new top-level domains. The Request for Proposals (RFP) for the first round will include scheduling information for the subsequent rounds to occur within one year. After the first round of new applications, the application system will be evaluated by ICANN's TLDs Project Office to assess the effectiveness of the application system. Success metrics will be developed and any necessary adjustments made to the process for subsequent rounds.*

The development of the AGB, as it became known, was intended to act as a roadmap to potential applicants and other parties interested in the process. The development of the AGB was iterative, integrating public comment and feedback received through other channels into its numerous incarnations, as is noted in the Preamble to the AGB:

*ICANN's work next focused on implementation: creating an application and evaluation process for new gTLDs that is aligned with the policy recommendations and provides a clear roadmap for applicants to reach delegation, including Board approval. This implementation work is reflected in the drafts of the applicant guidebook that were released for public comment, and in the explanatory papers giving insight into rationale behind some of the conclusions reached on specific topics. Meaningful community input has led to revisions of the draft applicant guidebook. In parallel, ICANN has established the resources needed to successfully launch and operate the program. This process concluded with the decision by the ICANN Board of Directors in June 2011 to launch the New gTLD Program.*

The AGB served as the guide for staff in developing operational processes and procedures.

### Questions and Concerns Related to Subject

The AGB was developed over the course of several years, countless volunteer hours, with numerous iterations and explanatory memoranda, and much debate in public comments, during ICANN meetings, online fora and other channels. As a result, it is a piece of documentation that represents bottom up,



multi stakeholder compromise and as such, is unlikely to be considered perfect by all parties, as compromise generally requires concessions.

In the deliberations of the DG, the views exchanged on the AGB were diverse. As the AGB was a singular document intended to support the program, it was likely foreseeable that there would be sections that may be less relevant to certain parties than others. The AGB provided the requirements to be considered by applicants, consultants, backend providers, registrars, rights holders, governments, and others interested in the program.

Some members of the DG suggested partitioning the AGB into distinct, audience driven sections, believing that it may improve readability and understanding of rules. Others suggested that the AGB could be made more process-driven, providing step-by-step instructions. Still, others even suggested that the AGB was the wrong vehicle for implementation of the policy entirely, although an alternative was not suggested.

As a result of the many program reviews being performed by various facets of the community, it remains likely that there will need to be revisions to the AGB. In addition, in the event that there are substantive changes to the existing New gTLD policy, the AGB must be adjusted accordingly to reflect those changes. Any changes to the AGB for subsequent procedures must be subject to community discourse, as occurred in the past.

## Rationale for Policy Development

The DG did not anticipate policy development work in regards to the Applicant Guidebook, although it could be necessary if there is broad support for an alternate vehicle for implementation of the new gTLD policy. A potential PDP-WG on New gTLD Subsequent Procedures may want to consider providing implementation guidance, particularly around the structure of the AGB, for consideration by ICANN in developing the next AGB, though modifications to the AGB (provided the AGB remains as the implementation vehicle) would presumably remain an iterative, community-inclusive process.

## Discussions

Non-native English insiders or insiders to enhance accessibility for ease of understanding

- The AGB should be:
- Less historical
- Less of a policy approach
- Create a practical guide that can be used in applying for a TLD
- Improving the Table of Contents along with the Index → making the document easier to find relevant information and to search
- Step-by-step, possibly by type of application ‘choose your own adventure’

## Consensus Items

The Applicant Guidebook should include audience driven sections but without replication. The online version could have sections that apply specifically to the type of application being applied for with the ability to only print those related sections.

Any system access agreements/Terms of Use and should be finalized in advance and included in the Applicant Guide Book with the goal of minimizing obstacles and/or legal burdens on applicants (see Systems).

## Aspects for further discussion

### Support for Applicants from Developing Countries (4.2.14)

#### Explanation of Subject

In an effort to increase global diversity and representation across regions within the New gTLD Program, the ICANN community developed the Applicant Support Program (ASP). The ASP sought to provide financial and non-financial support to applicants from developing economies, thereby reducing competitive disadvantages that may prevent them from participating in the New gTLD Program. The ASP is also in support of Implementation Guideline N, which states:

ICANN may put in place a fee reduction scheme for gTLD applicants from economies classified by the UN as least developed.

The ASP was the implementation of the final report delivered by the Joint SO/AC New gTLD Applicant Support Working Group (JAS WG), chartered by the GNSO and the ALAC51. The ASP provided financial and non-financial support via three mechanisms:

- Financial assistance in the form of a reduction in the new gTLD evaluation fee (i.e., \$47,000 USD as opposed to \$185,000 USD) for applicants meeting qualifications.
- Pro bono services via the Applicant Support Directory, which was created to connect potential applicants who wish to establish a new public interest gTLD registry in their community with organizations who wish to offer either financial or non-financial assistance.
- Establishment of a funding mechanism for the ASP, which received \$2,000,000 USD in seed funding.

#### Questions and Concerns Related to Subject

The topic of support for applicants from Developing Countries received considerable attention from members of the DG. Members noted that of the 1930 complete applications received by ICANN, only three applied for financial assistance via the ASP program, with a single application meeting the criteria. DG Members were concerned with the lack of usage of the Applicant Support Program and identified a number of possible reasons that may have contributed to the limited number of applications for the ASP program:

- The measures introduced to prevent gaming of the ASP may have discouraged possible applicants.
- There was a short trajectory from the JAS WG Final Report, implementation of the recommendations, and the launch of the New gTLD Program, inclusive of the ASP.
- The lack of, or otherwise inadequate, outreach efforts for the ASP.

- The lack of financial support beyond the application fee reduction for other aspects of the program, like objections, string contention resolution, post delegation operations, and other expenses associated with running a gTLD registry.

Some DG Members provided suggestions on how to address some of the issues identified above, hopefully increasing utilization of the ASP or similar program, such as:

- Improving the outreach for the ASP as well as improved outreach in general for the New gTLD Program in Developing Countries.
- Creating a round dedicated to applicants from Developing Countries, which is discussed in greater detail in section 4.2.16 on Application Submission Limits.
- Making the assistance more comprehensive, so that it extends beyond just the application fee reduction.

With only three ASP applications out of a total of 1930 applications, it is clear that usage of the ASP was minimal. However, there may be a number of reasons why this may be the case. A possible PDP-WG on New gTLD Subsequent Procedures should seek data in understanding why usage was limited, as it will help inform the development of any updated solutions. The PDP-WG may also want to consider identifying success criteria for the program related to communications, funds made available, usage of the program, and other factors.

### Rationale for policy development

Support for applicants from developing countries was identified in Implementation Guideline N, but the substantive recommendations are found in the JAS WG Final Report, together with the Board working group that developed an implementation model. In its resolution to approve the ASP, the ICANN Board noted that not all JAS WG recommendations were accepted.

A possible PDP-WG on New gTLD Subsequent Procedures may want to review the existing Implementation Guideline and consider possible additional recommendations to improve the support for applicants from developing nations. Work to support this effort may include identifying recommended support mechanisms, evaluation criteria, clear objectives, success criteria, and other elements. Given the interest in the subject within the DG and the wider community, this subject may warrant policy development. Finally, the ASP was identified in ICANN Board guidance on initial input on areas for possible policy work.

### Discussions

Creating a round dedicated to applicants from Developing Countries

Obtain information and/or data to better understand why usage was limited, and can be used in the development of any future solutions.

Dissemination of information regard applicant support to end users. Potential applicants felt they didn't have complete or right kind of information.

- Need diversified Outreach - in person events, webinars, attending sector specific conferences
- Use traditional media + online press
- Communications must be frequent and simple to understand

Cart before the horse: What areas need to be addressed first? Need balance between communities or geographic areas want for support for a gTLD, balanced with do they have enough potential registrants who would be interested in that gTLD or do they have bigger issues to address, i.e., do they need the users before they need the gTLD? Or are we trying to build the gTLD and then bring in the user?

Applicants may be unsophisticated and evaluations should be conducted with that understanding

Focus on mobile, mobile, mobile

Business case must be made to 1) internal management 2) the public 3) gTLD purchasers  
Provide possible business models that may be emulated along with case studies

ICANN may put in place a fee reduction scheme for gTLD applicants from economies classified by the UN as least developed.

As of June 2017, UN:

- Afghanistan Angola Bangladesh Benin Bhutan Burkina Faso Burundi Cambodia Central African Republic Chad Comoros Democratic Republic of the Congo Djibouti Eritrea Ethiopia Gambia Guinea Guinea-Bissau Haiti Kiribati Lao People's Democratic Republic Lesotho Liberia Madagascar Malawi Mali Mauritania Mozambique Myanmar Nepal Niger Rwanda Sao Tome and Principe Senegal Sierra Leone Solomon Islands Somalia South Sudan Sudan Timor-Leste Togo Tuvalu Uganda United Republic of Tanzania Vanuatu Yemen Zambia

Incubator for less advantages applicants

Choosing applicants in various regions such as five areas as defined by the GSA team to provide to build expertise for a longer period of time

Applicant support should be open to applicants regardless of their location. Disadvantages communities exist within wealthy countries and should not be excluded due to their location.

Allow applicants who do not qualify, the opportunity to raise the additional funds and transfer to the standard application process

In 2012, the ASP fee was \$47k which is ~ 25% of \$185k. If the application fee is reduced in the future should there be a minimum application fee to applicants who are awarded support?

### **Implementation Recommendation - Improve Promotional Efforts**

- Improve outreach for the New gTLD program in general and the ASP in Developing Countries
- Engage with ccNSO/GAC Members/ALAC on how to create awareness and education in such regions:
  - a) Expand training and awareness opportunities; Inclusion of the Applicant Support program in all promotional activities related to new TLD applications
  - b) Be present in potential markets. This is still a new field in many countries and it takes time/presence to gain traction and build awareness
  - c) Find suitable partners with the relevant global reach to improve outreach efforts to the appropriate audiences (Internet societies chapters, global university networks or aid organizations) who focus on technology and communications in underserved markets

- d) Implement training programs for developing locally situated registries/registrars that will address and support the needs of potential business, educational and social entrepreneurial and end-users
- e) Compare volume to users of domain names registered in regional TLDs
- f) Identify the number of domain names registered in “regional” new gTLDs compared with the number of internet users in such regions and then compare with same numbers in regions like Europe and North America

**Implementation Recommendation – Utilize Partnerships to Maximize Outreach**

- North American companies going into regions to carry out studies is a hurdle and undermines the programs potential
- ICANN may need to remove itself from promoting outreach to underdeveloped areas
- ICANN needs to partner with organizations in potential regions before taking further actions
- Developmental entities and agencies could be helpful
- Initiatives funded by multilateral agencies
- Promoting access to economy

**Recommendation – Support Beyond Reduced Application Fees**

- Support, beyond reduced application fees, for other aspects of the program, like objections, string contention resolution, post-delegation operations, and other operational expenses (backend tech., escrow, marketing and sales):
  - a. Focus on the application process and support through the entire process; facilitate introductions and engagement with RSPs willing to support discounted services for ASP participants
  - b. Provide mentorship and continued support including knowledgeable technical and managerial personnel
  - c. Support groups who are considering whether to apply.
  - d. Provide tools to evaluate their idea and its potential separate from the application process

**Recommendation – Understand Obstacles & Provide Assistance Accordingly**

*“Money is not Necessarily the Biggest Obstacle.”*

- a) Technical support in the processing of the application(s)
- b) Technical competence of the applicant is important;
- c) Evaluation of total cost of ownership of TLD including:
  - i. Attorney’s fees
  - ii. Maintenance
- d) Need a mechanism to provide support for processing applications
- e) Advise on how to develop a TLD; how to develop a particular market for a TLD
- f) TLDs linked to identity - higher chance of not competing with others and likely to succeed in a community or region
  - i. What are the biggest issues in a region and how can a TLD help overcome the obstacles?
- g) Where basic infrastructure and reliable access continues to be a challenge, ICANN must accept that the existing availability of TLDs (ccTLDs and existing gTLDs) may be sufficient in regions where resources may be more effectively utilized in critical local Internet infrastructure

## Consensus Items

Applicant support should be open to applicants regardless of their location.

Geographic outreach areas should consider the “middle applicant” which are struggling regions that are further along in their development compared to underserved or underdeveloped regions.

Applicants who do not meet the Applicant Support Program will be provided with the opportunity to pay the additional application fee amount and transfer to the standard application process associated with their application.

Improve the awareness of the Applicant Support Program by engaging with other ICANN communities and other suitable partners that include, but not limited to, focus on technology and communication industries in underserved regions while improving awareness through extensive promotional activities.

A multifaceted approach based on pre-application support including longer lead times to create awareness, insightful experts who understand relevant regional issues and potential ramifications on the business plans along with tools and expertise on evaluating the business case and developing a market for a TLD.

Mentorship on the management, operational and technical aspects of running a registry such as existing registries/registrars within the region to develop in-house expertise to help ensure a viable business for the long-term.

Financial support needs to go beyond the application fee but also include application writing fees, attorney fees and ICANN annual maintenance fees.

Evaluate additional funding opportunities including multilateral and bilateral organizations

## Aspects for Further Discussion

- Metrics: success – sheer # of applications; considered application vs. applied, business plan, financial sustainability, sources of funds; accuracy of information
- Evaluation criteria if there are more applicants than funds, ideas: dispersed by region, number of points earned in the evaluation process, type of application, communities represented, other?
- Other elements – did we provide the right tools?
- Objectives of the ASP define
- How to provide locally available consulting resources
- How to improve the learning curve – ideas beyond mentorship
- Making the business case with limited penetration of e-commerce in the markets thereby increasing risk
- How do we penalizing applicants who may try to game the system?
- String contention resolution/auction considerations – any?

## Application Submission Period (4.2.13)

### Explanation of Subject

There were no policy recommendations in the 2007 Final Report that sought to place restrictions on the number of applications that could be submitted from a single applicant. As such, in the 2012 New gTLD Program round, applicants were not limited in the number of applications they could submit.

### Questions and Concerns Related to Subject

With the current implementation of the New gTLD Program, the DG noted that allowing unlimited applications from any applicant can make it more difficult for applicants with limited funding to adequately compete. Allowing unlimited applications creates more competition for the most valuable strings, making it especially difficult for applicants from underserved regions to realistically secure certain strings. With auctions identified as the method of last resort to resolve string contention, likely benefitting applicants with the deepest pockets, it makes it challenging for ICANN to achieve Article 1, Section 2,6 of its Bylaws:

*Introducing and promoting competition in the registration of domain names where practicable and beneficial in the public interest.*

In considering establishing limits, DG Members identified a number of questions or concerns that would require deliberations, including:

- Are there questions of fairness in establishing limits? Are there anti-trust implications for ICANN in possibly restricting competition for a scarce resource?
- What is a reasonable limit of applications per applicant?
- With the use of shelf-companies and consultants, is it possible to restrict applications from an applicant?

Besides restricting the number of applications that an applicant can submit, the DG also considered measures that could be taken after submission. For instance, a limit could be established after string contention sets are established, requiring applicants to prioritize in the selection of their strings. The DG also identified the use of a comparative evaluation resolution method, which for instance could weight certain attributes, such as those related to communities, higher than commercial interests. However, in considering a less objective measure like comparative evaluation, it may warrant taking into account the challenges in implementing and operating Community Priority Evaluation (CPE), discussed in detail in section 4.4.5 on Community Applications. A comparative evaluation inherently creates winners and losers and the loser will be inclined to challenge the result more so than in the case where more objective measures are utilized (i.e., auctions).

The DG noted the possibility of a dedicated round for certain categories of applicants, such as those from Developing Countries, to help address the issues identified above. The DG also noted an alternative approach to a dedicated round could be placing caps on applicants from certain regions, industries, etc. The concept of a dedicated round or caps on applications from certain parties may be considered exclusionary and could introduce fairness issues that should be fully considered.

### Rationale for policy development

Application limits were not discussed in the 2007 Final Report. If a potential PDP-WG on New gTLD Subsequent Procedures decides to undertake the task, it may need to consider defining the application

limitation mechanism, assessing and resolving any questions related to the legality of the mechanism, establishing requirements, establishing validation and enforcement measures, among other elements, as suggested by the DG.

Given the likely complexity of establishing application limits, policy development is anticipated if this subject is undertaken by the PDP-WG.

## Discussions

Rounds or Continuous state? Perhaps a hybrid

- a. Hybrid: A fixed set of rounds or a single additional round (or perhaps defined by certain criteria to determine the “scale of demand”), followed by some form of steady state. Settle into Steady State
- b. Continuous state
  - i. First come, first served
  - ii. Annual / Biannual windows, or something similar (e.g., three months of application acceptance, remaining 9 months to complete evaluation, repeat on a yearly basis or three months of application acceptance, three months for objections/comments, then repeating. Evaluations are conducted on a rolling basis).
2. Rounds followed by evaluation periods instead of continuous. Application period for 3 months, w/adequate notice (8 months), presuming ABG2 is settled.
3. Continuous app system, w/publication & holding period to allow rivals to apply. Perhaps a hybrid – window then rolling to ease demand
4. Support for Rounds with advanced notice (3 months)
5. Process MUST provide predictability
6. Set application window timeline for predictability, with post application to delegation steps running in parallel with any subsequent window. Continue this process until a continuous application process is adopted. Lead-up rounds should closely reflect end-goal of continuous application process. Rounds should be a means of refining the continuous application process.
1. Ensure Applicants in the next round (regardless whether delegated or not) have priority over additional/subsequent round applicants.

## Consensus Items

The application submission window was too quick and too short.

Due to uncertainty related to demand, the WG suggests a Hybrid approach where a single round is set (with a minimum 3 months notice) followed by an annual window, e.g., three months of application acceptance, remaining 9 months to complete evaluation, repeat on a yearly basis. Evaluations are conducted on a rolling basis. The set application window timeline provides predictability, with post application to delegation steps running in parallel with any subsequent window. This process will lead into a “continuous” application process. The Lead-up round should closely reflect end-goal of continuous/annual application process. Round should be a means of refining the continuous application process.



Applicants in the next round (regardless whether delegated or not) have priority over additional/subsequent round applicants.

### Aspects for Further Discussion

- Is three months the proper amount of time?
- Is the concept of a fixed period of time for accepting applications the right approach? Does this help facilitate a predictable schedule for submission and objections/comments?

## Clarity of Application Process (4.2.6)

### Explanation of Subject

The 2007 Final Report recommended that the New gTLD application process provide clarity and certainty to potential applicants, with Recommendation 1 stating:

*ICANN must implement a process that allows the introduction of new top-level domains.*

*The evaluation and selection procedure for new gTLD registries should respect the principles of fairness, transparency and non-discrimination.*

*All applicants for a new gTLD registry should therefore be evaluated against transparent and predictable criteria, fully available to the applicants prior to the initiation of the process.*

*Normally, therefore, no subsequent additional selection criteria should be used in the selection process.*

And Recommendation 9 stating:

*There must be a clear and pre-published application process using objective and measurable criteria.*

The AGB, through the implementation of the GNSO New gTLD policy, sought to provide the clarity and certainty as called for in the recommendations. The themes of predictability and the AGB are explained in further detail in sections 4.2.2 on Predictability and 4.2.5 on the Applicant Guidebook, respectively.

### Questions and Concerns Related to Subject

From the discussions of the DG, it appeared that there was general agreement that the AGB, developed iteratively and with ample community participation, was the proper vehicle for the implementation of the GNSO New gTLD policy recommendations. However, in translating the AGB into operational processes and procedures, the DG felt that transparency of development was lost to some degree.

In June 2011, the ICANN Board approved the AGB and program launch, with the application submission period opening approximately seven months later in January of 2012, which served as a relatively short period of time to operationalize the finalized requirements in the AGB. Once the application submission process began, the number of applications received exceeded much of the community's estimates, making operationalization of remaining program elements more difficult. According to members of the DG, elements of the program appeared to be developed on an as-needed basis, citing examples such as the processes governing clarifying questions, change requests, customer support, application prioritization, among others.

DG Members noted other issues around the application submission process, though they were not necessarily regarding clarity of process, but more in regards to the lack of efficiency. These members cited the need to create multiple accounts when submitting over 50 applications and the treatment of every application as unique as particular concerns, with the latter issue creating inefficiencies during application submission and subsequent steps in the evaluation process. The inefficiencies in application submission and evaluation will be discussed in further detail in sections 4.2.8 on Accreditation Programs and 4.2.9 on Systems.

### Rationale for policy development:

The DG did not anticipate policy development in regards to Clarity of the Application Process. However, a potential PDP-WG on New gTLD Subsequent Procedures may want to consider providing implementation guidance for consideration by ICANN if and when it seeks to operationalize New gTLD Subsequent Procedures.

### Discussions

- Application Guide Book and all associated processes and policies must be finalized before application period opens.
- Changes to the AGB and/or application should be minimized. For changes made to the program after applications are submitted, there must be a mechanism that allows impacted applicants the chance to either receive a full refund or be tracked into a parallel process that deals with the issues directly without impacting the rest of the program.
- Enable multiple applications in one account and streamline answer submissions
  - Create a way for an applicant or RSP to answer questions once as opposed to answer same question for every application it supports. Means to provide answers to questions and then have it disseminated across all applications being supported.
- Public at large does not have real insight into any of the clarifying questions that were asked. Need to bring those out into the open without revealing any specific flaw or applicant. A lot of general questions that were asked repeatedly.
- Gather list of clarify question for publication. Need to establish clearly defined contacts for particular questions.
- Program Review Report shows which questions got CQs and the theme
- A lack of invoices was a particular challenge for applicants to be able to navigate the financial approval processes within their respective organizations
- Application Prioritization was viewed as largely irrelevant and could be improved - it may be beneficial to have ICANN looking at ways they could improve efficiencies.

### Consensus Items

The Application Guide Book (AGB) along with all of the associated processes and policies (including the Registry Agreement **(add additional detailed documents)**) must be finalized before the application period commences. Any changes to the AGB or application process should be minimized. However, when changes are necessary, a mechanism that allows impacted applicants the chance to either receive a full

refund or be tracked into a parallel process that deals with the issues directly without impacting the rest of the program

The systems should allow an applicant to streamline their answer submissions by allowing for the dissemination of information across all applications associated to the applicant.

## Aspects for Further Discussion

### Accreditation Programs (RSP Program) (4.2.8)

#### Explanation of Subject

Increasing competition within the registry service provider marketplace was identified as a key driver for the introduction of new TLDs in the 2007 Final Report. Principle C states:

*The reasons for introducing new top-level domains include that there is demand from potential applicants for new top-level domains in both ASCII and IDN formats. In addition, the introduction of new top-level domain application process has the potential to promote competition in the provision of registry services, to add to consumer choice, market differentiation and geographical and service provider diversity.*

In the 2012 New gTLD Round, a substantial number of applicants did indeed employ the use of an existing back-end provider to both provide the responses to the technical requirements questions defined in the AGB and perform the technical operations of the registry.

The New gTLD Program was designed to be agnostic to what party was provisioning registry services, so long as the technical requirements were met.

#### Questions and Concerns Related to Subject

The New gTLD Program was not built in a way that would take advantage of applicants' use of back-end service providers, both from an applicant's perspective or operationally for ICANN. The concept of an accreditation program received ample support from the DG, citing a number of issues and reasons for its usefulness.

#### Efficiency

Applicants who decided to use a contracted back-end provider for their RSP were required to enter the technical responses during the application submission period, which were likely to have been responses provided by their provider for the purposes of applying. As noted in other sections, applications were treated individually, so to the extent that an applicant was submitting more than one application with essentially identical responses, responses would need to be applied to each individual field for each application. These responses were in turn presumably evaluated individually for each application by ICANN's evaluators, leading to additional inefficiencies and possibility even increasing the likelihood for mistakes or inconsistencies.

The PDP-WG could consider whether accreditation of RSPs would be desirable. For example, if there was an accreditation program in place for future New gTLD Subsequent Procedures, an applicant could

conceivably “click a box” to say they are using an accredited RSP, reducing time per application for applicants and evaluators, possibly reducing confusion since the application process could presumably be made simpler, and likely reducing operational costs for ICANN. This would not remove the need to evaluate circumstances where the applicant is intending to introduce additional registry services. Nevertheless, making the process simpler and lowering costs, without compromising the goals of the program, such as fairness and security of the DNS, may result in additional potential applicants (i.e., competition).

### Security and Stability

There are several principles and recommendations that identify the importance of ensuring the stability and security of the DNS when expanding the DNS, including:

#### Principle D

*A set of technical criteria must be used for assessing a new gTLD registry applicant to minimise the risk of harming the operational stability, security and global interoperability of the Internet.*

#### Principle E

*A set of capability criteria for a new gTLD registry applicant must be used to provide an assurance that an applicant has the capability to meet its obligations under the terms of ICANN's registry agreement.*

#### Recommendation 7

*Applicants must be able to demonstrate their technical capability to run a registry operation for the purpose that the applicant sets out.*

Per Principle D, assessing an applicant’s technical expertise is critical to helping prevent harm to the DNS. The current technical and operational requirements as defined in the AGB allow for some variability based on the type of registry an applicant intends to run, which is important to support in order to promote, or at least allow for innovation. However, it is possible that there is a security and stability benefit to having known quantity RSPs, that have met certain agreed upon requirements and are intimately familiar with providing registry services.

### Rationale for Policy Development

As noted above, the PDP-WG could consider whether an accreditation program would promote benefits that support ICANN’s Mission and Core Values, in particular, Article 1, Section 2.1:

*Preserving and enhancing the operational stability, reliability, security, and global interoperability of the Internet*

#### And Article 1, Section 2.6

*Introducing and promoting competition in the registration of domain names where practicable and beneficial in the public interest.*

As such, a possible PDP-WG on New gTLD Subsequent Procedures may want to consider policy development on the subject of an accreditation program. There are a number of questions that would need to be considered, including the following:

- Is an accreditation program for RSPs desirable?
- If yes, what would the criteria be for an accreditation program? How would scalability of the RSP be measured across an unknown number of registries?
- How would the program be funded?
- What party would operate the program and perform accreditation?
- How would the application process be changed? Would questions change? Would costs be different?
- Would the creation of a simpler, and potentially cheaper path to approval, create unintended incentives?
- Besides RSPs, are there other areas of the program that might benefit from an accreditation program for service providers?

## Discussions

Was the repetitive, resource intensive technical evaluation and pre-delegation testing an interpretation of the rules -- a form of application rather than the fault with the rules themselves?

1. Efficiency in evaluation and pre-delegation of ICANN, applicants, and RSPs must be improved
2. Evaluation and pre-delegation testing must be consistent, predictable and to the extent possible, objective
3. RSP Program should be designed in such a manner as not to increase ICANN's liability
4. Applicants must have access to a list of Registry Service Providers and a list of functional areas they have been pre-approved for, through the RSP Program
5. Pre-approval of RSPs should be done in a way that takes into account the capacity of said RSP, the type of TLDs supported and services provided
6. Applicants must not be required to select a "pre-approved" RSP, but be able to either propose providing their own registry services or selection a new RSP. A new RSP must be evaluated prior to the ultimate selection of the Applicant to manage one or more specific TLDs
7. Costs associated with the evaluation and testing of an RSP should be borne by the RSP as opposed to the Applicant where the Applicant and the RSP are not the same entity

## Consensus Items

After considerable discussion, the WG has determined that an "accreditation" program, per se, is not desirable, but it does believe the new gTLD application process would benefit from a Registry Service Provider ("RSP") Program designed to limit redundant validation of RSP systems, specifically around Pre-delegation Testing. Ultimately, efficiency in evaluation and pre-delegation must be improved.

While all pathways of the RSP system should require full testing, testing must be consistent, predictable and to the extent possible, objective, and redundancy should be limited. The provider must be able to operate the registry in accordance with the technical requirements (for example, meet Standards in Extensible Provisioning (EPP) extensions, file formats, billing transactions, and Domain Transaction Type Name - see WT4), and also guarantee resiliency and stability. Therefore, to ensure stability and resiliency, the criteria should test capacity in excess of the RSP's routine activities. The criteria could include multiples of capacity to resist DDoS attacks and could address the latest threat matrices. As

these requirements might change over time, the providers would need to provide (periodic) evidence that they are up to date. (Note: Francisco previously provided some comments to WT4 regarding additional criteria for RSPs to enhance SSR.)

Any RSP Program should be designed in such a manner as not to increase ICANN's liability, and costs associated with the evaluation and testing of an RSP should be borne by the RSP as opposed to the Applicant, where the Applicant and the RSP are not the same entity.

Pre-approval of RSPs should be done in a way that takes into account the capacity of said RSP, the type of TLDs supported and services provided, and Applicants must have access to a list of Registry Service Providers and a list of functional areas they have been pre-approved for, through the RSP Program.

Applicants must not be required to select a "pre-approved" RSP, but be able to either propose providing their own registry services or selection a new RSP. A new RSP must be evaluated prior to the ultimate selection of the Applicant to manage one or more specific TLDs.

It is also noted that 1) there is general agreement that RSPs should not have a contract with ICANN, and 2) there is general agreement for periodic reassessment of RSPs.

Regarding timing, while most support the launch of such a program as soon as practical prior to the next application window, at the very least a 3 (?) month lead should be provided.

Finally, a clear RSP application processing timeline should be created and it should always be met/adhered to. This will ensure predictability.

## Aspects for Further Discussion

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## Application Fees (4.2.10)

### Explanation of Subject

The New gTLD Program was designed to be revenue neutral, which is in support of 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.*

In section 1.5.1, the AGB captured this guidance with the following text:

*The gTLD evaluation fee is set to recover costs associated with the new gTLD program. The fee is set to ensure that the program is fully funded and revenue neutral and is not subsidized by existing contributions from ICANN funding sources, including generic TLD registries and registrars, ccTLD contributions and RIR contributions.*

An application fee that is intended to be revenue neutral is also consistent with ICANN's status as a not-for-profit organization. The application fee was developed using "detailed costing methodology that includes program development costs, fixed and variable application evaluation costs, and risks or low probability event costs" as stated in the Update to the Cost Considerations of the New gTLD Program.

### Questions and Concerns Related to Subject

The New gTLD application fee was developed with the acknowledgement that it was being designed for a new program, where it is difficult to predict costs and volumes of applications. With many elements of the 2012 New gTLD round having now been completed, data should be available to refine the costing methodology for subsequent procedures. The DG recommended that ICANN's costing model be thoroughly reexamined, even in the absence of significant changes to the program. For instance, some DG members pointed out that there is a sizeable surplus (~\$89 million USD), mostly attributable to the litigation portion of the fee that has remained largely unspent. Although there is currently no plan for utilizing excess funds, in the Update to the Cost Considerations of the New gTLD Program document, ICANN envisioned that the community would be integral in determining how the funds would be handled, in the event that a surplus or a shortfall was realized.

The DG Members felt that the relatively high cost of applying led to a number of issues, many of which had already been identified in community discussions to establish the original amount. As acknowledged in the Update to the Cost Considerations of the New gTLD Program, there remained concerns that \$185,000 USD may act as a deterrent to applicants from developing nations, not-for-profits, and others with limited financial resources. Some members suggested that the fee contributed to the perceived lack of diversity as discussed in section 4.2.3 Competition, Consumer Trust & and Consumer Choice. There were suggestions that the high cost of the application fee could be offset by financial assistance or fee reduction programs, although care would need to be taken in designing these programs to avoid having them being taken advantage of by applicants that may not in fact have financial need. This topic will be discussed in further detail in section 4.2.14 Support for Applicants from Developing Countries. DG members specifically identified the lack of invoices as a particular challenge for applicants to be able to navigate financial approval processes within their respective organizations. Another topic that DG members identified was that the application fee was a continuation of the one-size-fits-all methodology

ingrained into the program, resulting in all applicants essentially paying the same amount regardless of the complexity of their evaluation, notwithstanding the additional costs for optional program elements like Community Priority Evaluation (CPE), objections, etc. This topic will be discussed in greater detail in section 4.2.17 Variable Fees. Finally, although ICANN has committed to evaluate the accuracy of its costing model for any subsequent procedures, it may also need to account for any significant changes to the program stemming from policy development, operational changes, or other channels. As examples, the creation of different application types and corresponding application tracks or the creation of an accreditation program may require consideration in evaluating the costing methodology.

## Rationale for Policy Development

The DG did not anticipate policy development work directly related to Application Fees. However, it may be useful to evaluate how well costing estimates compared to actual costs incurred by ICANN. The results of that review may lead a potential PDP-WG on New gTLD Subsequent Procedures to consider providing implementation guidance to be taken into account when ICANN works with the community to develop the costing methodology for subsequent procedures. And as noted above, significant changes to the program stemming from policy development, operational changes, or other channels would need to be properly accounted for in any new costing methodology.

## Discussions

- Is it fair for more resource intensive applicants have to pay for applicants requiring more resources
- The Application fee should be 'revenue-cost neutral'
- Application Fee Floor amount should be set (establish policy principles for the floor rather than setting an amount)
- Method to deal with excess or shortfall of funds should be in place
- Different application fees should be set if there is a significant difference

## Policy proposal (submitted for discussion by Donna Austin)

- The application fee should be based on the principle of cost recovery.
- Based on the principles of fairness and competition to 2012 new gTLD applications, \$185,000 will be the application fee for any future application window.
  - In the event of surplus application fees, ICANN will provide all applicants (successful/unsuccessful?) with a reimbursement of an equal share of the surplus application fees; or
  - In the event of surplus applications fees, ICANN will provide all applicants a reimbursement up to an amount of \$50,000/\$80,000/\$100,000 (successful applicants may choose this reimbursement as a contribution to ICANN's annual fee); and
  - The remainder of the surplus application fees will be used to support ICANN's efforts in Universal Awareness and Universal Acceptance (or some other designated activity) Some exemptions/exceptions:
    - Applications from underserved regions would/could (depending on the policy) have the application fee waived so that it is not considered a barrier to entry.



- There may be other exclusions or exemptions from the application fee that could be developed to remove other possible barriers to entry perceived by some as being too high.
- Rationale: We have a principle of cost recovery, but rather than requiring complex economic modelling (or somebody's best guess) to arrive at the amount of the application fee, we achieve the principle in an order of reverse by providing a reimbursement of a portion of the application fee equal to the distribution of excess funds.

## Application Fee Floor

*A price floor is an imposed price limit on how low a price can be charged for a product*

- Valuable piece of the Internet
- Seriousness of the commitment
- Avoid abuse
- Too low could be detrimental to security, stability and competition between rounds
- Avoid gTLD becoming a commodity and "no risk" type of investment"
- Reflective of the commitment and responsibility of having a TLD
- Discourage speculation
- Fees that are too high may be unfair barriers to entry
- Bias towards either established players or would be entrants
- Small applicants deterred by a higher fee
- Artificially increasing the application fee in order to discourage applications
- Much reduced fee reduces the barriers to entry for underserved regions

The application fee floor should be set based on:

Needs to reflect:

- Set Amount
- Percentage of prior round(s) Application Fee
- Other elements

When should the application fee floor be set?

- After each round
- A specific time period

## Application Fees: Excess/Shortage of Funds

Considerations Evaluated:

- Support general outreach
- Credit ongoing ICANN fees for applicable registries
- ICANN Compliance to ensure Registry and Registrar fees do not rise
- Return excess fees to applicants
- Support the gTLD program
- Absorb into ICANN's general operating budgets
- Rebate to applicants
- Charitable donation

### Excess Funds should be:

- Based on a priority sequence and maximum amounts i.e. P1: \$X, P2: \$Y
- Percentage of excess: Excess distributed using a percentage
- Combination: Amount up to a maximum in some categories and not in others

### Cost shortfalls should be recovered by:

- Increase in application fees in subsequent periods – how many periods?
- Pool of funds set-aside for this type of scenario (added to excess funds category)
- Annual registry fees
- Other

### Application Fees by Type of Application should be implemented if:

- There are different categories of applications
- 'One Fee Fits All' system is justified if the difference in costs by type of application are <10%
- The difference in the costs in processing the application exceeds:
  - A specific percentage – 10%
  - A specific amount - \$10k
  - Combination – If the difference is greater than 10% but a minimum of \$10k
- Should there be some type of special consideration given to groups i.e. applicant support/communities – if so, what policies can assist this group

### Costing Methodology

Do we have any recommendations on how to improve the costing methods that were employed in the first round?

- 75 steps were taken in the first round to determine the costs and then a likelihood was applied – better method?
- Risk Analysis determination of fees
- Implications of volume of applications: Overwhelming demand may impact variable costs

### Consensus Items:

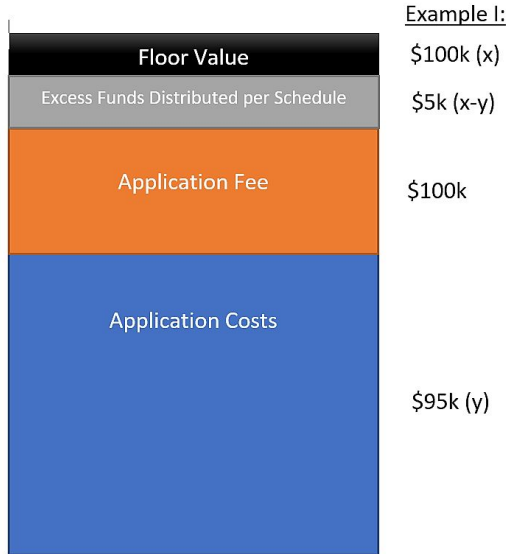
The Application fee should follow the 'revenue-cost neutral' principal while improving application fee accuracy.

Setting a floor amount helps to ensure ICANN is not unexpectedly put in the position where demand is so high that fulfilling the workload risks the stability of the organization. Additionally, setting a floor amount reflects the serious commitment of owning a valuable piece of the Internet, helps reduce speculation and abuse while protecting the security, stability and competition between rounds. Additionally, it mitigates the risk of an overall round financial shortfall.

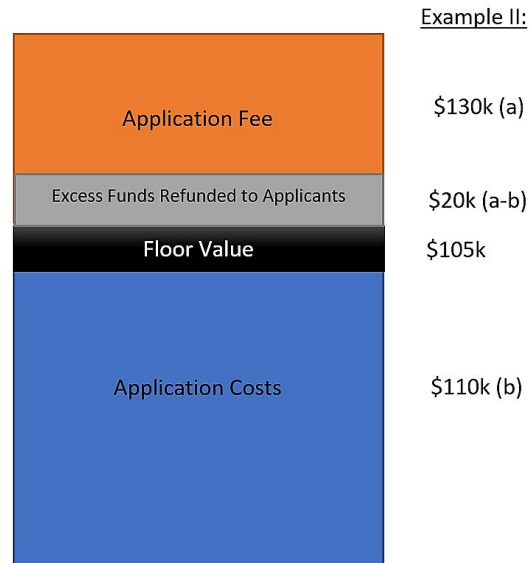
The application fee amount will be dependent upon:

- a) If the application costs are less than the floor value, then the application fee amount becomes the floor amount. When the floor value becomes applicable, then any excess funds are not redistributed back to applicants but distributed as described below.
- b) If the application costs are greater than the floor value, then the application fee amount becomes the revenue-cost neutral amount. In this instance, any excess funds are redistributed back to the applicants.
- c) See item c in Aspects for Further Discussion

Application costs are **less** than the floor value



Application costs are **greater** than the floor value



Excess funds resulting from the application costs versus the floor (item a) should be distributed back to applicants or used to benefit and to another category?

- Support general outreach (do we want to be more specific?)
- Support the gTLD program
- Application Support Program
- Top-up any shortfall in the segregated fund as described below.

To help alleviate the burden of an overall shortfall, a separate segregated fund should be setup that can be used to absorb the shortfall and topped-up in a later round. The amount of the contingency should be a predetermined value that is reviewed periodically to ensure its adequacy.

### Aspects for further discussion:

- Other restrictions/methodologies to prevent warehousing/squatting of TLDs?
- ICANN become a registry of registries – (element to be offset by costs should reduce the volume of registries - too many becomes our main business instead of the good of the internet and considering the security/stability)
- Action item: Attain a copy or a sanitized version of the Risk assessment report – review for implications
- Assumption re: round 1 and excess funds may be a moot point after all costs have been considered.
- Asian perspective on the application fee amount
- **What happens if the revenue-cost neutral amount results in a refund that is greater than the floor value?** Should it be only the difference between the cost floor and the amount refunded. i.e. if say, fee is \$125k; floor is \$115k; actual is \$105k – should the full \$20k be refunded or only the \$10k? Should there be any minimum number for this to come into effect? i.e. the amount is <\$2k - and if so, should this excess be distributed differently? i.e. Universal Awareness, Applicant Support, other

- In variable fees, discussion on how to allocate long-term investment costs was brought up (see section) – do we want to include a portion of any excess funds to support or recover these long-term investments?
- Considerations/implications if we move to continuous rounds?

## Variable Fees (4.2.17)

### Explanation of Subject

For the 2012 New gTLD Program round, the application fee of \$185,000 USD was the same for all applicants, save for two exceptions - applicants eligible for the year 2000 proof of concept credit and applicants approved via the Applicant Support Program (ASP). As application types were limited to standard applications and community-based applications, a single application fee price point was selected. Other elements that only applied to certain applications required the submission of additional fees that were collected separately, which included objections, registry services evaluation, and Community Priority Evaluation (CPE). The single application fee price point was also consistent with the approach to treat every application individually and consistently.

While there was little variability in the application fee amount, it could be considered consistent with 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.*

The ASP was a reflection of Implementation Guideline N:

*ICANN may put in place a fee reduction scheme for gTLD applicants from economies classified by the UN as least developed.*

### Questions and Concerns Related to Subject

As noted above, establishing the single application fee, with few exceptions, was consistent with the approach of minimal application types and evaluating each application individually and consistently. DG Members noted that program elements that likely resulted in economies of scale, such as the submission of essentially identical applications or the utilization of a limited set of back-end providers, could be considered for a reduced application fee amount in subsequent procedures.

The DG also noted that the possible introduction of different TLD types, such as .Brand, strings related to regulated industries, or other types that a potential PDP-WG on New gTLD Subsequent Procedures may seek to recommend, could result in differing application evaluation tracks which may accordingly warrant the consideration of different applications fees.

The topic of variable application fees is likely an output of many other subjects that the possible PDP-WG may consider, such as the aforementioned application types, ASP, accreditation programs, or other new developments. This subject should also be considered in concert with discussions related to section 4.2.10 on Application Fees (or combined).

## Rationale for Policy Development

As noted above, the application fee is likely to be driven by any changes to the program and should remain dependent upon the principle of cost recovery (as opposed to generating excess revenues), as recommended in Implementation Guideline B. In addition, the existing language in Implementation Guideline B supports the concept of differing application fee amounts for different applicants. The creation of application types could result in the requirement to perform a new costing analysis exercise based on changes that have been recommended for implementation.

The derivation of the fee amounts may be driven by changes to the program, and as such, policy development was not anticipated by the DG, though a possible PDP-WG may reach a different conclusion. Notably, subjects such as the ASP do not currently operate under the principle of cost recovery like the rest of the program and may require policy development.

## Discussions

Different applications should have different costs. However, applications that may require financial support (separate from the applicant support program) should have some type of consideration i.e. community applications.

Assumption that increased application fee will result in reduced number of applications

How do we allocate system development and other long-term investment costs amongst all of the different rounds.

Discussions on the application of revenue-expense neutrality and whether a breakeven methodology should be adhered to or if a cost-plus methodology would be beneficial along with the related implications.

How does a public policy change from break-even to say, cost-plus impact our decisions on variable fees?

- Impact on 'User Pays' and 'One Fee Fits All' approaches, if any
- If Cost Plus - Do we want to suggest a percentage of what the WG thinks is acceptable?
- If Cost Plus – Same percentage or different percentages based on the type of application?
- Impacts on risk analysis

One Fee Fits All' system and there is a difference in costs by type of application >10%

- Is 10% a reasonable number?
- If so, then do we think different application fees are justified?
- Impacts on applicants who may need financial support (outside of the Applicant Support Program) i.e. community applications?

One Fee Fits All' system is justified if the difference in costs by type of application are <10%

- Impacts on applicants who may need financial support (outside of the Applicant Support Program) i.e. community applications?

User Pays' system, how does this impact variable fees on:

- Evaluation, complexity, costs & time?
- Types of risks associated with each type of application?
  - Offsets – both an increase & decrease in fees for ‘privileges’
    - i.e. Brand who may opt-out of a financial evaluation pays extra?

User Pays’ system concern is applicants who ‘game’ the system, does the WG want to address this concern?

- Sanctions for applying for a cheaper/faster application type (what about the reverse)
- Compliance costs associated with ensuring the activities match the type of application?

Financial Support funding (outside of the Applicant Support Program) should be seeded from:

- Application Fee Component ?
- Difference between a ‘floor’ amount and actual amount in the application fees?
- Other?

Volume Discounts for Multiple Applications:

- No discount seems to be the overwhelming response – agree?
- A discount should apply but only on specific sections i.e. background check

## Consensus Items

Artificially increasing costs may discourage innovation and competition.

Different application fees for different types of applications is only warranted if the difference is greater than 20%.

The excess of these fees could follow the same disbursement mechanism as detailed in the Application Fees section.

Sanctions for changing the type of application should be higher than applying for the desired TLD type originally – the additional fees should be at 125% of the difference between the different application types in terms of fees plus any other related processing fees.

Applicants who apply for multiple TLDs should not receive any discounts on their application fees.

## Aspects for further discussion:

Do we want to consider the speculation of TLDs and if not, need to address it

How would fixed assets that are used over multiple rounds be allocated?

Are we okay with ICANN being a registry of registries?

How do we manage compliance with a growing volume of registries? Impact on variable costs?

How do we promote competition and encouraging innovation via pricing

Would like insight from IANA re: implications on the volume of TLDs and any stability issues.

Large excesses and timely disbursement of excess funds

Implications on the limit of delegations per year – scaling, planning, instability, compliance

## References & Links

Final Issue Report on New gTLD Subsequent Procedures (2015, December 4).

<https://gnso.icann.org/en/issues/new-gtlds/subsequent-procedures-final-issue-04dec15-en.pdf>

Competition, Consumer Trust and Consumer Choice Review Team – Draft Report:

<https://www.icann.org/en/system/files/files/cct-rt-draft-report-07mar17-en.pdf>

Program Implementation Review (2016, January 29).

<https://www.icann.org/en/system/files/files/program-review-29jan16-en.pdf>

Work Track 1 Meeting Archives:

<https://community.icann.org/display/NGSPP/2017-01-10+New+gTLD+Subsequent+Procedures+PDP+Work+Track+1>

CT progress list	discussion	consensus	o/s issues
4.2.5 Applicant Guidebook	y	y	n
4.2.6 Clarity of Application Process	y	y	n
4.2.8 Accreditation Programs	y	*	*
4.2.9 Systems	y	y	y
4.2.10 Application Fees	y	y	y
4.2.11 Communications	y	y	*
4.2.12 Application Queuing	y	y	y
4.2.13 Application Submission Period	y	*	*
4.2.14 Support for Applicants from Developing Countries	y	y	y
4.2.16 Application Submission Limits	*	*	*
4.2.17 Variable Fees	y	y	y
Added: Way to provide comment and role of public comments	*	*	*