

Draft Final Report

Applicant Support New generic Top-Level Domain Program

Prepared by: Joint SO/AC Working Group

Date: 2011

THIS DOCUMENT

This is the Draft Final Report produced by the Joint SO/AC New gTLD Applicant Support Working Group. The main objective of this Working Group is to develop a sustainable approach in providing support to applicants requiring assistance in applying for and operating new gTLDs Registries.

This Report is submitted for consideration to the GNSO, ALAC, ICANN Board and ICANN community.

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1. Background

During the International ICANN Meeting in Nairobi in 2010, ICANN's Board recognized the importance of an inclusive New generic Top-Level Domain (gTLD) Program and issued a Resolution (#20)¹ requesting ICANN stakeholders...

"...to develop a sustainable approach to providing support to applicants requiring assistance in applying for and operating new gTLDs."

In direct response to this Board Resolution, the Generic Names Supporting Organizations (GNSO) and the At –Large Advisory Committee (ALAC) co-chartered a Joint Working Group on Applicant Support, also known as the “**JAS WG**” (and referred hereafter as the **WG**), in direct response to this Board resolution. The WG was formed in late April 2010 and has worked since then to address this issue.

In November 2010 the WG presented the Board with a **Milestone Report** which suggested several applicant support mechanisms, which included: cost reduction support; sponsorship and funding support; modifications to the financial continued operation instrument obligation; logistical support; technical support for applicant in operating or qualifying to operate a gTLD; and exception to the rules requiring separation of the Registry and Registrar functions.

Since the release of the Milestone Report, both the ICANN Board and the Government Advisory Committee (GAC) have requested further clarification and details from the WG. And while the Board (**at its Trondheim meeting**) refused to approve differential pricing for applicants in need of assistance, the GAC (in its “**Scorecard**”) has requested that the issue be reconsidered and the WG continues to explore this option. At the **Brussels meeting** between the ICANN Board and the GAC in late 2010, the scorecard was discussed. The Board at this time confirmed that ICANN could implement a differential fee schedule for applicants in need

¹ See original resolution here: <http://www.icann.org/en/minutes/resolutions-12mar10-en.htm#20>

of assistance, but added that appropriate criteria and mechanisms would need to be proposed to enable it to happen.

This WG is comprised of members who support these aims and are committed to lowering the barriers to full participation in the gTLD program by a truly global and inclusive community. This WG is chartered and has members from both, ALAC and the GNSO. The WG is guided by two charters (from ALAC and GNSO). Although they are similar in many aspects, they are not identical. A comparison between the two charters can be viewed here:

During the past year and a half, the WG has released initial draft reports with recommendations for community discussion. This Draft Final Report is a continuation from the Second Milestone Report (MR2). It is intended to address areas of MR2 that require further clarification and details.

The work given to this WG has presented enormous challenges to its membership, most of who care deeply about reducing obstacles for proposed gTLD applications by or supporting communities in developing economic environments.

The WG has determined that a detailed description of the process flow, metrics and procedures for determining whether an application meets the criteria and how this application will be dealt with is required. Given the eventual target audience of this document and the WG's desire to have it presented and read unedited, the authors have attempted to adopt a simple format while maintaining accuracy and consistency with previous consensus. Here are the main areas covered in this report:

- WHY to provide applicant support?
- WHEN should support be provided?
- WHO qualifies for support? and HOW to evaluate the applications?

- WHAT do qualified applicants get?
- HOW will the process work and how does it relate to the gTLD Applicant Guidebook (AG)?

Comment [U1]: Should review this part based on final version/structure of the report.

Additional background information regarding this WG, including its Charter, relevant Board Resolutions and public comments summary and analysis can be found in [Annexes A to C](#).

Timing considerations - When should support be offered? In this round or wait until later?

The recommendations presented in this report should be taken into account by ICANN and the New gTLD Program to enable applicants from emerging markets/nations that meet the established criteria to participate in the first round of the New gTLD Program applications, which is currently scheduled to start in January 2012.

This WG has determined that in order to be most effective, [this program \(of support for in-need applications\)](#) be implemented for the first and subsequent rounds. Several reasons are provided in support of this recommendation:

Comment [U2]: KV: This is unclear to me. Should we add a definition under glossary?

[Board Resolution 2010.03.12.46-47](#) clearly expressed the need to ensure that the New gTLD Program is *inclusive*. Much of the ICANN global community, particularly from developing regions, has welcomed this decision.

With every new gTLD application round, the market competitive disadvantage of under-served communities increases. ICANN should not cause or allow the New gTLD Program to further the gap in gTLD Registry representation from other regions. The diversity, competition and innovation the New gTLD Program could bring should be an opportunity to all around the world since the Internet is a global resource that belongs to all. ICANN has the obligation to look closely into this issue and fulfil its responsibility to serve the global public interest by

allowing accessibility and competition for all around the world.

Furthermore, there is no indication whether, in subsequent rounds, fees will be reduced and, in case there is any reduction, by how much. Therefore there is no benefit in waiting.

Informal market research by some of the WG members indicates there is built-up demand for new gTLDs, including IDN gTLDs. There is expectation for a considerable number of applications. One of the main concerns is that, without some sort of assistance program, the most obvious and valuable names (ASCII and IDNs), will be taken by wealthy investors. This may limit opportunities in developing regions, for local community institutions and developing country entrepreneurs. Of the current 21 New gTLD Registries, 18 are located in USA and three are in western Europe (with one having a sales/marketing presence in Asia). None are located anywhere else.

While, per policy, ICANN plans for a second round, the timeline for this to happen is, at best, uncertain. Experiences from previous rounds add to the uncertainty. For example, ICANN communicated during the last round that this was to be followed soon by new rounds, nevertheless, it is taking almost a decade for a new round to materialise. Since ICANN cannot give guarantees and certainty of when future rounds will take place, those who cannot afford to participate in the program during this round, due to the current elevated fees, is perceived as an unfair and non-inclusive treatment.

Comment [U3]: KV: this info is repetitive with FAQ. Should we keep it only in the FAQ?

Working Group Objectives, Process and Key Milestones

Objectives

The main objective of this WG is to develop a set of recommendation to ICANN staff that reflect a sustainable approach to support qualifying applicants from selected developing economies to apply and operate a new gTLD Registry.

Process

The members of the WG have met twice a week for since April 2010 to identify and discuss the needs, issues and proposed overall recommendations in as much detail as possible. The WG shared with the ALAC, GNSO, ICANN Board and community the development of this work through previous publications for public comment and also public sessions during ICANN Meetings. The WG is composed of people from a variety of backgrounds and geographic diversity. A complete schedule of the WG's activities and milestones can be found below:

Key Milestones

Dates	Milestones
29 Apr 2010	First conference call. Preparations for Chairs election, Charter drafting, work planning.
10 May 2010	Adoption of WG Charter by participating SOs and ACs.
5 May to 9 Jun 2010	Weekly conference calls. Drafting of Recommendation by WT1 and WT2.
Jun 14 2010	Posted a blog entitled "Call for Input: Support for New gTLD Applicants" http://blog.icann.org/2010/06/call-for-input-support-for-new-gtld-applicants/
16-21 Jun 2010	Posting of "snapshot" on WG's plans & progress for public comment in English. http://www.icann.org/en/public-comment/#wg-snapshot
23 Jun - 23 Aug 2010	Posting of "snapshot" on WG's plans & progress for public comment in Spanish, French, Chinese, Arabic and Russian.
21-25 June 2010	ICANN Brussels Meeting - Community discussions Public Session: "Reducing Barriers to New gTLD Creation in Developing Regions" http://brussels38.icann.org/node/12503
10 Jul 2010	Bi-weekly conference calls for the development of Milestone Report taking into account public comments received and Board Sept 2010 Board Resolution.
11 Nov 2010	Milestone Report posted for consideration by the Board, Chartering Organizations and At-Large Community. See Public Forum here: http://www.icann.org/en/public-comment/#jas-milestone-report http://www.icann.org/en/topics/new-gtlds/jas-milestone-report-11nov10-en.pdf + [http://www.icann.org/en/topics/new-gtlds/jas-milestone-report-addenda-10nov10-en.pdf]

9 Dec 2010	Cartagena ICANN Meeting Session: "Assisting gTLD Applicants from Developing Economies": http://cartagena39.icann.org/node/15499
Dec 2010 – Feb 2011	Charter renewal process by Chartering Organizations (ALAC and GNSO) See charters here: https://community.icann.org/display/jaswg/Charter
Jan 2011	Resume conference call. Preparations for new Chairs elections, Charter situation review, work planning – 4 subgroups formed.
Feb 2011	Posting of Summary Analysis of Milestone report Public Comments(English) http://www.icann.org/en/announcements/announcement-22feb11-en.htm New community Wiki space available to JAS WG.
Mar 2011	Posting of Summary Analysis of Milestone Report Public Comments in Spanish, French, Chinese, Arabic and Russian.
Mar 2011	ICANN Silicon Valley Meeting: - Face to Face Meeting during (Thursday, March 17 14:00-15:30; Victorian room) - Status update to GNSO and ALAC during
May 2011	7th - Second Milestone Report received by the ALAC and the GNSO 9th - At-Large staff, on behalf of the ALAC, initially forwarded this Report to the Board 7th to 13th - Comments on the Report were collected from the At-Large Community. These comments are the basis for the Statement of the ALAC on the Joint Applicant Support Second Milestone Report. 14th - The ALAC ratification process for the Second Milestone Report and the ALAC Statement begins. 19th to 20th – Board retreat Istanbul. 19th - GNSO met and decided to postpone the vote until June 9th meeting. No consensus was reached as to send a letter to the Board. <u>Other activities:</u> JAS WG discussion to answers to GNSO, RyC questions. JAS WG preparing cost questions to submit to staff
June 2011	3rd - ALAC sent invitation to GAC and BOARD to join JAS WG on June 7th to clarify MR2. GNSO chair also notified by Olivier. 6th - GAC/Board/JASWG meeting postponed to June 14 9th - GNSO meeting on JAS WG MR2 14th - GAC/Board/JASWG Conference call Posting Second Milestone Report for public comment (June 10 to July 29): http://www.icann.org/en/public-comment/second-milestone-report-10jun11-en.htm 19th - 24th Singapore ICANN Meeting - JASWG Session scheduled for June 23, Thursday from 11:00am to 12:30pm (VIP Lounge) Title: "JAS WG proposal for support for New gTLD Applicants from Developing Countries": http://singapore41.icann.org/node/24849

July 2011	July 5 – meeting with Kurt for additional staff help request. Four additional staff members assigned to help with: notes, drafting final report, process flow, drafting instructions manual
August 2011	
September 2011	GNSO Meeting: Sept 8 (report must be submitted Sept 1) ALAC Meeting: Sept 27 (report must be Sept 20)
October 2011	23-28 October ICANN Meeting Dakar – JASWG Session _____

Standards of Agreement

The WG followed specific guidelines² to demonstrate the various levels of views and conclusions in this Report. The following was used throughout the document:

- i. **Unanimous or full consensus**, when no one in the group speaks against the recommendation in its last readings;
- ii. **Rough or near consensus** - a position where only a small minority disagrees but most agree. This is sometimes referred to as **consensus**;
- iii. **Strong support but significant opposition** - a position where while most of the group supports a recommendation, there are a significant number of those who do not support it;
- iv. **No consensus**, also referred to as **divergence** - a position where there is not a strong support for any particular position, but many different points of view. Sometimes this is due to irreconcilable differences of opinion and sometimes it is due to the fact that no one has a particularly strong or

² See detailed guidelines here: <http://gns0.icann.org/en/improvements/proposed-working-group-guidelines-05feb09-en.pdf>

convincing viewpoint, but the members of the group agree that it is worth listing the issue in the report nonetheless;

- v. **Minority** refers to a proposal where a small number of people support the recommendation. This can happen in response to a **Consensus**, **Strong Support but Significant Opposition**, and **No Consensus**, or can happen in cases where there is neither support nor opposition to suggestion made by a small number of individuals.

In cases of **Consensus**, **Strong Support but Significant Opposition**, and **No Consensus**, an effort is made to document that variance in viewpoints and to present any **Minority** recommendations that may have been made. The documentation of **Minority** recommendation normally depends on text offered by the proponent.

Key Records and Previous Publications

The email archives: <http://forum.icann.org/lists/gnso-irtp-b-jun09/>.

The WG Wiki: <https://community.icann.org/display/jaswg/SO-AC+New+gTLD+Applicant+Support+Working+Group+%28JAS-WG%29>

Previous Publications and Public Fora:

Second Milestone Report (MR2): <http://www.icann.org/en/topics/new-gtlds/jas-second-milestone-report-09may11-en.pdf>

Second Milestone Report (MR2) public Fora: <http://www.icann.org/en/public-comment/second-milestone-report-10jun11-en.htm>

Milestone Report: <http://www.icann.org/en/topics/new-gtlds/jas-milestone-report-11nov10-en.pdf>

Milestone Report Public Fora: <http://www.icann.org/en/public-comment/public-comment-201012-en.htm#jas-milestone-report>

Snapshot: add

2. Applicant Eligibility Requirements

Who qualifies for support? How are gTLD applications evaluated against the above criteria? The WG has determined a number of criteria to be used in the determination of a gTLD application eligible for support and/or cost relief (in this document called the “eligible application”);

Comment [U4]: add to glossary

To be eligible for support/relief, the following apply:

1. The Application must demonstrate service to the public interest, including *one or more* of the following characteristics:

Comment [U5]: glossary

- Support by and/or for distinct cultural, linguistic and ethnic communities;
- Service in an under-served language, the presence of which on the Internet has been limited;
- Operation in an emerging market or nation in a manner that provides genuine local social benefit;
- Sponsored by non-profit, civil society and non-governmental organizations in a manner consistent with the organizations' social service mission(s);
- Operated by local entrepreneur, providing demonstrable social benefit in those geographic areas where market constraints make normal business operations more difficult.

Comment [U6]: glossary

Comment [U7]: glossary

Comment [U8]: add footnote ?– WG has selected the standard

AND

2. The Applicant must demonstrate financial capabilities and need

(See notes below)

Comment [U9]: KV: need clarification

AND

3. The Application must NOT have any of the following characteristics:

- From a governmental or para-statal applicant (subject to review, see below);
- A gTLD string explicitly based, and related to, a trademark (i.e., a "dot brand" TLD);
- A gTLD string that is, or is based on, a geographic name;
- Sponsors or partners who are bankrupt or under bankruptcy protection;
- Sponsors or partners who are subject of litigation or criminal investigation;
- Otherwise incapable of meeting any of the Applicant Guidebook's due diligence procedures.
- All applicants are required to give a self-declaration that they are eligible to receive support under these criteria.

Comment [U10]: KV: need clarification

Comment [U11]: Glossary?

Important Clarifications on Eligibility Requirements

Public interest qualifications

Support by and/or for distinct cultural, linguistic and ethnic communities

The ".cat" Catalanian TLD is seen by many linguistic, ethnic and cultural communities as a success story that has helped to preserve and indeed grow the language and culture. Many such groups -- especially those with geographically dispersed Diasporas -- see a TLD as unifying icon that will facilitate Internet use while encouraging community growth. We would note especially, linguistic minorities protected by treaties such as the "European Charter for Regional or Minority Languages" and the "Council of Europe Framework Convention for the Protection of

National Minorities". The WG agreed that the applications by such communities, should they meet the requirements of need, should be eligible for relief/support.

Service in an under-served language, the presence of which on the Internet has been limited

A number of WG members have advocated support for the build out of TLD strings in non-Latin scripts by communities that use these scripts and have to date been un-served or under-served on the web.

As a part of this, the group has identified two categories of groups that might receive support -- communities that regularly use more than one script but might otherwise be unable to afford full-price build out of two scripts; and smaller script communities whose scripts are very limited on the web.

The WG did achieve **consensus** that as long as the Applicant is providing build-out of a language whose web-presence is limited and they meet the other criteria we should give support.

To address the needs of these groups, partial (but not consensus) support has been expressed for concept of "bundling" -

- that is, reducing the price of a TLD string in an "underserved" language script that accompanies a conventional application for the similar string in a Latin script.

Operation in an emerging market or nation

The WG achieved **full consensus** in agreeing that the criteria offered to judge applications give preference to those originating within the world's poorer economies. Rather than having ICANN undertake the distracting task of determining where such economies are located, we would refer instead to the internationally agreed upon **UN DESA** list:

- Least developed countries: category 199;
- Landlocked Developing Countries: category 432; or

- Small Island Developing States: category 722;
- Indigenous Peoples, as described in Article 1 of Convention No. 169 of the International Labour Organization and the UN Declaration on the Rights of Indigenous Peoples;

Operated by local entrepreneur, in those geographic areas where market constraints make normal business operations more difficult

While for-profit companies, private-public partnerships and hybrid entities can be eligible, the WG agrees that this support program must not be used as a substitute for conventional business risk; and the applicants set out in 4.3 are not eligible for support. It should be used to enable new gTLDs that could - without this program -- be unimaginable.

Comment [U12]: Name consistency?

Comment [U13]: Need to check final reference once doc is final

Note for 4.1.3 and 4.1.5: The WG agreed that other forms of social benefit (including but not limited to: increasing skills; investment in the skills base of a target community; fostering gender balance and presence of minorities; positive contribution to regional or national economies) must be considered.

Comment [U14]: Need to check final reference once doc is final.

Financial Need

The overriding **consensus** of the WG is that **financial need and capability is the primary criteria for determining eligible applications**. Such need and capability is to be demonstrated through the following criteria:

- Applicants must be capable of contributing US\$45,000 towards the New gTLD Program's Evaluation Fee, unless ICANN waives, or lowers evaluation fees.
- Where applicants anticipate scheduled fees, such as for extended evaluation, the applicant must be capable of contributing a quarter of the scheduled fees.

Comment [U15]: Added US

Comment [U16]: KV: I changed the name to New gTLD Program's evaluation fee as in the Applicant Guidebook for clarify. Will add footnote reference and link.

Comment [U17]: Must add reference to guidebook

- Applicants must be capable of contributing US\$45,000 towards registry operational costs, if the applicant proposes to operate its own registry platform. If the applicant proposes to share registry operational costs with other qualified applicants, the applicant must be capable of contributing the pro-rated proportional share of this cost.
- Applicants must be capable of contributing US\$45,000 towards registry continuity operational costs, if the applicant proposes to fund its own continuity operation. If the applicant proposes to share registry continuity operational costs with other qualified applicants, the applicant must be capable of contributing the pro-rated proportional share of this cost.

Comment [U18]: Added US

To demonstrate need, Applicants will be required to submit materials to the program administrators, detailing the various constraints which negatively affect the Applicant's ability to acquire and implement a gTLD without assistance under this program. Applicants should provide background on economic, technical, administrative, legal, and/or socio-cultural factors within their environment which are causing these constraints. As well, Applicants will be requested to detail any applicable constraints on management, human resources, IT infrastructure and the Applicant's technical capabilities.

Ineligibility criteria

Applications by governments or government-owned entities

By **consensus** of the WG, purely Governmental or para-statal applicants have been listed as not entitled to receive support. However, at the **ICANN San Francisco meeting** the WG received **a request** from the GAC to consider including Government applications from Developing Countries for support. The WG will work to obtain a mutually acceptable definition and criteria to fit Government applications with the GAC WG, but recognizes the difficulty in measuring a government's "need" and

concern of the appropriateness of offering support for one government over another if resources are limited. The GAC WG has offered to review the JAS criteria and provide its recommendations on a formulation of a solution for possible support to Developing Country Government applications.

Information and Documentation required from Applicants:

All applicants for financial support are required to provide the information and documentation described below for review. The eligibility evaluation process is outlined in _____

Information and Documentation:

Comment [U19]: Is this something we can add to this report or is a staff implementation detail. Any help welcomed!

Proposed Support to Eligible Applicants

The WG recommends a number of different kinds of support to be made available for eligible applicants. The support can be either financial or in-kind. Here are the categories proposed.

Financial Support/Relief from ICANN

Cost Reductions

The WG recommends the following fee reductions to be made available to all applicants who are determined as meeting the criteria established for support:

- Waive (consensus for this in the Milestone report) the **Program Development Costs** (US\$26,000);

- Lower risk/contingency cost (US\$60,000);
- Review Base cost (US\$100,000) to see if reduction can be made;
- Cost reductions to encourage the build out of IDNs in small or underserved languages;
- Lower registry Fixed Fees;
- Exemption or deferment of IPv6 implementation requirements, as possible.

Further reductions recommended:

- Reduction of the **Financial Continued Operation Instrument Obligation** to 6-12 months

Staggered Fees

Instead of paying the entire fee upon acceptance of the applications, applicants meeting the criteria established for support could pay the fees incrementally. Staggered fees payment enables an applicant to compete for strings that might otherwise have gone to the first and/or only group with enough money to apply.

Partial Refund from Any Auction Proceeds

Eligible applicants receive a partial refund from any **auction proceeds** - for which they can repay any loans or invest into their registry. It could be used to refill the **disadvantaged applicant's foundation fund** for subsequent rounds.

Note: *On-going support will be limited to five years*

Financial support distributed by an ICANN originated **(Development) "fund"**

For any funding provided through ICANN by a **benefactor** that does not wish to administer that funding itself, these funds would be allocated by a especially **dedicated committee**.

Comment [U20]: Reference guidebook for context

Comment [U21]: Glossary?

Comment [U22]: Terminology consistency issue. Glossary?

Comment [U23]: Glossary

Comment [U24]: Clarification needed

The WG recommends the creation of a development fund directed at new gTLD applicants who were determined as meeting the criteria established for support.

Support Program Development function

The WG recommends that ICANN establishes a **Support Program Development** function with an initial goal of securing a targeted commitment for an ICANN based development fund.

Financial support Distributed by External Funding Agencies

There is **consensus** in the WG that external funding agencies would make grants according to their own requirements and goals. ICANN would only provide those agencies with applicant information of those who met the criteria established for support.

In-Kind (non-financial) Support/Relief from ICANN

Two of the WG's objectives are:

- **Objective 3:** To identify what kinds of support (e.g. technical assistance, organizational assistance, financial assistance, fee reduction) and support timelines (e.g. support for the application period only, continuous support) are appropriate for new gTLD applicants fulfilling identified criteria.
- **Objective 4:** To identify potential providers of the identified kinds of support as well as appropriate mechanisms to enable support provisioning.

The following types on in-kind support have been identified as necessary:

- Application writing assistance

Comment [U25]: Support or relief? Glossary clarification

Comment [U26]: Reference?

Comment [U27]: Reference?

- Registry services-outsourced or assistance with local operations
- DNS services
- For registries located in areas where IPv6 connectivity is limited or unavailable, ICANN will facilitate support from IPv6 providers to provide IPv6 gateways into the registry IPv4 services.
- Infrastructure-IPv6 compatible hardware/networks
- Education-DNSSEC implementation
- Legal & documentation – providing support to cover legal costs or processing documents
- Translation – The Applicant Guidebook is only published in English- a disadvantage to many in the non-English speaking world
- Training – in areas like building a sustainability plan, marketing, and operations
- Facilitating contacts with granting agencies and foundations
- Assistance through the application process

Note: This list is non-comprehensive; there may be other areas where needy applicants require support.

The following are non-financial types of support proposed to ICANN:

- Logistical assistance;
- Technical help;
- Legal and filing support;

Comment [U28]: Application filing? If yes, be specific

- Awareness/outreach efforts including efforts to ensure more people in underserved markets are aware of the new gTLD program and what they can do to participate in it.
- Deferred requirement of DNSSEC
- Relaxed Vertical Integration regulations

Comment [U29]: Underserved markets, developing economies, etc consistency and glossary

Support from third parties facilitated by ICANN

Comment [U30]: This is unclear. Do we mean the webpage where entities willing to provide assistance can be listed? If, yes, maybe we should be more specific.

Pool of collected resources and assistance

- Translation support
- Logistical help
- Technical support
- Awareness and outreach
- Infrastructure for providing IPv6 compatibility
- DNSSEC consulting
- IDN implementation support
- Possible technical setups

Directory and referral service only for eligible applicants

- Facilitating contacts with granting agencies and foundations
- ICANN would facilitate but cannot commit to providing

IPv6 Support

For registries located in areas where IPv6 connectivity is limited or unavailable, ICANN will facilitate support from IPv6 providers to provide IPv6 gateways into the registry IPv4 services.

While the GAC has requested that the IPv6 requirement be eliminated for JAS Qualified participants, this will be a difficult political decision for the ICANN Board to make. Yet solving the IPv6 problem is critical since the IPv6 requirements as it stands, would mean that all new Registries in developing economies would either need to rely on incumbent registries in the developed regions or would need to find some way to establish a tunnel to IPv6 access on their own.

One approach would be to ask the ASO to assist in arranging for a declaration from the RIRs that each of the regions the RIR and the local ISP would guarantee to provide IPv6 access, though an IPv4 tunnel or other means, for any JAS qualified applicant in its region. This guarantee, plus an ICANN willingness to accept these guarantees on an application could be a solution for this problem that might obviate the need to waive the IPv6 requirements for JAS qualified applicants.

How should the in-kind services be made available?

The main proposal from the WG for managing in-kind services has been accepted by the ICANN Board at [Trondheim in 2010, Resolution, 2.2](#), which allocated financial resources and directed staff to develop a list that would match needy applicants with self-identifying providers:

"Support to applicants will generally include outreach and education to encourage participation across all regions," and, "Staff will publish a list of organizations that request assistance and organizations that state an interest in assisting with additional program development, for example pro-bono consulting advice, pro-bono in-kind support, or financial assistance so that those needing assistance and those willing to provide assistance can identify each other and work together."

The WG recommends that the list serve multiple functions beyond identification of providers and needy applicants. It would also be an information resource to applicants, for example, communicating the location of shared information, such as the proposed [ITU wiki](#) providing template application responses.

The WG further recommends that ICANN staff notifies service providers of the list directly and ask them to consider providing any of the support functions for disadvantaged applicants for free, or on a cost recovery basis, or for reduced rates.

The WG concurs that ICANN would publish this list without recommendation or prejudice, on a dedicated web-page. It was also agreed that there would be no vetting or certification of providers; each applicant should operate under "buyer beware" and perform due diligence before accepting an offer from a provider.

The WG agreed that in-kind contributors should publicize the terms and conditions that go with their offer for support. For example, providing a description of licensing for services; (Is the registry software proprietary or open source? Can it be run locally or must it be run in-house by the provider?), and the terms the applicant must accept, (Will the applicant be tied to the provider for 10 years? Is the service free the first year and then at cost the second year?). The terms and conditions would be posted on the list as well as the provider contact information.

One concern raised was that needy applicants from developing regions could become beholden to Northern, developed region providers, as these are most likely to offer assistance. This would counter the desire to build-out new gTLDs in under-served regions. A suggested remedy is that the ccTLD operators in these under-served regions would be notified by ICANN of the opportunity to assist, and, if interested, self-identify as providers that are willing to allocate resources, to assist the needy applicant.

Finally, the WG recognizes that ICANN staff will facilitate connecting needy applicants with providers, but cannot commit to finding providers for every necessary requirement.

Capacity building - Registry Service Providers

There have been discussions on the possibility of existing companies working with JAS qualified applicants in terms of providing resources that might allow for the establishment of **Registry Service Providers (RSP)** in the regions that do not have such services. Currently all available RSPs are located in Europe and in North America. In order to require that any **new JAS qualified applicant** be forced to use an incumbent RSP, in some sense defeats the purpose of creating Registry opportunities in Developing Economies. The JAS recommends that in kind services be provided to assist JAS qualified applicants in creating their own RSPs.

Comment [U31]: Terminology consistency, glossary

One way of doing this has been described elsewhere and involves the use of a matching service between applicants who have needs with incumbents who are willing to provide assistance. While this is a good opportunity, it does not aid in creating real capacity in developing regions. What is needed is a program that encourages companies with technical and financial capacity to assist in creating the RSP that can serve the needs of several JAS qualified applicant Registries. Among the resources that might be provided:

- Software licensing for the required Registry software functions
- Creation of FOSS registry software
- Providing grant of 'registry in a box' type of offering
- On site consultations and assistance in setting up RSPs

An important part of such assistance would be the public statement by providers of such capabilities, as well as the guarantee of these services in JAS qualified applicants applications.

A list of provider types (draft not exhaustive or complete) for WG discussion is contained in this attached spread sheet **Evaluation Criteria Provider Types.xlsx**

Evaluation Process

The section proposed an evaluation process for support applicants and addresses its relationship to the new gTLD Applicant Guidebook (AG)

The WG has determined, at this time, that best possible process to provide support for such applications is to be done through a process that is parallel to, and not a replacement of, the ICANN Applicant Guidebook (AG). Thus, even after the AG is formally approved, this WG can continue its work to refine those components of its mandate which remain unresolved. It is important that the AG make mention of this program and refer interested potential applicants to it, however it is not the WG's intention to otherwise affect the existing application process. To qualify for support applicants may be required to demonstrate that they meet **this program's** criteria on financial need and public interest; however such activity is intended to supplement, not replace, existing mechanisms in the AG.

The WG had full consensus that applicants that receive support under this program should repay that support as possible, and that such repayments go into a **sustainable revolving fund** used to support the future applications. Repayment is dependent on the gTLD Operator's financial success and will take the form of either:

- A capital contribution or lump sum; or
- An income contribution or annual instalment of until a lump sum is repaid; or
- Repayment of the full or a percentage of the reduced base cost fee expended by the Support Development Program.

Comment [U32]: Use official name

Comment [U33]: Glossary, terminology consistency

The following broad steps did not obtain thorough evaluation or full consensus by the WG, but have been suggested as a starting point to this process and will be further refined by the WG based on the **Parts 1 to 4 above**.

Comment [U34]: Need to change based on final version

Note: *the process is meant to be to be in parallel with the AG.*

Comment [U35]: Need to insert process flow as well as make proper reference to the New gTLD process

1. The Application is assessed using the criteria described in **Part 3** and this Step takes place before the Application enters the AG process;
2. The Application enters the AG process (that is, it is registered in the TAS and the Applicant pays the \$5,000 deposit; the Application is checked for completeness, posted; Objection period; Background Screening; IE results posted);
3. A Due Diligence Review is done on the Application, Applicant and its partners to ensure it is still eligible/needed during Step 1. and at points of the AG. This Review ensures the Applicant is still eligible for support. It is suggested that this Review occurs at three points: upon initial evaluation of the Application, in the AG process - after the IE results are posted and after there is no string contention;
4. The Application progresses in the AG through Objections phase to String Contention. If there is a string contention then the Application will go through normal ICANN channels with the Applicant funding this additional step of the AG;
5. Once there is no string contention then the Application progresses to Contract execution, Pre-delegation check and Delegation;
6. There is a Sunset Period for support with a cut off of 5 years after which no further support will be offered;
7. If the new gTLD is granted the Applicant will fall under the safeguards provided by ICANN for all gTLD operators; but we should ensure that needed Applicants are aware of these requirements and are able to fulfil them.

Comment [U36]: Need to change based on final version

Note: the Applicant is only reviewed for the duration of **our** support. If at any stage during the Support Development Program Evaluation Process or the new gTLD

Comment [U37]: Our?

process, in particular during the Due Diligence Review:

- The Applicant does not give information of the Application, itself and/or its partners when requested;
- The Application's, Applicant's and/or its partners' financial and other circumstances change so that they are no longer eligible;
- The Applicant withholds information about the Applicant, itself and/or its partners regarding its financial and other circumstances; or
- It is discovered that the Application, Applicant and/or its partners are no longer eligible.

Then Support may stop in two ways:

A. Discharged

Aid stops upon notification to the Applicant and the Applicant and/or its partners may have to repay some or all of the funds already spent on the application. The Applicant may proceed with the Application at this point at its own cost;

B. Revoked or cancelled

Used in cases where the Applicant was wrongly granted support (for example granted support as a result of giving false information about finances), the Applicant and/or its partners will have to pay all the funds already spent on the application and the application will be revoked/discarded at that point

Support Application Review Panel (SARP)

This section recommends how the support applicants should be evaluated and addresses concerns raised by ICANN community regarding gaming.

A suggestion on gaming, or its prevention, involves having the right sort of panel reviewing applications against the criteria.

The community is rightly concerned about the possibility that a fee waiver program or grant support would be prone to gaming. Experience has shown that if there is a loophole to be exploited for profit, someone in the ICANN community will find a way to do so. This is the case with any set of criteria, though some criteria may make this easier than others.

The proposal put forward by the WG recommends that a parallel process be setup to determine eligibility based on the guidelines they have provided in their milestone report. A SARP could be setup to review applications for the partial fee waivers and financial grants. One method by which this could happen is that applicants would be required to post an application for fee reduction and other assistance simultaneous with creating their **Top-Level Application System (TAS)** registration and paying the TAS registration fee of US\$5,000 fee. Applicants would present all of the necessary documentation to the SARP at same time when applying the partial fee waiver and other assistance. The SARP would be responsible for reviewing the applications before the end of the application period. In those cases where the application for fee reduction is rejected, the applicant could receive a refund of the US\$5,000 TAS fee.

How is the panel composed?

In order to make sure that the SARP does not get fooled and allow any gaming, it should be composed of volunteers from ICANN community who are knowledgeable about the New gTLD existing processes, potential gaming patterns as well as general developing countries needs and capabilities. The recommendation is that the process used to establishing **AOC review panels** be used to staff this Support

Application Review Panel coming from the diversity of ICANN community participants.

Any expenses required by this panel for its operations should be covered by the contingency portion of the fees paid and repaid using auction fees.

To insure that issues such as development sensitivity, financial evaluation and other specific specialties be covered a number of area experts should be invited to join the SARP as advisors.

Comment [U38]: This is not clear

Notes on Funds and Foundations

Background

The charter, as set by the ALAC,

“c) Establishing a framework, including a possible recommendation for a separate ICANN originated foundation, for managing any auction income, beyond costs. for future rounds and on-going assistance;”

The Final Application guidebook contains the following:

“Possible uses include formation of a foundation with a clear mission and a transparent way to allocate funds to projects that are of interest to the greater Internet community, such as grants to support new gTLD applications or registry operators from communities in subsequent gTLD rounds, the creation of an ICANN-administered/community-based fund for specific projects for the benefit of the Internet community, the creation of a registry continuity fund for the protection of registrants (ensuring that funds would be in place to support the operation of a gTLD registry until a successor could be found), or establishment of a security fund to

expand use of secure protocols, conduct research, and support standards development organizations in accordance with ICANN's security and stability mission.”

The two elements in the quotes above are obtaining funds that can be used to offset the costs for **JAS-qualified applicants** and establishing a framework for managing and distributing these funds. In discussing these two objects there is a close link between them, and in many cases it is hard to imagine one of them happening without the first. For example, without funds, there is no purpose in a framework that has been institutionally instantiated, yet without a framework it is impossible to collect funds.

Framework

As stated in the footnote in the Applicant Guidebook, investigations should be held on creating a foundation or fund to handle any auction funds that are not used in the manner described in this comment. Additionally, funds could be obtained from other fundraising opportunities such as the auction of single character second level domain names, or from donations from, e.g. the incumbent gTLD and ccTLD registrars and registries. In the case that such a fund or foundation can be setup in time to provide further funding opportunities for applicants in the later stages of the process; this should be documented at a later stage.

The JAS WG recommendation that the Board set up a planning committee, at the same time as the approval for the new gTLD program is approved, to investigate the various possibilities for funds and/or foundation and after consultation with the community to make recommendations on the formations of such a fund. the specific work items that should be included in the Board Foundation Recommendation WG include, but are not limited to:

- Work with ICANN staff to investigate and understand the legal structures that are available to a California 501C corporation for creating a fund of Foundations;
- Work with ICANN staff to investigate and understand the requirements for creation of a fund or foundation in California; (move to footnote was suggested)
- Draft a document defining the core responsibilities and activities of the fund or foundations;
- Define methods of work for the found or foundation, including fundraising, and fund distributions;
- Suggest membership for the first board of the foundation, including dealing with issue such as the relationship between ICANN's corporate structure and the new fund or foundation;
- Start obtaining pledges of funding with which to seed the resulting fund or foundation.

The JAS WG recommends that the members of this WG be drawn from all of the Supporting Organizations and Advisory Committees to insure that the concerns of all segments of the community be taken into account.

Additionally, as recommended in MR1, JAS recommends that ICANN arrange a contract with a professional fundraiser familiar with this sort of international effort to support JAS-qualified applicants, to work with the Board Foundation Working Group.

Funds

Funds for the Foundation to manage and distribute can come from a variety of sources:

- Budget allocation from ICANN, including the US\$ 2,000,000 committed by the ICANN Board;

- Solicitation of funds to match the initial allocation made by the ICANN Board of Directors;
- Auction proceeds beyond the cost of the running the auction;
- Allocation of funds from ccTLDs;
- Allocations of funds from incumbent gTLD registries and registrars;
- External funding sources;
- Other source yet to be determined.

Donors

Various registrars and registries, from both the gNSO and the ccNSO, have made statements that if there were a way to donate that could not be gamed, they would be interested in helping. A well-formed fund or foundation could provide an opportunity for such generosity.

Various campaigns are possible. There is, for example, quite a lot of money in the hands of some of the existing gTLD registries and registrars. We have, for example, seen an escalation in the amount each sponsor gives to the three ICANN meetings this year. There is a lot of funding available; it is just that no one has been doing the requisite fundraising.

Auctions

Since the GNSO first allowed for auctions as a possible method of resolving gTLD name contention, there has been the intent that these funds be applied to worthy causes including the support for what has now been called JAS-qualified applicants. Though the quantity of the funds that may result from is unknown and they are certainly not available for the payment of fees in the 2011-2012 rounds, the funding will be available to fill the reserve and risk funds, if those funds are deferred to cover the costs for the application fee reductions, as recommended in MR1 and MR2 for the fees of JAS-qualified applicants.

Availability of Funds

The goal of the program in terms of providing funds is both immediate and ongoing. There is an immediate need to obtain funds sufficient to help a significant number of JAS-qualified applicants to participate in the application process of the first round in 2012. There is an intermediate goal to assist the JAS-qualified applicants in setting up their registries in 2013. And there is a long term goal of insuring that the second, and further, rounds will have a stable source of funding available for assisting JAS-qualified applicants.

Use of funds

Funds collected, can be used for various purposes to assist JAS-qualified participants. Included among these uses in the first round are:

- Application assistance beyond the JAS recommended reduction in fees;
- Assistance in defraying the cost of the required continuity instrument;
- Overcoming technical requirement gaps, such as the IPv6 and other technical requirements which may require technical upgrade not obtainable through in-kind assistance.

Frequently Asked Questions (FAQ) (needs to be expanded, updated, reviewed)

During the process of developing this report, various questions have been asked by the ICANN's community, staff and ICANN Board. Below are the main frequently asked questions.

What is the relationship of this work to the New gTLD Applicant Guidebook?

The WG believes that the recommendations presented in this Draft Final Report should not affect the schedule of the New gTLD Applicant Guidebook. Rather, a separate program needs to be established in parallel with the New gTLD Program and the completion of the (Final) Application Guidebook. **The WG recommends that once the recommendations in this report are endorsed by the respective chartering organizations and ICANN's Board, ICANN staff produces an instructions manual describing the *Support Development Program*. This instructions manual, published, at a minimum, in six UN languages, should clearly outline to the applicants from developing countries what kind of support is provided, where to find it and how to apply for it.**

Why these applicants cannot just wait until the next round?

There are several reasons the WG believes that it is critical that support be given to applicants with a financial need for assistance in the first round:

- Board Resolution 2010.03.12.46-47 clearly expressed the need to ensure that the New gTLD Program is inclusive. Much of the ICANN global community, particularly from developing regions, has raised its hopes and

expectations with this decision.

- With every new gTLD application round, the market competitive disadvantage increases. ICANN should not cause or allow the New gTLD Program to further the gap in gTLD Registry representation from other regions. The diversity, competition and innovation the New gTLD Program could bring should be an opportunity to all around the world since the Internet is a global resource that belongs to all. ICANN has the obligation to look closely into this issue and fulfill its responsibility to serve the global public interest by allowing accessibility and competition for all around the world.
- There is no indication whether, in subsequent rounds, fees will be reduced and, in case there is any reduction, by how much, therefore there is no benefit in waiting.
- Informal market research indicates there is built-up demand for new gTLDs, particularly IDN gTLDs. There is expectation for a considerable number of applications. One of the main concerns is that, without some sort of assistance program, the most obvious and valuable names (ASCII and IDNs), will be taken by wealthy investors. This may limit opportunities in developing regions, for local community institutions and developing country entrepreneurs. The majority of the current 21 New gTLD Registries are located in USA or Europe. There is one in Hong Kong and absolutely none in a developing country.
- While, per policy, ICANN plans for a second round, the timeline for this to happen is, at best, uncertain. Experiences from previous rounds add to the uncertainty. For example, ICANN communicated during the last round that

this was to be followed soon by new rounds, nevertheless, it is taking almost a decade for a new round to materialize. Since ICANN cannot give guarantees and certainty of when future rounds will take place, making those who cannot afford to participate in the program during this round due to the current elevated fees is perceived as an unfair and non-inclusive treatment.

- New gTLD Policy Implementation **Guideline N**:
“ICANN may put in place a fee reduction scheme for gTLD applicants from economies classified by the UN as least developed.”³

Running a Registry can be expensive. If an applicant needs financial assistance for the application fees, how is this applicant going to be able to fund a Registry?

The ability to "fund a Registry" is not a neutral or objective criterion. For example, the cost of risk capital in places like New York and London for a speculative investment is qualitatively and quantifiably different from the cost in Central and South America, Africa, Asia, and much of Europe.

Additionally, experience has shown that successful Registry operations may begin with minimal capitalization – for instance, the marketing budget for .cat⁴ was two thousand euros invested as printed bookmarks and distributed by retail bookshops, and in the second month of operation, with a non-exploitive Sunrise/Landrush, reflecting a competently drafted rights of others policy, the operation became

³ The referenced Guideline is part of the New gTLD Program Policy developed by the GNSO that served as foundation to the New gTLD Program. The Policy text can be found here: <http://gns0.icann.org/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>. This policy was finalized in September 2007 and approved by ICANN Board in June 2008.

⁴ .cat is a gTLD A complete listing of all current gTLD Registries can be found here: <http://www.icann.org/en/registries/listing.html>.

profitable, and has remained profitable in every quarter subsequent. Past experiences have also shown that very high capitalization does not necessarily guarantee successful initial Registry operations.

Financial assistance during the pre-revenue period contributes to solving the pre-revenue cost problem for an applicant, lowering the cost to capital. As the cost of capital is significantly greater in the areas defined by the UN as emerging markets/nations, the absence of any program to level the playing field leaves the incumbents and their regional markets and interests with a significant advantage over qualified new entrants, their regional markets, and the interests of their users.

Fee reduction and self-funding Requirement The New gTLD Program should be self-funding. If the proposed fee reductions are granted to the qualifying applicants with financial need, what happens to the goal of a self-funded Program?

The GNSO Implementation guideline was that the overall program be self-funding. The Policy guideline specifically reads:

“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.”

As discussed in the recommendations above, certain fees are inappropriate for applicants who meet the requirements of the program. The Policy guideline allows for differentiated fee structure as long as the total resources cover the entire cost of the program.

The solutions proposed by this WG are supposed to be sustainable. In what respect is this solution sustainable?

The recommendations in this program are meant to support the sustainability of costs for those who meet the requirements of the proposed program. Reduced fees enable a prospective Registry to enter the market and reduce the initial debt that would need to be met. In those cases of community gTLDs, where a community is either contributing to the expenses or is intended to reap benefit after the gTLD has been established, lower initial costs contribute not only to sustaining the operation of the gTLD, but also have the added benefit to lower the risk for the community.

Glossary

New gTLD Program

The New gTLD program is an initiative that will enable the introduction of new gTLDs (including both ASCII and IDN) into the domain name space.

Registry

The "Registry" is the authoritative, master database of all domain names registered in each Top Level Domain. The registry operator keeps the master database and also generates the "zone file" which allows computers to route Internet traffic to and from top-level domains anywhere in the world. Internet users don't interact directly with the registry operator; users can register names in TLDs including .biz, .com, .info, .net, .name, .org by using an ICANN-Accredited Registrar.

Registrar

Domain names ending with .aero, .biz, .com, .coop, .info, .museum, .name, .net, .org, and .pro can be registered through many different companies (known as "registrars") that compete with one another. A listing of these companies appears in the [Accredited Registrar Directory](#).

The registrar you choose will ask you to provide various contact and technical information that makes up the registration. The registrar will then keep records of the contact information and submit the technical information to a central directory known as the "registry." This registry provides other computers on the Internet the information necessary to send you e-mail or to find your web site. You will also be required to enter a registration contract with the registrar, which sets forth the terms under which your registration is accepted and will be maintained.

Applicant

An entity that applies to ICANN for a new gTLD by submitting its application form through the online application system.

Evaluation Fees

The fee due from each applicant to obtain consideration of its application. The evaluation fee consists of a deposit and final payment per application. A deposit allows the applicant access to the secure online application system.

Registry Fees

Under the ICANN Registry Agreement, there are two fees: a fixed fee per calendar quarter and a transaction fee on future domain registrations and renewals. These fees are primarily intended to cover ICANN's recurring costs for Registry contract management.

Support Development Program

The program being generally proposed in this Milestone Report. It is not to be confused with the New gTLD Program.

IDNs

IDN stands for Internationalized Domain Name. IDNs are domain names represented by local language characters, or letter equivalents. These domain names could contain characters with diacritical marks (accents) as required by many European languages, or characters from non-Latin scripts (for example, Arabic or Chinese). IDNs make the domain name label as it is displayed and viewed by the end user different from that transmitted in the DNS. To avoid confusion the following terminology is used: The A-label is what is transmitted in the DNS protocol and this is the ASCII-compatible (ACE) form of an IDNA string; for example "xn--11b5bs1di". The U-label is what should be displayed to the user and is the representation of the Internationalized Domain Name (IDN) in Unicode.

New gTLDs

gTLD stands for generic Top-Level Domain. A gTLD is part of the Internet's global addressing system or Domain Name System (DNS). The term "gTLD" refers to the specific suffixes which appear at the end of Internet addresses and are used to route traffic through the Internet. There are different types of top-level domains, which help to identify specific types of organizations, associations or activities (see [RFC 1591](#)). Some gTLDs, such as .com or .info, are intended for general use. Others are intended for use by a specific community - such as .COOP for cooperative organizations. A complete list of existing gTLDs is available at <http://www.iana.org/domains/root/db/>.

Languages and Scripts

Scripts are a collection of symbols used for writing a language. There are three basic kinds of scripts. Alphabetic (Arabic, Cyrillic, Latin) has individual elements termed letters. Ideographic (Chinese) has elements that are ideographs. Syllabary (Hangul) has individual elements that represent syllables. The writing systems of most languages use only one script but there are exceptions. For example, Japanese, uses four different scripts representing all three categories. Scripts that do not appear in the Unicode code chart are completely unavailable for inclusion in IDNs.

Developing Countries; Emerging Markets/Nations

These terms are often used in this Report. The WG has not adopted any specific classification and recommends using a classification that is internationally agreed upon, for example, G-77 or United Nations or World Bank classifications. The WG notes that these organizations might update their classifications from time to time. Also, the WG acknowledges that agencies that in the future participate in the *Support Development Program* as funding agencies might adopt their own classifications.

