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Proposal for URS Policy and Operational Recommendations

IMPORTANT

- This form is used by RPM Working Group members to submit proposals for URS policy and operational recommendations. Please submit to ariel.liang@icann.org.
- **Proposals submitted not using the required form will not be in order and will not be discussed.**
- **One individual form must contain only one proposal for one recommendation.**
- Answer to every text field is required and mandatory(*).
- As soon as practical after receiving the submissions, staff will forward the proposals to the Working Group email list.
- The final date for submission of member proposals is **COB on Friday, 31 August 2018**. Any proposal received after that date will not be in order and will not be discussed.

I. General Questions

*1. Proponent's Full Name

If this proposal is developed by more than one WG member, please write the full names of all proponents involved

George Kirikos_____

*2. What type of URS recommendation are you proposing?

Policy

Operational Fix

Other (please specify: URS and UDRP Providers themselves to be brought under contract with ICANN_____)

*3. What URS recommendation are you proposing?

Please be succinct as well as substantially specific and not general in nature. One proposal for one recommendation only.

[NB: Topic can be deferred to Phase 2 of our work, as it applies to both the URS and the UDRP.]

All current and future URS and UDRP providers should be brought under formal fixed-term contract with ICANN, instead of the current arrangements (MOUs for URS providers, and nothing at all for UDRP providers). Those contracts should not have any presumptive renewal clauses.

II. Justification Statement

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- Must be no more than **250 words** in length for each of two sections below.
- Should state the operational or policy rationale for the proposal.
- Should cite any evidence in support of it. Such evidence may be information developed by the Sub Teams or documented in other sources.

***4. What is your rationale for the proposal? (250 words max)**

The current legal relationships between ICANN and the URS/UDRP providers create uncertainty regarding accountability, transparency, and compliance. Formal contracts, for a fixed term, without presumptive renewal clauses, will help improve the current state of affairs. Contracts will provide all parties with clear expectations of rights and responsibilities.

Providers should be subject to the same scrutiny as other contracted parties such as registrars and registry operators, to ensure that bad actors do not gain control over an ADR provider. All beneficial owners of 15% or more (directly or indirectly) of a provider should be disclosed.

The current “accredit and forget it” model is unacceptable. These are multi-million dollar ADR services annually in aggregate and should be formalized with contracts.

***5. What evidence do you have in support of your proposal? Please detail the source of your evidence. (250 words max)**

Formal fixed term contracts with ADR providers are not new. Forthright (which is or was closely related to NAF) had a three year contract with New Jersey, for example, to administer its PIP arbitrations:

<https://www.prnewswire.com/news-releases/forthright-awarded-new-jersey-no-fault-arbitration-contract-114724104.html>

III. Pertinent Questions

- *The proposal must address the following three questions*
- *Can be no more than 250 words in length for each of two sections below.*

***6. Where and how has this issue been addressed (or not) by the Working Group or the Sub Teams to date? (250 words max)**

This has not been addressed by the sub teams, but was hinted at in discussions on the mailing list, when I asked about NAF's business practices in March 2018:

<https://mm.icann.org/pipermail/gnso-rpm-wg/2018-March/002803.html>

and ensuring thread, e.g. Paul Keating's posts at:

<https://mm.icann.org/pipermail/gnso-rpm-wg/2018-March/002830.html>

<https://mm.icann.org/pipermail/gnso-rpm-wg/2018-March/002833.html>

No proposals have been made on this issue until now.

***7. Does the data collected and reviewed by the Sub Teams show a need to address this issue and develop recommendations accordingly? (250 words max)**

They didn't collect such data. NAF's answers to my questions (see #6 above) were inadequate, see pages 35-36 at:

<https://gnso.icann.org/en/meetings/transcript-rpm-review-15mar18-en.pdf>

More data from all providers can be collected during Phase 2 of our work.

***8. If not already addressed above, on the basis of what information, gathered from what source or Sub Team, is this proposal based, if any? Please provide details. (250 words max)**

Discussed above.