

# 2020-07-16 New gTLD Subsequent Procedures PDP

The call for the New gTLD Subsequent Procedures Working Group will take place on **Thursday, 16 July 2020 at 20:00 UTC for 90 minutes**.

For other places see: <https://tinyurl.com/yd7j8x5c>



## PROPOSED AGENDA

1. Review Agenda/Updates to Statements of Interest
2. Review 2.1 Auctions – Mechanisms of Last Resort: <https://docs.google.com/document/d/1kUImZH8nxWTgfcRluA5FxLheMm4XhhOwkRt7om52aQU/edit?usp=sharing>
3. Complete Review of the updated Predictability Framework, see: <https://docs.google.com/document/d/1vBckhFQCCQ-zyvFGGcDB3NWQhodVsffdqbyb6kTwXL4/edit?usp=sharing>. Also attached, please find the updated concerns/mitigation document and process flow.
4. AOB
  - a. RVC email discussions
  - b. Treatment of duplicative affirmations

## BACKGROUND DOCUMENTS

[Proposed Predictability Framework \(SPIRT\) Process For SubPro PDP Discussion\\_30June.pdf](#)



## RECORDINGS

[Audio Recording](#)

[Zoom Recording](#)

[Chat Transcript](#)

GNSO transcripts are located on the [GNSO Calendar](#)



## PARTICIPATION

[Attendance](#)

**Apologies:** Katrin Ohlmer, Maxim Alzoba



## Notes/ Action Items

### Actions:

Auctions: Mechanisms of Last Resort:

Model 5: <https://docs.google.com/document/d/1X8F8zHkgMzQg2WqGHpuoEP78rhpDkFOjD2qKrZZzjHw/edit#heading=h.vggepvizwp>

**ACTION ITEM:** Include text before the bullet point of Auctions of Last Resort: "Contention sets that are resolved by private resolution will move forward to transition to delegation. The sealed bids would remain sealed and would be moot."

**ACTION ITEM:** Add a note in the "Contention Resolution Transparency Requirements" section that we need to determine the timing of disclosure.

**ACTION ITEM:** Elaine Pruis and Jim Prendergast to suggest language to add in the proposal of oversight by a competition authority for private resolutions and auctions.

### Notes:

1. Updates to Statements of Interest: No updates provided.

2. Auctions: Mechanisms of Last Resort:

Model 5: <https://docs.google.com/document/d/1X8F8zHkgMzQg2WqGHpuoEP78rhpDkFOjD2qKrZZzjHw/edit#heading=h.vggepvpiwpy>

#### Discussion:

- Opposition from Christopher Wilkinson to all auctions. Think this would result in complexity and cost for ICANN.
- Any costs would be rolled into application fee so ICANN would recoup.
- When will disclosures made and to whom? We didn't include a timing.
- Didn't explicitly state that if something is privately resolved then it wouldn't go to auction.
- Questions: Would sealed bids be required and what is the timing of private auctions? Answer: Anything not specified is assumed to be the same as in 2012. Jim Prendergast's model gave a short window to resolve these things. Don't think we are specifying on private resolution is conducted; just the disclosure of the outcome.
- Sealed bids and aggressive time frames don't take into account outcomes from Objections, GAC Early Warning, Public Comments, etc. so they don't make sense in the context of private auctions.
- A tidying up comment: any reference to appeals holding up either auctions should include challenges - since we are using challenges against evaluations and appeals against objections / COI allegations.
- The bids can be submitted at the same time. Reveal could happen at staggered times.
- Add back in that a competition authority would have some oversight for private resolutions and auctions (as in Jim Prendergast's proposal). Not sure if this is feasible though.
- Re: sealed bids – we are not dictating how the auctions work.
- For auction of last resort it seems a little skewed for those that can put their funds together in a JV.
- Question: Can an applicant withdraw their sealed bid for another reason other than being removed from the regular process i.e. they spent their auction funds and would avoid defaulting on payment? Answer: Anyone can withdraw their application at any time. We aren't letting them change the amount. The only way to withdraw a bid is to withdraw the application, or accept a private resolution (so sealed bid isn't revealed).

#### Questions:

- Any form of deposit needed? If so, when and how much? At the time the bid is submitted, or similar to the 2012 practice of just prior to conducting the auction of last resort? Does 10% still make sense? Could be that the deposit would only made when the auction of last resort commences.
- To the extent any contention sets are shrunk, by having other applications removed from the process (e.g., withdrawal, losing objections, failing evaluation, losing in CPE, etc.), applicants will NOT be allowed to adjust their sealed bids. [One exception here could be if a subset of applicants in the contention set form a JV] – Doesn't this give the JV some kind of advantage? Only where a JV is formed could the pool of applicants submit new bids. Do we need to specify what happens if a JV qualifies for Applicant Support re: the bid multiplier.
- Applicants in the contention set will be informed of the date of the auction. [Depending on the outcome of the deposit discussion, the deposit might be collected at this stage]

**ACTION ITEM: Include text before the bullet point of Auctions of Last Resort: “Contention sets that are resolved by private resolution will move forward to transition to delegation. The sealed bids would remain sealed and would be moot.”**

**ACTION ITEM: Add a note in the “Contention Resolution Transparency Requirements” section that we need to determine the timing of disclosure.**

**ACTION ITEM: Elaine Pruis and Jim Prendergast to suggest language to add in the proposal of oversight by a competition authority for private resolutions and auctions, for consideration.**

#### 3. AOB:

##### 3a. Repeating affirmations and avoiding duplications

- First time we cite an affirmation we put the full text in, and in subsequent citations we reference back to the full text (rather than duplicating the text).
- Consider whether links can be included or the text duplicated.

### 3a. Can't Live With Approach

- Reviewing at meetings, but now the review seems to be happening in email.
- Have to be able to do work over email to allow for those who have not been able to join a meeting.