The Internet Corporation for Assigned Names and Numbers

To All Prospective Applicants for New gTLDs –

Since ICANN's founding ten years ago as a not-for-profit, multi-stakeholder organization dedicated to coordinating the Internet's addressing system, one of its foundational principles has been to promote competition in the domain-name marketplace while ensuring Internet security and stability.

We are now engaging the Internet community in agreeing a way forward to introduce new gTLDs in the domain name space. Such expansion is driven by the demand for more innovation, choice and change to the Internet's addressing system, now constrained by only 21 generic top-level domain names. In a world with 1.5 billion Internet users—and growing—diversity, choice and competition are key to the continued success and reach of the global network.

The launch of these coming new gTLD application rounds followed a detailed and lengthy consultation process with all constituencies of the global Internet community. Representatives from a wide variety of stakeholders—governments, individuals, civil society, business and intellectual property constituencies, and the technology community—were engaged in discussions for more than 18 months. In October 2007, the Generic Names Supporting Organization (GNSO)—one of the groups that coordinate global Internet policy at ICANN—completed its policy development work on new gTLDs and approved a set of recommendations. Major contributors to this policy work were ICANN's Governmental Advisory Committee (GAC), At-Large Advisory Committee (ALAC), Country Code Names Supporting Organization (ccNSO) and Security and Stability Advisory Committee (SSAC). All this policy development work culminated with ICANN's Board of Directors deciding to adopt the community-developed policy at the ICANN Paris meeting in June 2008. You can see a thorough brief to the policy process and outcomes at http://gnso.icann.org/issues/new-gtlds/.

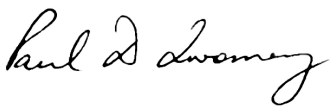
Please note that the Applicant Guidebook that follows this letter is a draft. Applicants should not rely on any of the proposed details of the new gTLD program, as the program remains subject to further consultation and revision. Also, some of the modules in this guidebook highlight areas of the process that remain under development. These areas will be made available for public consultation in the near future.

In addition to the Draft Applicant Guidebook, ICANN is posting a series of papers that serve as explanatory memoranda to assist the Internet community to better understand the implementation work.

ICANN expects to engage in a productive and robust dialogue with the Internet community through a consultative process. Comments will be used to revise and prepare the final Applicant Guidebook, to be released early in 2009.

The New gTLD Program enables the Internet community to open up the name space to new and innovative uses for top-level domains, and can meet some of the needs unmet by the current market. It has the potential to be one of the biggest influences on the future of the Internet.

Sincerely,



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New gTLD Program: Draft Applicant Guidebook (Draft RFP)

Please note that this is a discussion draft only. Potential applicants should not rely on any of the proposed details of the new gTLD program as the program remains subject to further consultation and revision.

24 October 2008

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New gTLD Program: Applicant Guidebook

How to Use

The Draft Applicant Guidebook (Request for Proposals) consists of a series of modules, each focused on specific topics within the application and evaluation process:

Module 1: Introduction to the Application Process

Provides an overview of the application process, documentation requirements, and fees

Module 2: Evaluation Procedures

Describes the various reviews that occur during the evaluation process and criteria for approval of applications

Module 3: Dispute Resolution Procedures

Contains the grounds for formal objection by third parties concerning gTLD applications submitted, and the dispute resolution procedure triggered by an objection

Module 4: String Contention Procedures

Describes mechanisms for resolving contention when there is more than one qualified applicant for identical or similar gTLD strings

Module 5: Transition to Delegation

Describes the final steps required of an applicant, including execution of a registry agreement and completion of pre-delegation tests

Module 6: Terms and Conditions

Contains the terms and conditions applicable to all entities submitting an application

Glossary

Contains definitions for terms used in the Applicant Guidebook

ICANN is posting a series of explanatory memoranda to accompany this draft, to provide further details on the background work completed by ICANN. Links to these memoranda are noted within the relevant modules.

All materials contained in the Draft Applicant Guidebook are being presented for public comment. Please note that this is a discussion draft only. Potential applicants should not rely on any of the proposed details of the new gTLD program as the program remains subject to further consultation and revision.

Draft Applicant Guidebook

Module 1

Please note that this is a discussion draft only. Potential applicants should not rely on any of the proposed details of the new gTLD program as the program remains subject to further consultation and revision.

24 October 2008

Module 1

Introduction to the gTLD Application Process

This module gives applicants an overview of the process for applying for a new generic top-level domain, and includes instructions on how to complete and submit an application, the supporting documentation an applicant must submit with an application, the fees required and when and how to submit them.

This module also describes the conditions associated with particular types of applications, and the application life cycle.

For more about the origins, history and details of ICANN's policies on new gTLDs, please see http://gnso.icann.org/issues/new-gtlds/.

A glossary of relevant terms is included with the Draft Applicant Guidebook (Draft RFP).

Prospective applicants are encouraged to read and become familiar with the content of this entire module as well as the others, before starting the application process to make sure they understand what is required of them and what they can expect at each stage of the application evaluation process.

1.1 Application Life Cycle and Timelines

This section provides a description of the stages that an application passes through once it is submitted. Some stages will occur for all applications submitted; others will only occur in specific circumstances. Applicants should be aware of the stages and steps involved in processing applications received.

1.1.1 Application Submission Dates

The application submission period opens at [time] UTC [date].

The application submission period closes at [time] UTC [date].

Applications may be submitted electronically through ICANN's online application system.

To receive consideration, all applications must be submitted electronically through the online application system by the close of the application submission period.

An application will not be considered, in the absence of exceptional circumstances, if:

- It is received after the due date.
- The application form is incomplete (either the questions have not been fully answered or required supporting documents are missing). Applicants will not ordinarily be permitted to supplement their applications after submission.
- The evaluation fee has not been paid by the deadline. Refer to Section 1.5 for fee information.

1.1.2 Application Processing Stages

This subsection provides an overview of the stages involved in processing an application submitted to ICANN. In Figure 1-1, the shortest and most straightforward path is marked with bold lines, while stages that may or may not apply in any given case are also shown. A brief description of each stage follows.

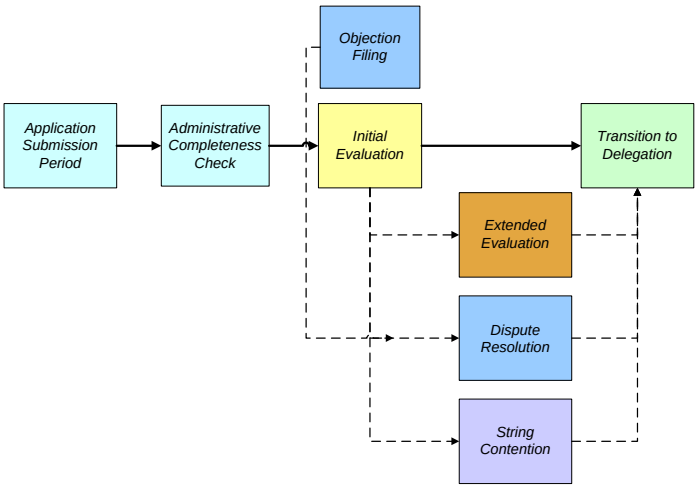


Figure 1-1 – Once submitted to ICANN, applications will pass through multiple stages of processing.

1.1.2.1 Application Submission Period

At the time the application submission period opens, applicants wishing to apply for a new gTLD can become registered users of the online application system.

Through the application system, applicants will answer a series of questions to provide general information, demonstrate financial capability, and demonstrate technical and operational capability. . The supporting documents listed in subsection 1.2.3 of this module must also be submitted through the application system.

Applicants must also submit their evaluation fees during this period. Refer to Section 1.5 of this module for additional information about fees and payments.

Following the close of the application period, applicants can continue to use the application system as a resource to track the progress of their applications, although they may receive communications from ICANN through other means.

1.1.2.2 Administrative Completeness Check

Immediately following the close of the application period, ICANN will check all applications for completeness. This check ensures that:

- All questions are answered (except those questions identified as optional);
- Required supporting documents are provided in the proper format(s); and
- The evaluation fees have been received.

ICANN will post a list of applications considered complete and ready for evaluation as soon as practical after the close of the application period. The status information for each application will also be updated in the online application system.

1.1.2.3 Initial Evaluation

Initial Evaluation will begin immediately after the administrative completeness check concludes. All complete applications will be reviewed during Initial Evaluation.

There are two main elements of the Initial Evaluation:

- String reviews (concerning the applied-for gTLD string); and
- Applicant reviews (concerning the entity applying for the gTLD and its proposed registry services).

Applicant reviews include a determination of whether the applicant has the requisite technical and financial capability to operate a registry.

- Panels of independent evaluators will perform these reviews based on the information provided by each applicant in its responses to the application form.
- There may be one round of questions and answers between the applicant and evaluators to clarify information contained in the application. Refer to Module 2 for further details on the evaluation process.

Evaluators will report whether the applicant passes or fails each of the parts of the Initial Evaluation. These reports will be available in the online application system.

At the conclusion of the Initial Evaluation period, ICANN will post a notice of all applications that have passed the Initial Evaluation. Depending on the volume of applications received, ICANN may post such notices in batches over the course of the Initial Evaluation period.

1.1.2.4 Objection Filing

Formal objections to applications can be filed on any of four enumerated grounds by parties with standing to object. The objection filing period will open after ICANN posts the list of complete applications as described in paragraph 1.1.2.2. Objectors will file directly with dispute resolution service providers (DRSPs). Refer to Module 3, Dispute Resolution Procedures, for further details.

The objection filing phase will close following the end of the Initial Evaluation period (refer to paragraph 1.1.2.3). Objections that have been filed during the objection filing phase will be addressed in the dispute resolution phase, which is outlined in paragraph 1.1.2.6 and discussed in detail in Module 3.

All applicants should be aware that third parties have the opportunity to file objections to any application during this period. Applicants whose applications are the subject of a formal objection will have an opportunity to file a response according to the dispute resolution service provider's rules and procedures (refer to Module 3).

An applicant wishing to file a formal objection to another application that has been submitted would do so within

the objection filing period, following the objection filing procedures in Module 3.

1.1.2.5 Extended Evaluation

Extended Evaluation applies only to applicants that do not pass Initial Evaluation.

Applicants failing certain elements of the Initial Evaluation can request an Extended Evaluation. If the applicant does not expressly request an Extended Evaluation, the application will proceed no further. The Extended Evaluation period allows for one additional round of questions and answers between the applicant and evaluators to clarify information contained in the application. The reviews performed in Extended Evaluation do not introduce additional evaluation criteria.

An Extended Evaluation may also be required if the applied-for gTLD string or one or more proposed registry services raise technical issues that might adversely affect the security and stability of the DNS. The Extended Evaluation period provides a time frame for these issues to be investigated. Applicants will be informed if such reviews are required at the end of the Initial Evaluation period. Evaluators and any applicable experts consulted will communicate their conclusions at the end of the Extended Evaluation period. These reports will be available in the online application system.

At the conclusion of the Extended Evaluation period, ICANN will post all evaluator reports from the Initial and Extended Evaluation periods.

If an application passes the Extended Evaluation, it can then proceed to the next stage. If the application does not pass the Extended Evaluation, it will proceed no further.

1.1.2.6 Dispute Resolution

Dispute resolution applies only to applicants that are the subject of a formal objection.

Where formal objections are filed and filing fees paid during the objection filing phase, dispute resolution service providers will initiate and conclude proceedings based on the objections received. The formal objection procedure exists to provide a path for those who wish to object to an application that has been received by ICANN. Dispute resolution service providers provide the fora to adjudicate the proceedings based on the subject matter and the needed expertise.

As a result of the proceeding, either the applicant will prevail (in which case the application can proceed to the next stage), or the objector will prevail (in which case either the application will proceed no further or the application will be bound to a contention resolution procedure). Refer to Module 3, Objection and Dispute Resolution, for detailed information. Applicants will be notified by the Dispute Resolution Service Provider of the results of dispute proceedings. The online application system will also be updated with these results.

1.1.2.7 String Contention

String contention applies only when there is more than one qualified applicant for the same or similar gTLD strings.

String contention refers to the scenario in which there is more than one qualified applicant for the same gTLD or for gTLDs that are so similar that they create a probability of detrimental user confusion if more than one is delegated. ICANN will resolve cases of string contention either through comparative evaluation or through an alternative mechanism for efficient resolution of string contention.

In the event of contention between applied-for strings that represent geographical names, the parties may be asked to follow a different process to resolve the contention.

Groups of applied-for strings that are either identical or confusingly similar are called contention sets. All applicants should be aware that if an application is identified as being part of a contention set, string contention resolution procedures will not begin until all applications in the contention set have completed all aspects of evaluation, including dispute resolution, if applicable.

To illustrate, as shown in Figure 1-2, Applicants A, B, and C all apply for .EXAMPLE and are identified as a contention set. Applicants A and C pass Initial Evaluation, but Applicant B does not. Applicant B elects Extended Evaluation. A third party files an objection to Applicant C's application, and Applicant C enters the dispute resolution proceeding. Applicant A must wait to see whether Applicants B and C successfully complete the Extended Evaluation and dispute resolution phases, respectively, before it can proceed to the string contention resolution stage. In this example, Applicant B passes the Extended Evaluation, but Applicant C does not prevail in the dispute resolution proceeding. String contention resolution then proceeds between Applicants A and B.

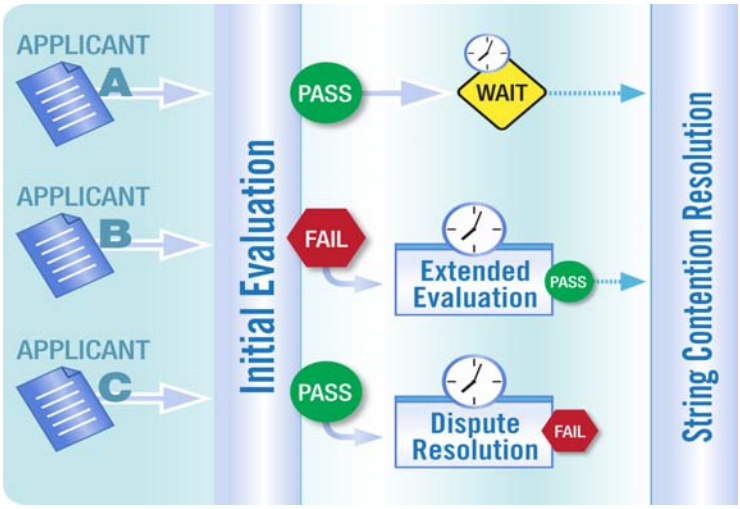


Figure 1-2 – All applications in a contention set must complete all previous evaluation and dispute resolution stages before string contention resolution can begin.

Applicants prevailing in a string contention resolution procedure will proceed toward delegation of applied-for gTLD strings. The online application system will be updated with the resolution of the string contention procedures.

1.1.2.8 Transition to Delegation

Applicants that successfully complete all the relevant stages outlined in this subsection 1.1.2 are required to carry out a series of concluding steps before delegation of the applied-for gTLD string into the root zone. These steps include execution of a registry agreement with ICANN and completion of a pre-delegation technical test to validate information provided in the application.

Following execution of a registry agreement, the prospective registry operator must complete technical set-up and satisfactory performance on technical checks before delegation of the gTLD into the root zone. If the initial start-up requirements are not satisfied so that the gTLD can be delegated into the root zone within the time frame specified in the registry agreement, ICANN may in its sole and absolute discretion elect to terminate the registry agreement.

Once all of these steps have been successfully completed, the applicant is eligible for delegation of its applied-for gTLD string into the DNS root zone.

1.1.3 Accounting for Public Comment in the Evaluation of Applications once the New gTLD Process is Launched

Public comment mechanisms are part of ICANN's policy development and implementation processes. As a private-public partnership, ICANN is dedicated to preserving the operational security and stability of the Internet, to promoting competition, to achieving broad representation of global Internet communities, and to developing policy appropriate to its mission through bottom-up, consensus-based processes. This necessarily involves the participation of many stakeholder groups in a public discussion.

In the new gTLD application process, public comments will be a mechanism for the public to bring relevant information and issues to the attention of those charged with handling new gTLD applications. ICANN will open a public comment forum at the time the applications are publicly posted on ICANN's website (refer to paragraph 1.1.2.2), which will remain open through the application round.

Public comments received will be provided to the evaluators during the Initial and Extended Evaluation periods. Evaluators will have discretion to take the information provided in these comments into consideration as deemed necessary. Consideration of the applicability of the information submitted through public comments will be included in the evaluators' reports.

Public comments may also be relevant to one or more objection grounds. (Refer to Module 3, Dispute Resolution Procedures, for the objection grounds.) ICANN will provide all public comments received to DRSPs, who will have discretion to consider them.

A distinction should be made between public comments, which may be relevant to ICANN's task of determining whether applications meet the established criteria, and formal objections that concern matters outside this evaluation. ICANN created the formal objection process to allow a full and fair consideration of objections based on subject areas outside ICANN's mission and expertise. A party contacting ICANN to pursue an objection will be referred to the formal objection channels designed specifically for resolving these matters in the new gTLD space. More information on the objection and dispute resolution processes is available in Module 3.

1.1.4 Sample Application Scenarios

The following scenarios briefly show a variety of ways in which an application may proceed through the evaluation process. The table that follows summarizes some processes and outcomes. This is not intended to be an exhaustive list of possibilities. There are other possible combinations of paths an application could follow.

Scenario Number	Initial Evaluation	Extended Evaluation	Objection(s) Raised	String Contention	Approved for Subsequent Steps
1	Pass	N/A	None	No	Yes
2	Fail	Pass	None	No	Yes
3	Pass	N/A	None	Yes	Yes
4	Pass	N/A	Applicant prevails	No	Yes
5	Pass	N/A	Objector prevails	N/A	No
6	Fail	Quit	n/a	N/A	No
7	Fail	Fail	n/a	N/A	No
8	Fail	Pass	Applicant prevails	Yes	Yes
9	Fail	Pass	Applicant prevails	Yes	No

Scenario 1 – Pass Initial Evaluation, No Objection, No Contention – In the most straightforward case, the application passes Initial Evaluation and there is no need for an Extended Evaluation. No objections are raised during the objection period, so there is no dispute to resolve. As there is no contention for the applied-for gTLD string, the applicant can enter into a registry agreement and the application can proceed toward delegation

Scenario 2 – Extended Evaluation, No Objection, No Contention – In this case, the application fails one or more aspects of the Initial Evaluation. The applicant is eligible for and requests an Extended Evaluation for the appropriate elements. Here, the application passes the Extended Evaluation. As with Scenario 1, no objections are raised during the objection period, so there is no dispute to resolve. As there is no contention for the gTLD string, the applicant can enter into a registry agreement and the application can proceed toward delegation.

Scenario 3 – Pass Initial Evaluation, No Objection, Contention – In this case, the application passes the Initial Evaluation so there is no need for Extended Evaluation. No objections are raised during the objection period, so there is no dispute to resolve and no appeal. However, there are

other applications for the same or a similar gTLD string, so there is contention. In this case, one application wins the contention resolution, and the other contenders are denied their applications, so the winning applicant can enter into a registry agreement and the application can proceed toward delegation.

Scenario 4 – Pass Initial Evaluation, Win Objection, No Contention – In this case, the application passes the Initial Evaluation so there is no need for Extended Evaluation. During the objection period, a valid objection is raised by an objector with standing on one of the objection grounds (refer to Module 3, Dispute Resolution Procedures). The objection is heard by a dispute resolution service provider panel that finds in favor of the applicant. The applicant can enter into a registry agreement and the application proceeds toward delegation.

Scenario 5 – Pass Initial Evaluation, Lose Objection – In this case, the application passes the Initial Evaluation so there is no need for Extended Evaluation. During the objection period, multiple valid objections are raised by one or more objectors with standing in one or more of the objection grounds. Each objection category for which there are objections is heard by a dispute resolution service provider panel. In this case, the panels find in favor of the applicant for most of the objections, but one finds in favor of the objector. As one of the objections has been upheld, the application does not proceed.

Scenario 6 – Fail Initial Evaluation, Applicant Withdraws – In this case, the application fails one or more aspects of the Initial Evaluation. The applicant decides to withdraw the application rather than continuing with Extended Evaluation. The application does not proceed.

Scenario 7 – Fail Initial Evaluation, Fail Extended Evaluation In this case, the application fails one or more steps in the Initial Evaluation. The applicant requests Extended Evaluation for the appropriate elements. However, the application fails Extended Evaluation also. The application does not proceed.

Scenario 8 – Extended Evaluation, Win Objection, Pass Contention –In this case, the application fails one or more aspects of the Initial Evaluation. The applicant is eligible for and requests an Extended Evaluation for the appropriate elements. Here, the application passes the Extended Evaluation. During the objection period, one valid objection is raised by an objector with standing. The objection is heard by a dispute resolution service provider

panel that rules in favor of the applicant. However, there are other applications for the same or a similar gTLD string, so there is contention. In this case, the applicant prevails over other applications in the contention resolution procedure, the applicant can enter into a registry agreement and the application can proceed toward the delegation phase.

Scenario 9 – Extended Evaluation, Objection, Fail Contention – In this case, the application fails one or more aspects of the Initial Evaluation. The applicant is eligible for and requests an Extended Evaluation for the appropriate elements. Here, the application passes the Extended Evaluation. During the objection period, one valid objection is raised by an objector with standing. The objection is heard by a dispute resolution service provider that rules in favor of the applicant. However, there are other applications for the same or a similar gTLD string, so there is contention. In this case, another applicant prevails in the contention resolution procedure, and the application does not proceed.

Transition to Delegation – After an application has completed Initial or Extended Evaluation, dispute resolution, if applicable, and string contention, if applicable, the applicant is required to complete a set of steps leading to delegation of the gTLD, including execution of a registry agreement with ICANN, and completion of pre-delegation testing. Refer to Module 5 for a description of the relevant steps in this phase.

1.1.5 Subsequent Application Rounds

ICANN's goal is to launch the next gTLD application rounds as quickly as possible. The exact timing will be based on experiences gained and changes required after this round is completed. The goal is for the next application round to begin within one year of the close of the application submission period for this round.

1.2 Information for All Applicants

1.2.1 Eligibility

Any established corporation, organization, or institution in good standing may apply for a new gTLD. Applications from individuals or sole proprietorships will not be considered.

1.2.2 Two Application Types: Open or Community-Based

All applicants are required to designate each application for a new gTLD as **open** or **community-based**.

1.2.2.1 Definitions

For purposes of this RFP, an **open gTLD** is one that can be used for any purpose consistent with the requirements of the application and evaluation criteria, and with the registry agreement. An open gTLD may or may not have a formal relationship with an exclusive registrant or user population. It may or may not employ eligibility or use restrictions.

For purposes of this RFP, a **community-based gTLD** is a gTLD that is operated for the benefit of a defined community consisting of a restricted population. An applicant designating its application as community-based will be asked to substantiate its status as representative of the community it names in the application, and additional information may be requested in the event of a comparative evaluation (refer to Section 4.2 of Module 4). An applicant for a community-based gTLD is expected to:

1. Demonstrate an ongoing relationship with a defined community that consists of a restricted population.
2. Have applied for a gTLD string strongly and specifically related to the community named in the application.
3. Have proposed dedicated registration and use policies for registrants in its proposed gTLD.
4. Have its application endorsed in writing by an established institution representing the community it has named.

1.2.2.2 Implications of Application Designation

Applicants should understand how their designation as open or community-based will affect application processing at particular stages, as described in the following paragraphs.

Objection/Dispute Resolution – All applicants should understand that an objection may be filed against any application on community opposition grounds, even if the applicant has not designated itself as community-based or declared the TLD to be aimed at a particular community. Refer to Module 3, Dispute Resolution Procedures.

String Contention – Any applicant that has been identified as part of a contention set (refer to Module 4.1) may be obliged to participate in either a comparative evaluation or another efficient mechanism for contention resolution if the application reaches the string contention stage and the applicant elects to proceed.

A **comparative evaluation** will take place if a community-based applicant in a contention set has elected comparative evaluation.

Another efficient mechanism for contention resolution will result in other cases. If a comparative evaluation occurs but does not produce a clear winner, the efficient mechanism will then result.

Refer to Module 4, String Contention Procedures, for detailed discussions of contention resolution procedures.

Contract Execution and Post-Delegation – A community-based gTLD applicant will be subject to certain post-delegation contractual obligations to operate the gTLD in a manner consistent with the restrictions associated with its community-based designation, once it begins operating the gTLD. ICANN must approve material changes to the community-based nature of the gTLD and any associated contract changes.

1.2.2.3 Changes to Application Designation

An applicant may not change its designation as open or community-based once it has submitted a gTLD application for processing.

1.2.3 Required Documents

Applicants should be prepared to submit the following documents, which are required to accompany each application:

1. **Proof of legal establishment –** Examples of acceptable documentation include articles or a certificate of incorporation, articles of association or equivalent documents relative to the type of entity and the jurisdiction in which it is formed, such as statutes or membership agreements of the entity.
2. **Proof of good standing** – Examples of acceptable documentation include a certificate of good standing or other equivalent official document issued by a competent government authority, if offered by a governmental authority for the jurisdiction.

Under some laws or jurisdictions, it may be possible to prove both establishment and good standing with a single document. That is, the same document may suffice for items 1 and 2.

If no such certificates or documents are available in the applicant's jurisdiction, an affidavit drafted and signed by a notary public or a legal practitioner duly qualified to represent clients before the courts of the country in which the applicant's organization is established, declaring that the organization is established and in good standing, must be submitted.

3. If the applicant is a government body or organization, it must provide a **certified copy of the act** wherein or governmental decision whereby the government body or organization was established.

ICANN is aware that practices and documentation standards vary from region to region, and has attempted to account for a variety of these practices when specifying the requirements. Applicants with exceptional circumstances should contact ICANN to determine how to provide appropriate documentation.

4. **Financial statements**. Applicants must provide audited financial statements for the most recently completed fiscal year for the applicant, and unaudited financial statements for the most recently ended interim financial period for the applicant.

5. Before delegation: **documentary evidence of ability to fund ongoing basic registry operations** for then-existing registrants for a period of three to five years in the event of registry failure, default or until a successor operator can be designated.

All documents must be valid at the time of submission.

Supporting documentation should be submitted in the original language. English translations are not required.

Some supporting documentation will be required only in certain cases:

1. ***Community endorsement –*** If an applicant has designated its application as community-based, it will be asked to submit a written endorsement of its application by an established institution representing the community it has named.

2. ***Government support or non-objection*** – If an applicant has applied for a string that is a geographical term, the

applicant is required to submit a statement of support or non-objection for its application from the relevant government(s) or public authorities. Refer to Section 2.1.1.4 for more information on the requirements for geographical names.

3. ***Documentation of outside funding commitments –*** If an applicant lists outside sources of funding in its application, it must provide evidence of commitment by the party committing the funds.

1.2.4 Notice Concerning Technical Acceptance Issues with New gTLDs

All applicants should be aware that acceptance of their applications by ICANN and entering into a registry agreement with ICANN does not guarantee that the new gTLD will immediately function throughout the Internet. Past experience indicates that ISPs and webhosters do not automatically allow passage of or access to new gTLD strings even when these strings are authorized by ICANN, since software modifications may be required that may not happen until there is a business case for doing so.

Similarly, web applications often validate namestrings on data entry and may filter out new or unknown strings. ICANN has no authority or ability to require acceptance of new gTLD namestrings although it does prominently publicize ICANN-authorized gTLD strings on its website. ICANN encourages applicants to familiarize themselves with these issues and account for them in startup and launch plans. Successful applicants may find themselves expending considerable efforts post-implementation in working with providers to achieve acceptance of their new gTLD namestring.

Applicants should review (Informational) RFC 3696 (see http://www.ietf.org/rfc/rfc3696.txt?number=3696) for background. IDN applicants should review the material concerning experiences with IDN test strings in the root zone (see http://idn.icann.org/).

1.2.5 Terms and Conditions

All applicants must agree to a standard set of Terms and Conditions for the application process. The Terms and Conditions are available in Module 6 of this RFP.

1.3 Information for Internationalized Domain Name Applicants

Some applied-for gTLD strings are expected to be Internationalized Domain Names (IDNs) that require the insertion of IDN-encoded A-labels into the DNS root zone. IDNs are labels that contain one or more letters or characters other than LDH (letters a,...z; digits 0,...9; and the hyphen "-").

If an applicant applies for such a string, it must provide accompanying information indicating compliance with the IDNA protocol and other requirements. The IDNA protocol is currently under revision and its documentation can be found at http://www.icann.org/en/topics/idn/rfcs.htm. Applicants must provide applied-for gTLD strings in the form of both a **U-label** and an **A-label**.

An A-label is the ASCII-Compatible Encoding form of an IDNA-valid string. Every A-label begins with the IDNA ACE prefix, "xn--", followed by a string that is a valid output of the Punycode algorithm, and hence is a maximum of 59 ASCII characters in length. The prefix and string together must conform to all requirements for a label that can be stored in the DNS including conformance to the LDH (host name) rule described in RFC 1034, RFC 1123 and elsewhere.

A U-label is an IDNA-valid string of Unicode characters, including at least one non-ASCII character, expressed in a standard Unicode Encoding Form, normally UTF-8 in an Internet transmission context.

For example, using the current IDN test string in Cyrillic script, the U-label is <**испытание**> and the A-label is <**xn—80akhbyknj4f>.** An A-label must be capable of being produced by conversion from a U-label and a U-label must be capable of being produced by conversion from an A-label.

Applicants for IDN gTLDs will also be required to provide the following at the time of the application:

1. Short form of string (English). The applicant will provide a short description of what the string would mean in English.
2. Language of label (ISO 639-1). The applicant will specify the language of the applied-for TLD string, both

according to the ISO's codes for the representation of names of languages, and in English.

3. Script of label (ISO 15924). The applicant will specify the script of the applied-for gTLD string, both according to the ISO code for the presentation of names of scripts, and in English.
4. Unicode code points. The applicant will list all the code points contained in the U-label according to its Unicode form.
5. Representation of label in phonetic alphabet. The applicant will provide its applied-for gTLD string notated according to the International Phonetic Alphabet (http://www.arts.gla.ac.uk/IPA/ipachart.html).
6. Its IDN table. This table provides the list of characters eligible for registration in domain names according to registry policy. It will contain any multiple characters that can be considered "the same" for the purposes of registrations at the second level. For examples, see http://iana.org/domains/idn-tables/.
7. Applicants must further demonstrate that they have made reasonable efforts to ensure that the encoded IDN string does not cause any rendering or operational problems. For example, problems have been identified in strings with characters of mixed right-to-left and left-to-right directionality when numerals are adjacent to the path separator. If an applicant were applying for a string with known issues, it should document steps that will be taken to mitigate these issues in applications.

1.4 Submitting an Application

Applicants may complete the application form and submit supporting documents using ICANN's TLD Application System (TAS). To access the tool, applicants must first register as a TAS user, which involves paying a user registration fee of USD100.

As TAS users, applicants will be able to provide responses in open text boxes and submit required supporting documents as attachments. Restrictions on the size of attachments as well as the file formats are included in the instructions on the TAS site.

ICANN will not accept application forms or supporting materials submitted through other means than TAS (that is, hard copy, fax, email), unless such submission is in accordance with specific instructions from ICANN to applicants.

1.4.1 Accessing the TLD Application System

The TAS site is located at [URL to be inserted in final version of RFP].

TAS features include:

1.4.1.1 Sub-user Management

This feature allows applicants to create sub-users with varying permission levels to assist in completing the application. For example, if an applicant wishes to designate a user to complete the technical section of the application, the applicant can create a sub-user account with access only to that section.

1.4.1.2 Workflow Management

This feature allows applicants to check the status of their applications through TAS.

1.4.1.3 Security

ICANN uses all reasonable efforts to protect applicant information submitted through TAS. TAS uses advanced Internet security technology to protect applicant information against unauthorized access. This technology includes:

Secure Socket Layer (SSL) – To ensure that confidential information remains confidential, it is sent to TAS in a secure session using SSL technology. SSL technology scrambles or encrypts information as it moves between the user's browser and TAS.

Limited TAS Authorized Users and Permission Levels – TAS is a hierarchical system with defined user roles and permissions. ICANN-authorized personnel have access only to the portions of the system they need. For example, an accounting user may only need access to perform updates to the portion of a record indicating whether an applicant's evaluation fee has been received.

Although ICANN intends to follow the security precautions outlined here, it offers no assurances that these procedures will keep an applicant's data confidential and secure from access by unauthorized third parties.

1.4.2 Technical Support

TAS users can refer to the FAQ/knowledge base or contact [email address to be inserted in final version of RFP] for help using the system. Users can expect to receive a tracking

ticket number and a response within 24 to 48 hours through the TAS submission tool.

1.4.3 Backup Application Process

If the online application system is not available, ICANN will provide alternative instructions for submitting applications.

1.5 Fees and Payments

This section describes the fees to be paid by the applicant. Payment instructions are also included here.

1.5.1 Breakdown of Fees and Amounts

The following fees are required from all applicants:

- ***TAS User Registration Fee –*** USD 100. This fee enables a user to enter the online application system. This fee is nonrefundable.

- ***gTLD Evaluation fee –*** USD 185,000. ICANN will not begin its evaluation of an application unless it has received the gTLD evaluation fee by the due date. Refer to subsection 1.5.4. 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 doesn't take resources from other ICANN funding sources, including generic registries and registrars, cc TLD contributions and RIR contributions.

  In certain cases, refunds of a portion of this fee may be available for applications that are withdrawn before the evaluation process is complete. The amount of refund will depend on the point in the process at which the withdrawal is made. (Refer to subsection 1.5.5.) Details will be made available when the application process is launched.

Applicants may be required to pay additional fees in certain cases. Those possible additional fees include:

- ***Registry Services Review Fee –*** If applicable, this fee is payable for additional costs incurred in referring an application to the RSTEP for an extended review. Applicants will be notified if such a fee is due. The fee for a three member RSTEP review team is anticipated to be USD 50,000. In some cases, five-member panels might be required, or there might be increased scrutiny at a greater cost. In every case, the applicant will be advised of the review

cost before its initiation. Refer to Section 2.1.3 of Module 2 on Registry Services review.

- ***Dispute Resolution Filing Fee –*** This amount must accompany any filing of a formal objection and any response that an applicant files to an objection. This fee is payable to the applicable dispute resolution service provider in accordance with the provider's payment instructions. ICANN estimates that non-refundable filing fees could range from approximately USD 1,000 to USD 5,000 (or more) per party per proceeding. Refer to the appropriate provider for the relevant amount. Refer to Module 3 for dispute resolution procedures.

- ***Dispute Resolution Adjudication Fee –*** This fee is payable to the applicable dispute resolution service provider in accordance with that provider's procedures and schedule of costs. Both parties in the dispute resolution proceeding will be required to submit an advance payment of costs in an estimated amount to cover the entire cost of the proceeding. This may be either an hourly fee based on the estimated number of hours the panelists will spend on the case (including review of submissions, facilitation of a hearing, if allowed, and preparation of a decision), or a fixed amount. The prevailing party in a dispute resolution proceeding will have its advance payment refunded, while the non-prevailing party will not receive a refund and thus will bear the cost of the proceeding.

  ICANN estimates that a proceeding involving a fixed amount could range from USD 2,000 to USD 8,000 (or more) per proceeding. ICANN further estimates that an hourly rate based proceeding with a one-member panel could range from USD 32,000 to USD 56,000 (or more) and with a three-member panel it could range from USD 70,000 to USD 122,000 (or more). These estimates may be lower if the panel does not call for written submissions beyond the objection and response, and does not allow a hearing. Please refer to the appropriate provider for the relevant amounts or fee structures. Refer also to Section 3.2 of Module 3 for further details.

- ***Comparative Evaluation Fee –*** This fee is payable to the provider appointed to handle comparative evaluations, in the event that the applicant participates in a comparative evaluation.

Applicants will be notified if such a fee is due. Refer to Section 4.2 of Module 4.

This list does not include fees (that is, registry fees) that will be payable to ICANN following execution of a registry agreement. See http://www.icann.org/en/topics/new-gtld-draft-agreement-24oct08-en.pdf.

1.5.2 Payment Methods

Payments to ICANN may be submitted by wire transfer, ACH, money order, or check.

1.5.2.1 Wire Transfer Payment

Instructions for making a payment by **wire transfer** will be available in TAS.

1.5.2.2 ACH Payment

Instructions for making **ACH payments** will be available in TAS.

1.5.2.3 Credit Card Payment

To make a **credit card payment**, note:

ICANN accepts Visa, MasterCard/Maestro, American Express and Discover credit cards as forms of payment. The maximum amount accepted is USD 20,000 per invoice.

- Fill out and sign the Credit Card Payment Form at http://www.icann.org/en/financials/credit.pdf.
- Send the completed form to ICANN at fax: +1.310.823.8649

Or mail the form to:

Internet Corporation for Assigned Names and Numbers (ICANN)
Attention: Finance Department
4676 Admiralty Way, Suite 330
Marina del Rey, CA 90292-6601 USA

1.5.2.4 Check or Money Order Payment

To make a **payment by check or money order** (USD only), mail or deliver by private carrier to:

Internet Corporation for Assigned Names and Numbers (ICANN)
Attention: Finance Department
4676 Admiralty Way, Suite 330
Marina del Rey, CA 90292-6601 USA

1.5.3 Requesting an Invoice

The TAS interface allows applicants to request issuance of an invoice for any of the fees payable to ICANN. This service is for the convenience of applicants that require an invoice to process payments.

1.5.4 Deadlines for Payments

The Evaluation Fee must be received by [time] UTC [date].

ICANN or its providers will notify the applicants of due dates for payment in respect of additional fees (if applicable).

1.5.5 Withdrawals and Refunds

Refunds may be available to applicants who choose to withdraw at certain stages of the process.

An applicant that wishes to withdraw an application must use the TAS interface to request a refund. ICANN will not consider any other form of request for refunds. Refunds will only be issued to the organization that submitted the original payment. All refunds are paid by wire transfer. Any bank transfer or transaction fees incurred by ICANN will be deducted from the amount paid.

Further details on refund amounts will be available in the final version of the RFP.

1.6 Questions about this RFP

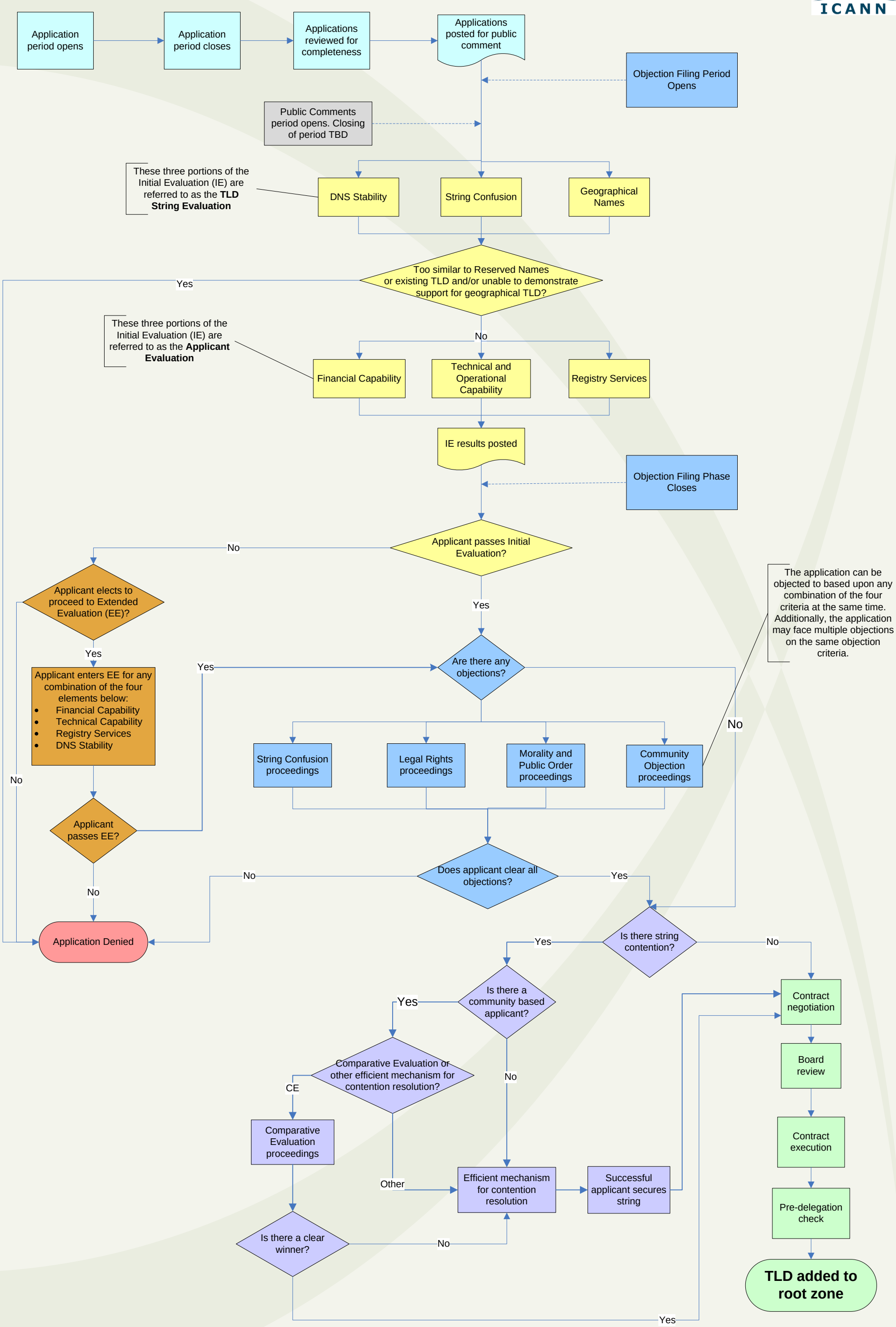
Applicants may submit questions about completing the application form to [email address to be inserted in final version of RFP]. To provide all applicants equitable access to information, ICANN will post all questions and answers in a centralized location on its website.

All requests to ICANN for information about the process or issues surrounding preparation of an application must be submitted in writing to the designated email address. ICANN will not grant requests from applicants for personal or telephone consultations regarding the preparation of an application. Applicants that contact ICANN for clarification about aspects of the application will be referred to the dedicated online question and answer area.

Answers to inquiries will only provide clarification about the application forms and procedures. ICANN will not provide consulting, financial, or legal advice.

New gTLD Program - Evaluation Process

DRAFT- For Discussion Purposes



Draft Applicant Guidebook

Module 2

Please note that this is a discussion draft only. Potential applicants should not rely on any of the proposed details of the new gTLD program as the program remains subject to further consultation and revision.

24 October 2008

Module 2

Evaluation Procedures

This module describes the evaluation procedures and criteria used to determine whether applications are approved for delegation as a gTLD. All applicants will undergo an Initial Evaluation and those that do not pass all phases may enter into an Extended Evaluation.

The first, required evaluation is the **Initial Evaluation**, during which ICANN first assesses an applied-for gTLD string, an applicant's qualifications, and proposed registry services.

The following elements make up **Initial Evaluation**:

- String Reviews
  - String confusion
  - Reserved Names
  - DNS stability
  - Geographical names
- Applicant Reviews
  - Demonstration of technical and operational capability
  - Demonstration of financial capability
  - Registry services

These elements, which are described in greater detail later in this module, are intended to ensure applied-for gTLD strings do not negatively impact DNS security or stability, and to ensure that applicants are capable of operating the gTLD in a stable and secure manner, and that new services can be introduced without adverse effect on the security or stability of the DNS.

An applicant must pass all these reviews to pass the Initial Evaluation. Failure to pass any one of these reviews will result in a failure to pass the Initial Evaluation.

Extended Evaluation may be applicable in cases in which an applicant does not pass the Initial Evaluation or additional inquiry is required.

2.1 Initial Evaluation

The Initial Evaluation consists of two types of examination. Each type is composed of several elements.

The first examination focuses on the applied for string to test:

- Whether the applied-for gTLD string is similar to others and would cause user confusion;
- Whether the applied-for gTLD string might disrupt DNS security or stability; and
- Whether requisite government approval is given in the case of certain geographical names.

The second examination focuses on the applicant to test:

- Whether the applicant has the requisite technical and financial capability; and
- Whether the registry services offered by the applicant might adversely affect DNS security or stability.

2.1.1 String Reviews

In the Initial Evaluation, ICANN reviews every applied-for gTLD string for string confusion, potential to introduce instability into the DNS, and whether relevant government approval is required. Those reviews are described in greater detail in the following paragraphs.

2.1.1.1 String Confusion Review

The objective of this review is to prevent user confusion and loss of confidence in the DNS. This review involves a comparison of each applied-for gTLD string against existing TLDs and against other applied-for gTLD strings. The examination is to determine whether the applied-for gTLD string is so similar to one of the others that it would create a probability of detrimental user confusion if it were to be delegated to the root zone. ICANN will perform determinations of string similarity in accordance with the steps outlined here.

The similarity review will be conducted by a panel of String Similarity Examiners. This examination will be informed by an algorithmic score for the visual similarity between each applied-for string and each of other existing and applied-for TLDs. The score will provide one objective measure for consideration by the panel.

The examiners' task is to identify string similarities that would create a probability of detrimental user confusion. The examiners will use a common standard to test for whether string confusion exists, as follows:

Standard for String Confusion – String confusion exists where a string so nearly resembles another visually that it is likely to deceive or cause confusion. For the likelihood of confusion to exist, it must be probable, not merely possible that confusion will arise in the mind of the average, reasonable Internet user. Mere association, in the sense that the string brings another string to mind, is insufficient to find a likelihood of confusion.

The standard will be applied in two sets of circumstances, when comparing:

- Applied-for gTLD strings against existing TLDs and reserved names.
- Applied-for gTLD strings against other applied for gTLD strings or strings requested in ccTLD processes).

Existing String Similarity Examination – This review involves cross-checking between each applied-for string and the list of existing TLD strings to determine whether the two strings are so similar to one another that they create a probability of detrimental user confusion.

All TLDs currently in the root zone can be found at http://iana.org/domains/root/db/.

An application that fails the string confusion review and is found too similar to an existing string will not pass the Initial Evaluation, and no further reviews will be available.

In the simple case in which an applied-for TLD string is identical to an existing TLD, the application system will recognize the existing TLD and not allow the application to be submitted.

Such testing for identical strings also takes into consideration the code point variants listed in any relevant language reference table.

For example, protocols treat equivalent labels as alternative forms of the same label, just as "foo" and "Foo" are treated as alternate forms of the same label (RFC 3490).

An applied-for gTLD string that passes the string confusion review is still subject to challenge by an existing TLD operator or by another gTLD applicant in the current

application round. That process requires that a specific objection be filed by an objector having the standing to make such an objection. Refer to Module 3, Dispute Resolution Procedures, for more information about the objection process.

String Contention Sets: Similarity with Other Applied-for gTLD Strings – All applied-for gTLD strings will be reviewed against one another to identify any strings that are so similar that they create a probability of detrimental user confusion would result if more than one is delegated into the root zone. In performing the string confusion review, the panel of String Similarity Examiners will create contention sets that may be used later in the process. A contention set contains at least two applied-for strings identical to one another or so similar that string confusion would result if more than one were delegated into the root zone. Refer to Module 4, String Contention Procedures, for more information on contention sets and contention resolution. ICANN will notify applicants who are part of a contention set by the conclusion of the Initial Evaluation period. These contention sets will also be published on ICANN's website.

Similarity to TLD strings applied for as ccTLDs -- Applied-for gTLD strings will also be reviewed for similarity to TLD strings applied for in the IDN ccTLD Fast Track process (see http://www.icann.org/en/topics/idn/fast-track/). Should conflict with a prospective fast-track IDN ccTLD be identified, ICANN will take steps to resolve the conflict. (See process for Geographical Names in paragraph 2.1.1.4.)

String Similarity Algorithm – The String Similarity Algorithm (Algorithm) is a tool the examiners use to provide one objective measure as part of the process of identifying strings likely to result in confusion. The Algorithm is also available to applicants for testing and informational purposes. The Algorithm and user guidelines are available at http://80.124.160.66/icann-algorithm.

The Algorithm calculates scores for visual similarity between any two strings, using factors such as letters in sequence, number of similar letters, number of dissimilar letters, common prefixes, common suffixes, and string length.

2.1.1.2 Review for Reserved Names

The Reserved Names review involves comparison with the list of top-level Reserved Names to ensure that the applied-for gTLD string does not appear on that list.

Top-Level Reserved Names List

AFRINIC	*IANA-SERVERS*	*NRO*
ALAC	*ICANN*	*RFC-EDITOR*
APNIC	*IESG*	*RIPE*
ARIN	*IETF*	*ROOT-SERVERS*
ASO	*INTERNIC*	*RSSAC*
CCNSO	*INVALID*	*SSAC*
*EXAMPLE**	*IRTF*	*TEST**
GAC	*ISTF*	*TLD*
GNSO	*LACNIC*	*WHOIS*
GTLD-SERVERS	*LOCAL*	*WWW*
IAB	*LOCALHOST*	
IANA	*NIC*	
*Note that in addition to the above strings, ICANN will also reserve translations of the terms "test" and "example" in multiple languages.		

If an applicant enters a Reserved Name as its applied-for gTLD string, the application system will recognize the Reserved Name and not allow the application to be submitted.

In addition, applied-for gTLD strings are reviewed in a process identical to that described in the preceding section to determine whether they exceed a similarity threshold with a Reserved Name. An application for a gTLD string that is identified as too similar to a Reserved Name will not pass the Reserved Names review.

2.1.1.3 Review for Potential DNS Instability

This review determines whether an applied-for gTLD string might cause instability to the DNS. In all cases, this will involve a review for conformance with technical and other requirements for gTLD labels. In some exceptional cases, an extended review may be necessary to investigate possible technical stability problems with the applied-for gTLD string.

2.1.1.3.1 String Stability Review

New gTLD labels must not adversely affect on the security or stability of the DNS. Although no string complying with the requirements in paragraph 2.1.1.3.2 of this module is expected to adversely affect DNS security or stability, an extended review is possible if technical reviewers identify an issue with the applied-for gTLD string that requires further investigation.

String Stability Review Procedure – During the Initial Evaluation period, ICANN will conduct a preliminary review on the set of applied-for gTLD strings to ensure that proposed strings comply with relevant standards provided in the preceding section and determine whether any strings raise significant technical stability issues that may require an Extended Evaluation.

There is low probability that this review will be necessary for a string that fully complies with the string requirements in paragraph 2.1.1.3.2 of this module. However, the technical stability review process provides an additional safeguard if unanticipated security or stability issues arise concerning an applied-for gTLD string.

See Section 2.2 for further information on the Extended Evaluation process.

2.1.1.3.2 String Requirements

ICANN will review each applied-for gTLD string to ensure that it conforms with the requirements outlined in the following paragraphs.

If an applied-for gTLD string is found to violate any of these rules, the application will be denied. No further reviews are available.

Technical Requirements for all Labels (Strings) – The technical requirements for the selection of top-level domain labels follow.

- The ASCII label (that is, the label as transmitted on the wire) must be valid as specified in the technical standards *Domain Names: Implementation and Specification* (RFC 1035), and *Clarifications to the DNS Specification* (RFC 2181). This includes the following:
  - The label must have no more than 63 characters.
  - Upper and lower case characters are treated as identical.
- The ASCII label must be a valid host name, as specified in the technical standards *DOD Internet Host Table Specification* (RFC 952), *Requirements for Internet Hosts — Application and Support* (RFC 1123), and *Application Techniques for Checking and Transformation of Names (RFC 3696).* This includes the following:

- The label must consist entirely of letters, digits and hyphens.
- The label must not start or end with a hyphen.

- There must be no possibility for confusing an ASCII label for an IP address or other numerical identifier by application software. For example, representations such as "255", "o377" or "0xff"representing decimal, octal, and hexadecimal strings, can be confused for IP addresses. As such, labels:
  - Must not be wholly composed of digits between "0" and "9".
  - Must not commence with "0x" or "x", and have the remainder of the label wholly composed of hexadecimal digits, "0" to "9" and "a" through "f".
  - Must not commence with "0o" or "o", and have the remainder of the label wholly composed of digits between "0" and "7".
- The ASCII label may only include hyphens in the third and fourth position if it represents a valid Internationalized Domain Name in its A-label form (ASCII encoding).
- The presentation format of the domain (that is, either the label for ASCII domains, or the U-label for Internationalized Domain Names) must not begin or end with a digit.

Requirements for Internationalized Domain Names – These requirements apply only to prospective top-level domains that use non-ASCII characters. Applicants for these internationalized top-level domain labels are expected to be familiar with the IETF IDNA standards, Unicode standards, and the terminology associated with Internationalized Domain Names.

- The label must be a valid internationalized domain name, as specified in the technical standard *Internationalizing Domain Names in Applications* (RFC 3490). This includes the following nonexhaustive list of limitations:
  - Must only contain Unicode code points that are defined as "Valid" in *The Unicode Codepoints and IDNA* (http://www.ietf.org/internet-

drafts/draft-ietf-idnabis-tables-02.txt) and be accompanied by unambiguous contextual rules where necessary.

- Must be fully compliant with Normalization Form C, as described in *Unicode Standard Annex #15: Unicode Normalization Forms*. See also examples in http://unicode.org/faq/normalization.html.
- Must consist entirely of characters with the same directional property.

- The label must meet the relevant criteria of the ICANN *Guidelines for the Implementation of Internationalised Domain Names*. See http://www.icann.org/en/topics/idn/implementation-guidelines.htm. This includes the following nonexhaustive list of limitations:
  - All code points in a single label must be taken from the same script as determined by the Unicode Standard Annex #24: Unicode Script Property.
  - Exceptions are permissible for languages with established orthographies and conventions that require the commingled use of multiple scripts. However, even with this exception, visually confusable characters from different scripts will not be allowed to co-exist in a single set of permissible code points unless a corresponding policy and character table is clearly defined.

The IDNA protocol used for internationalized labels is currently under revision through the Internet standardization process. As such, additional requirements may be specified that need to be adhered to as this revision is being completed. The current status of the protocol revision is documented at http://tools.ietf.org/wg/idnabis.

Policy Requirements for Generic Top-Level Domains – Applied-for strings must be composed of three or more visually distinct letters or characters in the script, as appropriate.

2.1.1.4 Geographical Names

ICANN will review all applied-for strings to ensure that appropriate consideration is given to the interests of governments or public authorities in country or territory

names, as well as certain other types of sub-national place names. The requirements and procedure ICANN will follow is described in the following paragraphs.

2.1.1.4.1 Requirements for Strings Intended to Represent Geographical Entities

The following types of applications must be accompanied by documents of support or non-objection from the relevant government(s) or public authority(ies).

- Applications for any string that is a meaningful representation of a *country or territory name* listed in the ISO 3166-1 standard (see http://www.iso.org/iso/country_codes/iso_3166_databases.htm). This includes a representation of the country or territory name in any of the six official United Nations languages (French, Spanish, Chinese, Arabic, Russian and English) and the country or territory's local language.
- Applications for any string that represents a *sub-national place name*, such as a county, province, or state, listed in the ISO 3166-2 standard.
- Applications for a city name, where the applicant clearly intends to use the gTLD to leverage from the city name.
- An application for a string which represents a continent or UN region appearing on the

  Composition of macro geographical (continental) regions, geographical sub-regions, and selected economic and other groupings list at http://unstats.un.org/unsd/methods/m49/m49regin.htm.

An applied-for gTLD string that falls into the above categories is considered to represent a geographical name. It is the applicant's responsibility to identify whether its applied-for gTLD string falls into the above categories and to determine the relevant government or governments, or the relevant public authority or authorities. In the case of an application for a string which represents a continent or UN region, evidence of support, or non-objection, will be required from a substantial number of the relevant governments and/or public authorities associated with the continent or the UN region.

The evidence of support or non-objection from the relevant government or public authority should include a signed

letter of support or non-objection from the minister with the portfolio responsible for domain name administration, ICT, foreign affairs or the Office of the Prime Minister or President of the relevant jurisdiction. If there are reasons for doubt about the authenticity of the communication, ICANN will consult with the diplomatic authorities or members of ICANN's Governmental Advisory Committee for the government or public authority concerned on the competent authority and appropriate point of contact with their administration for communications.

The letter must clearly express the government's or public authority's support or non-objection for the applicant's application and demonstrate the government's or public authority's understanding of the string being requested and what it will be used for.

The requirement to include evidence of support for certain applications does not preclude or exempt applications from being the subject of objections on community grounds (refer to section 3.1.1 of Module 3), under which applications may be rejected based on objections showing substantial opposition from the targeted community.

2.1.1.4.2 Review Procedure for Geographical Names

A Geographical Names Panel (GNP) will be established to evaluate applications and confirm whether each string represents a geographic term, and to verify the authenticity of the supporting documentation where necessary. The Geographic Names Panel may consult with additional experts as they consider appropriate.

The steps ICANN and the Geographical Names Panel intend to follow to ensure compliance with these requirements are described here.

1. During the Initial Evaluation period, ICANN evaluates each application for a geographical name to confirm that the applicant has provided a letter of support or nonobjection from the relevant government.

2. ICANN forwards applications considered complete to the GNP for confirmation that:

    - The strings are a meaningful representation of a country or territory name or a subnational place name, and

- The communication from the government or public authority is legitimate and contains the suggested content.

3. The GNP also reviews applications that are not self-identified as a geographical name to ensure that the applied-for string is not a meaningful representation of a country or territory name or a sub-national place name.

4. All applications determined to be geographical but without necessary supporting documents will be considered incomplete. The applicant will be notified and the application will not pass Initial Evaluation.

5. The GNP may consult additional expertise if uncertainty arises about the name the applied-for gTLD string is claimed to represent.

The results of the evaluation will be publicly posted on ICANN's website at the conclusion of the Initial Evaluation, and will also be available to applicants.

If there is more than one application for a string representing a certain geographical term as described in this section, and the applications are considered complete (that is, have requisite government approvals), the applications will be suspended pending resolution by the applicants. If there is contention between identical (or similar) applicants where one is identified as a geographical name, the string contention will be settled using the string contention methodology described in Module 4.

2.1.2 Applicant Reviews

Concurrent with the applied-for gTLD string reviews described in subsection 2.1.1, ICANN will review the applicant's technical and operational capability, its financial capability, and its proposed registry services. Those reviews are described in greater detail in the following subsections.

2.1.2.1 Information Sought

The questions provided for applicants in the application form are available at http://www.icann.org/en/topics/new-gtld-draft-evaluation-criteria-24oct08-en.pdf. Applicants answer questions which cover the following three areas in relation to themselves: general information, technical and operational capability, and financial capability.

Applicants should be aware that the application materials submitted in the online application system, as well as any evaluation materials and correspondence, will be publicly posted on ICANN's website. The sections in the application that are marked CONFIDENTIAL will not be posted. Any sections of the application that ICANN has not designated CONFIDENTIAL will be posted.

The applicant questions cover the following three areas:

General Information – These questions are intended to gather information about an applicant's legal identity, contact information, and applied-for gTLD string. Failure to provide any of this information will result in an application being considered incomplete. Under specific areas of questions under this category are: the identification of the applied-for string; selection of TLD type; and requests for certain documents.

Demonstration of Technical and Operational Capability – These questions are intended to gather information about an applicant's technical capabilities and plans for operation of the proposed gTLD.

Applicants are not required to have deployed an actual registry to complete the requirements for a successful application. It will be sufficient at application time for an applicant to demonstrate a clear understanding and accomplishment of some groundwork toward the key technical and operational aspects of running a gTLD registry. Each applicant that passes the technical evaluation and all other steps will be required, following execution of a registry agreement, to complete a pre-delegation technical test before delegation of the applied-for gTLD. Refer to Module 5, Transition to Delegation, for additional information.

Demonstration of Financial Capability – These questions are intended to gather information about an applicant's financial capabilities to operate a gTLD registry business and its financial planning in preparation for long-term operation of a new gTLD.

2.1.2.2 Evaluation Methodology

Initial Evaluations are conducted on the basis of the information each applicant makes available to ICANN in its response to the questions in the application form. ICANN and its evaluators are not obliged to take into account any information or evidence that is not made available in the application and submitted by the due date, unless explicitly requested by the evaluators.

Evaluators are entitled, but not obliged, to request further information or evidence from an applicant, and any such request will be made solely through TAS, rather than by direct means such as phone, letter, email, or other similar means. Only one exchange of information between the applicant and the evaluators may take place within the Initial Evaluation period.

Because different registry types and purposes may justify different responses to individual questions, evaluators will pay particular attention to the consistency of an application across all criteria. For example, an applicant's scaling plans noting hardware to ensure its capacity to operate at a particular volume level should be consistent with its financial plans to secure the necessary equipment.

2.1.3 Registry Services Review

Concurrent with the string reviews described in subsection 2.1.1, ICANN will review the applicant's proposed registry services. The applicant will be required to provide a list of proposed registry services in its application.

Registry services are defined as: (1) operations of the registry critical to the following tasks: the receipt of data from registrars concerning registrations of domain names and name servers; provision to registrars of status information relating to the zone servers for the TLD; dissemination of TLD zone files; operation of the registry zone servers; and dissemination of contact and other information concerning domain name server registrations in the TLD as required by the registry agreement; (2) other products or services that the registry operator is required to provide because of the establishment of a consensus policy; and (3) any other products or services that only a registry operator is capable of providing, by reason of its designation as the registry operator.

A full definition of registry service can be found at http://www.icann.org/en/registries/rsep/rsep.html and in the draft registry agreement at http://www.icann.org/en/topics/new-gtld-draft-agreement-24oct08-en.pdf. Registry services will be examined to determine if the proposed registry service might raise significant stability or security issues. Examples of services submitted to the registry services process by established registries can be found at http://www.icann.org/en/registries/rsep.

The registration of domain names, for example, is a registry service. Lists of registry services currently provided by

registries can be found in registry agreement appendices. In general cases, these services successfully pass this inquiry. See http://www.icann.org/en/registries/agreements.htm.

Review of all applicants' proposed registry services will occur during the Initial Evaluation.

Procedure – ICANN's first review will be a preliminary determination of whether a proposed registry service requires further consideration based on whether the registry service may raise significant security or stability issues.

If ICANN's preliminary determination reveals that there may be significant security or stability issues surrounding the proposed service, the application will be flagged for an extended review by the RSTEP (see http://www.icann.org/en/registries/rsep/rstep.html). This review will occur during the Extended Evaluation phase (refer to section 2.2).

Definitions for security and stability applied in the registry services review are:

Security – an effect on security by the proposed registry service means (1) the unauthorized disclosure, alteration, insertion or destruction of registry data, or (2) the unauthorized access to or disclosure of information or resources on the Internet by systems operating in accordance with all applicable standards.

Stability – an effect on stability means that the proposed registry service (1) does not comply with applicable relevant standards that are authoritative and published by a well-established, recognized, and authoritative standards body, such as relevant standards-track or best current practice RFCs sponsored by the IETF, or (2) creates a condition that adversely affects the throughput, response time, consistency, or coherence of responses to Internet servers or end systems, operating in accordance with applicable relevant standards that are authoritative and published by a well-established, recognized and authoritative standards body, such as relevant standards-track or best current practice RFCs and relying on registry operator's delegation information or provisioning services.

2.1.4 Applicant's Withdrawal of an Application

An applicant who does not pass the Initial Evaluation may be permitted to withdraw its application at this stage for a partial refund (refer to subsection 1.5.5 of Module 1, Introduction to gTLD Application Process).

2.2 Extended Evaluation

An applicant may request an Extended Evaluation if the application has failed to pass the Initial Evaluation elements concerning:

- Demonstration of technical and operational capability (refer to paragraph 2.1.2.1).
- Demonstration of financial capability (refer to paragraph 2.1.2.1).

An Extended Evaluation may also result if ICANN identifies a need for further review on the following elements:

- DNS stability (refer to paragraph 2.1.1.3).
- Registry services (refer to subsection 2.1.3). Note that this investigation incurs an additional fee (the Registry Services Review Fee) if the applicant wishes to proceed. See Section 1.5 of Module 1 for fee and payment information.

From the time an applicant receives notice of failure to pass the Initial Evaluation, it has 15 calendar days to submit to ICANN the Notice of Request for Extended Evaluation through the online application interface. If the applicant does not explicitly request the Extended Evaluation, and pay any additional fees as applicable, the application will not proceed.

2.2.1 Technical and Operational or Financial Extended Evaluation

This subsection applies to an Extended Evaluation of an applicant's technical and operational capability or financial capability, as described in paragraph 2.1.2.1.

The Extended Evaluation allows one additional round of inquiry and answer between the evaluators and the applicant to clarify information contained in the application. This supplemental information will become part of the application. Applicants may not change the information submitted in their original applications. Through the online system, the evaluators will provide the applicant a set of questions describing any deficiencies in the application and request clarification. Such communications will include a deadline for the applicant to respond.

The same panel that reviewed an application during Initial Evaluation will conduct the Extended Evaluation, using the

same criteria as outlined at http://www.icann.org/en/topics/new-gtld-draft-evaluation-criteria-24oct08-en.pdf, to determine whether the application, now that certain information has been clarified, meets the criteria.

ICANN will notify applicants at the end of the Extended Evaluation period as to whether they have passed. If an applicant passes Extended Evaluation, its application continues to the next stage in the process. If an applicant does not pass Extended Evaluation, the application will proceed no further. No further reviews are available.

2.2.2 String Stability Extended Evaluation

This section applies to an Extended Evaluation of DNS security or stability issues with an applied-for gTLD string, as described in paragraph 2.1.1.3.

If the evaluators determine that a string poses stability issues that require further investigation, the applicant must either confirm that it intends to move forward with the application process or withdraw its application.

If an application is subject to such an Extended Evaluation, an independent 3-member panel will be formed to review the security or stability issues identified during the Initial Evaluation.

The panel will review the string and determine whether the string complies with relevant standards or creates a condition that adversely affects the throughput, response time, consistency, or coherence of responses to Internet servers or end systems, and will communicate its findings to ICANN and to the applicant.

If the panel determines that the string does not comply with relevant standards or creates a condition that adversely affects the throughput, response time, consistency, or coherence of responses to Internet servers or end systems, the application cannot proceed.

2.2.3 Registry Services Extended Evaluation

This section applies to an Extended Evaluation of Registry Services, as described in subsection 2.1.3.

If a proposed registry service has been referred to the Registry Services Technical Evaluation Panel (RSTEP) for an extended review, the RSTEP will form a review team of members with the appropriate qualifications.

The review team will generally consist of 3 members, depending on the complexity of the registry service proposed. In a 3-member panel, the review could be conducted within 30 to 45 days. In cases where a 5-member panel is needed, this will be identified before the extended evaluation starts. In a 5-member panel, the review could be conducted in 45 days or fewer.

The cost of an RSTEP review will be covered by the applicant through payment of the Registry Services Review Fee. Refer to payment procedures in section 1.5 of Module 1. The RSTEP team review will not commence until payment has been received.

If the RSTEP finds that one or more of the applicant's proposed registry services may be introduced without risk of a meaningful adverse effect on security or stability, these services may be included in the applicant's contract with ICANN.

If the RSTEP finds that the proposed service would create a risk of a meaningful adverse effect on security or stability, the applicant may elect to proceed with its application without the proposed service, or withdraw its application for the gTLD.

2.3 Probity and Conflicts of Interest

ICANN staff and by various independent service providers will review all applications during **Initial Evaluation** and **Extended Evaluation**. During this entire evaluation process, applicants must not approach, or have any other person or entity approach on their behalf, any ICANN staff member, any ICANN Board member, or any person associated with the evaluation process, including any evaluators, experts, examiners, or reviewers retained by ICANN.

DRAFT - New gTLD Program – Initial Evaluation and Extended Evaluation

Administrative Completeness Check - Application is confirmed as complete and ready for evaluation

Initial Evaluation – *String Review*

String Confusion

String is reviewed by String Similarity Panel to determine if the proposed string is likely to cause user confusion with existing TLDs or Reserved Names

String Similarity Panel compares all applied-for gTLDs and creates contention sets

DNS Stability

Technical experts review all applied-for gTLDs to ensure they do not violate string criteria. In extraordinary cases, the technical experts may determine that an applied-for gTLD has a strong likelihood of causing DNS instability and will require review during Extended Evaluation

Geographical Names

The GNP reviews all applied-for gTLDs, to ensure that any geographical name is properly designated

The GNP confirms that the applicant has provided the required documentation and that it is valid

Initial Evaluation – *Applicant Review*

Business Operational Criteria

Evaluators review applicant's answers to questions and supporting documentation

Technical Criteria

Evaluators review applicant's answers to questions and supporting documentation

Registry Services

ICANN performs initial review of registry services to be offered by applicant. ICANN identifies which registry services require review by RSTEP during Extended Evaluation

Does applicant pass all elements of Initial Evaluation?

NO

Applicant elects to pursue ***Extended Evaluation***

NO

YES

Extended Evaluation can be for any or all of the four elements below:

- Technical and Operational Capability
- Financial Capability
- DNS Stability
- Registry Services

YES

Application Denied

NO

Does applicant pass all elements of Extended Evaluation?

YES

Applicant continues to subsequent steps

Draft Applicant Guidebook

Module 3

Please note that this is a discussion draft only. Potential applicants should not rely on any of the proposed details of the new gTLD program as the program remains subject to further consultation and revision.

24 October 2008

Module 3

Dispute Resolution Procedures

This module describes the purpose of the objection and dispute resolution mechanisms, the grounds for lodging an objection to a gTLD application, the general procedures for filing or responding to an objection, and the manner in which dispute resolution proceedings are conducted.

This module also discusses the guiding principles, or standards, that each DRSP will apply in its decisions.

All applicants should be aware of the possibility that an objection may be filed against their applications, and of the options available in the event of such an objection.

3.1 Purpose and Overview of the Dispute Resolution Process

The independent dispute resolution process is designed to protect certain interests and rights. The process provides a path for formal objections during evaluation of the applications. It allows certain parties with standing to have their objections considered before a panel of qualified experts. A formal objection can be filed only on four enumerated grounds, as described in this module. A formal objection initiates a dispute resolution proceeding. In filing an application for a gTLD, the applicant agrees to accept this gTLD dispute resolution process. Similarly, an objector accepts the gTLD dispute resolution process by filing its objection.

3.1.1 Grounds for Objection

An objection may be filed on any one of the following four grounds:

String Confusion Objection – The applied-for gTLD string is confusingly similar to an existing TLD or to another applied-for gTLD string.

Legal Rights Objection – The applied-for gTLD string infringes existing legal rights of the objector.

Morality and Public Order Objection – The applied-for gTLD string is contrary to generally accepted legal norms of morality and public order that are recognized under international principles of law.

Community Objection – There is substantial opposition to the gTLD application from a significant portion of the community to which the gTLD string may be explicitly or implicitly targeted.

The rationales for these grounds are discussed in the final report of the ICANN policy development process for new gTLDs. For more information on this process, see http://gnso.icann.org/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm.

3.1.2 Standing to Object

Objectors must satisfy standing requirements to have their objections considered. As part of the dispute proceedings, all objections will be reviewed by panelists designated by the applicable Dispute Resolution Service Provider (DRSP) to determine whether the objector has standing to object. Standing requirements for the four objection grounds are:

Objection Ground	Who may object
String confusion	Existing TLD operator or gTLD applicant in current round
Legal rights	Rightsholders
Morality and Public Order	To be determined
Community	Established institution

3.1.2.1 String Confusion Objection

Two types of entities have standing to object:

- An existing TLD operator may file a string confusion objection to assert string confusion between an applied-for gTLD and the TLD that it currently operates.
- Any gTLD applicant in this application round may also file a string confusion objection to assert string confusion between an applied-for gTLD and the gTLD for which it has applied.

In the case where a gTLD applicant successfully asserts string confusion with another applicant, the only possible outcome is for both applicants to be placed in a contention set and to be referred to a contention resolution procedure (refer to Module 4). If an objection by a gTLD applicant to another gTLD applicant is unsuccessful, the applicants may both move forward in the process without being considered in contention with one another.

3.1.2.2 Legal Rights Objection

Only a rightsholder has standing to file a legal rights objection. The source and documentation of the existing legal rights the objector is claiming are infringed by the applied-for gTLD must be included in the filing.

3.1.2.3 Morality and Public Order Objection

Standing requirements for morality and public order objections remain under study. In the case of morality and public order objections, it may be appropriate to grant standing only to parties who have recognized authority in the arena of morality or public order, such as governments, or it may be appropriate to make this option available to any interested parties who assert harm due to an applied-for gTLD string.

3.1.2.4 Community Objection

Established institutions associated with defined communities are eligible to file a community objection. To qualify for standing for a community objection, the objector must prove both of the following:

It is an established institution – Factors that may be considered in making this determination include:

- Level of global recognition of the institution;
- Length of time the institution has been in existence; and
- Public historical evidence of its existence, such as the presence of formal charter or national or international registration, or validation by a government, inter-governmental organization, or treaty. The institution must not have been established solely in conjunction with the gTLD application process.

It has an ongoing relationship with a defined community that consists of a restricted population – Factors that may be considered in making this determination include:

- The presence of mechanisms for participation in activities, membership, and leadership;
- Institutional purpose related to benefit of the associated community;
- Performance of regular activities that benefit the associated community; and
- The level of formal boundaries around the community.

3.1.3 Options in the Event of Objection

Applicants whose applications are the subject of an objection have the following options:

The applicant can file a response to the objection and enter the dispute resolution process (refer to subsection 3.3); or

The applicant can withdraw, in which case the objector will prevail by default and the application will not proceed further.

If for any reason the applicant does not file a response to an objection, the objector will prevail by default.

3.2 Procedure for Filing an Objection

To trigger a dispute resolution proceeding, an objection must be filed by the posted deadline date. Objections must be filed directly with the appropriate DRSP for each objection ground.

The **International Centre for Dispute Resolution** has agreed in principle to administer disputes brought pursuant to string confusion objections.

The Arbitration and Mediation Center of the World Intellectual Property Organization has agreed in principle to administer disputes brought pursuant to legal rights objections.

The **International Chamber of Commerce** has agreed in principle to administer disputes brought pursuant to Morality and Public Order and Community Objections.

3.2.1 Objection Filing Procedures

The procedures outlined in this subsection must be followed by any party wishing to file a formal objection to an application that has been posted by ICANN. These procedures are provided to applicants for reference and are intended to cover dispute resolution procedures generally. Each provider has its own rules and procedures that also must be followed when filing an objection.

Should an applicant wish to file a formal objection to another gTLD application, it would follow these procedures.

- All objections must be filed by the posted deadline date. Objections will not be accepted by the DRSPs after this date.

- All objections must be filed in English.
- Each objection must be filed separately. That is, if any objector wishes to object to several applications at the same time, the objector must file an objection and pay a filing fee for each application that is the subject of an objection. If an objector wishes to object to one application on different grounds, the objector must file an objection and pay a filing fee for each objection ground.
- All objections must be filed with the appropriate DRSP. If an objection is filed with a DRSP other than the DRSP specified for the objection ground, that DRSP will promptly notify the objector of the error. The objector then has 5 calendar days after receiving that notification to file its objection with the appropriate DRSP.
- Objections must be filed electronically and all interactions with the DRSPs during the objection process must be conducted online.

Each objection filed by an objector must include:

- The name and contact information, including address, phone, and email address, of all parties submitting an objection.
- The basis for standing; that is, why the objector believes it has the right to object.
- A statement of the nature of the dispute, which should include:
  - A statement giving the specific ground under which the objection is being filed.
  - A detailed explanation of how the objector's claim meets the requirements for filing a claim pursuant to that particular ground or standard.
  - A detailed explanation of the validity of the objection and why the application should be denied.
- Copies of any documents that the objector considers to be a basis for the objection.

Objections are limited to 2500 words, excluding attachments.

The DRSP will use electronic means to deliver copies of all materials filed to the applicant and to all objectors.

Each applicant and all objectors must provide copies of all submissions to the DRSP associated with the objection proceedings to one another, and to ICANN.

ICANN will publish a document on its website identifying all objections shortly after the deadline for filing objections has passed (refer to Item 1 above). Objections will not be published before that deadline.

3.2.2 Objection Filing Fees

At the time an objection is filed, the objector is required to pay a nonrefundable filing fee in the amount set and published by the relevant DRSP. If the filing fee is not paid, the DRSP will dismiss the objection without prejudice. See Section 1.5 of Module 1 regarding fees.

3.3 Filing a Response to an Objection

3.3.1 Filing Procedures

These procedures are intended to cover dispute resolution procedures generally. Each DRSP will have its own rules that also must be followed.

Upon notification that ICANN has published the list of objections filed (refer to subsection 3.2.1), the DRSPs will notify the parties that responses must be filed within 30 calendar days of receipt of that notice. DRSPs will not accept late responses. Any applicant that fails to respond to an objection within the 30-day response period will be in default, which will result in the objector prevailing.

- All responses must be filed in English.
- Each response must be filed separately. That is, if an applicant wishes to respond to several objections, the applicant must file a response and pay a filing fee to respond to each objection.
- All responses must be filed with the appropriate DRSP. If a response is filed with a DRSP other than the DRSP specified for the objection ground, that DRSP will promptly notify the applicant of the error. The applicant then has 5 calendar days after receiving the notification to file its objection with the appropriate DRSP.

- Responses must be filed electronically and all interactions with the DRSPs during the dispute resolution process must be conducted online.
- Each response filed by an applicant must include the name and contact information, including address, phone, and email address, of all parties submitting the response.
- Each responding applicant's response must contain a point-by-point confirmation or denial of the claims made by each objector. The applicant also should attach any copies of documents that it considers to be a basis for the response.
- Responses are limited to 2500, excluding attachments.
- The DRSP will use electronic means to deliver copies of all materials filed to the applicant and to all objectors.
- Each applicant and all objectors must provide copies of all submissions to the DRSP associated with the objection proceedings to one another and to ICANN.

3.3.2 Response Filing Fees

At the time an applicant files its response, it is required to pay a nonrefundable filing fee in the amount set and published by the relevant DRSP, which will be the same as the filing fee paid by the objector. If the filing fee is not paid, the response will be disregarded.

3.4 Dispute Resolution Procedure

3.4.1 Preliminary Objection Processing

Each DRSP will conduct an administrative review of each objection for compliance with all procedural rules within 14 calendar days of receiving the objection. Depending on the number of objections received, the DRSP may ask ICANN for a short extension of this deadline.

If the DRSP finds that the objection complies with procedural rules, the objection will be deemed filed, and the proceedings will continue. If the DRSP finds that the objection does not comply with procedural rules, the DRSP will dismiss the objection and close the proceedings without prejudice to the objector's submission of a new objection that complies with procedural rules. The DRSP's review or rejection of the objection will not interrupt the time limit for submitting an objection.

3.4.2 Consolidation of Objections

Once the DRSP receives and processes all objections, at its discretion the DRSP may elect to consolidate certain objections.

An example of circumstances in which consolidation might occur is multiple objections to the same application based on the same ground.

In assessing whether to consolidate objections, the DRSP will weigh the efficiencies in time, money, effort, and consistency that may be gained by consolidation against the prejudice or inconvenience consolidation may cause. The DRSPs will endeavor to have all objections resolved on a similar timeline. It is intended that no sequencing of objections will be established.

New gTLD applicants and objectors also will be permitted to propose consolidation of objections, but it will be at the DRSP's discretion whether to agree to the proposal.

3.4.3 Negotiation and Mediation

The parties to a dispute resolution proceeding are encouraged—but not required—to participate in a cooling off period to determine whether the dispute can be resolved by the parties. Each DRSP has panelists who can be retained as mediators to facilitate this process, should the parties elect to do so, and the DRSPs will communicate with the parties concerning this option and any associated fees.

If a mediator is appointed, that person may not serve on the panel to resolve the objection.

There are no automatic extensions of time associated with any cooling off period. The parties may submit joint requests for extensions of time to the DRSP according to its procedures, and the DRSP or the panel, if appointed, will decide whether to grant the requests, although extensions will be discouraged. The parties must limit their requests for extension to 30 calendar days.

3.4.4 Selection and Number of Panelists

Appropriately qualified panelists will be appointed to each proceeding by the designated DRSP.

Panelists must be independent of the parties to an objection resolution proceeding. Each DRSP will follow its adopted procedures for requiring such independence,

including procedures for challenging and replacing a panelist for lack of independence.

There will be one panelist in proceedings involving a **string confusion objection**.

There will be one panelist with relevant experience in intellectual property rights disputes in proceedings involving an existing **legal rights objection**.

There will be three panelists recognized as eminent jurists of international reputation, in proceedings involving a **morality and public order objection**.

There will be one panelist in proceedings involving a **community objection**.

Neither the panelists, the DRSP, ICANN, nor their respective employees, Board members, or consultants will be liable to any party in any action for damages or injunctive relief for any act or omission in connection with any proceeding under the dispute resolution procedures.

3.4.5 Adjudication

At its discretion, the panel appointed by the DRSP may request further statements or documents from the parties, although such requests will be limited and infrequent.

To keep costs down and limit delays, the panel will discourage and, if practicable, not permit any document production or other discovery-style requests from the parties.

Without its being requested by the parties, the panelists may appoint experts to be paid for by the parties, request live or written witness testimony, or request limited exchange of documents.

Any party may request a hearing; however, it is within the panel's discretion whether to allow such a hearing. The presumption is that the panel will render decisions based on written submissions and without a hearing.

If a request for a hearing is granted, videoconferences are to be used if possible. If not possible, then the DRSP panel will select a place for hearing if the parties cannot agree. The panel will determine whether the hearings are to be public or private. Hearings will last no more than one day, except in the most exceptional circumstances.

Typically, dispute resolution proceedings will be conducted in English, but may be conducted in another language in accordance with the rules of the provider.

3.4.6 Decision

The DRSPs' final decisions will be in writing and will include:

- A summary of the dispute and findings; and
- The reasoning upon which the decision is based.

Each DRSP will develop a single format for all final decisions that its panelists render. The DRSP will notify the parties of the decision via email.

ICANN will strongly encourage DRSPs to use reasonable efforts to issue all final decisions within 45 days of the panel appointment date unless, after both parties have completed their initial submissions, the parties jointly request a short postponement of their adjudication date to accommodate negotiation or mediation or to accommodate other aspects of the proceedings, and the panel agrees.

When the panel is composed of three panelists, the decision will be made by a majority of the panelists.

Unless the panel decides otherwise, each DRSP will publish all decisions rendered by its panels in full on its website.

A dispute resolution panel decision will be considered an expert determination, and will be considered by ICANN in making a final decision regarding the success of any application.

3.4.7 Dispute Resolution Fees

Before acceptance of objections, each DRSP will publish a schedule of costs for the proceedings that it administers under this procedure. These costs cover the fees and expenses of the members of the panel and the DRSP's administrative costs.

ICANN expects that string confusion and legal rights objection proceedings will involve a fixed amount charged by the panelists while morality and public order and community objection proceedings will involve hourly rates charged by the panelists.

Within 7 business days of constituting the panel, the DRSP will estimate the total costs and request advance payment in full of its costs from both the objector and the applicant.

Each party must make its advance payment within 15 calendar days of receiving the DRSP's request for payment. The respective filing fees paid by the parties will be credited against the amounts due for this advance payment of costs.

The DRSP may revise its estimate of the total costs and request additional advance payments from the parties during the resolution proceedings.

Additional fees may be required in specific circumstances; for example, if the DRSP receives supplemental submissions or elects to hold a hearing.

If an objector fails to pay these costs in advance, the DRSP will dismiss its objection and no fees paid by the objector will be refunded.

If an applicant fails to pay these costs in advance, the DSRP will sustain the objection and no fees paid by the applicant will be refunded.

After the hearing has taken place and the panel renders its decision, the DRSP will refund any costs paid in advance to the prevailing party.

3.5 Dispute Resolution Principles (Standards)

Each panel will use appropriate general principles (standards) to evaluate the merits of each objection. The principles for adjudication on each type of objection are specified in the paragraphs that follow. The panel may also refer to other relevant rules of international law in connection with the standards.

The objector bears the burden of proof in each case.

The principles outlined below are subject to evolution based on ongoing consultation with DRSPs, legal experts, and the public.

3.5.1 String Confusion Objection

A DRSP panel hearing a string confusion objection will consider whether the applied-for gTLD string is likely to result in string confusion.

String confusion exists where a string so nearly resembles another that it is likely to deceive or cause confusion. For a likelihood of confusion to exist, it must be probable, not merely possible that confusion will arise in the mind of the

average, reasonable Internet user. Mere association, in the sense that the string brings another string to mind, is insufficient to find a likelihood of confusion.

3.5.2 Legal Rights Objection

In interpreting and giving meaning to GNSO Recommendation 3 ("Strings must not infringe the existing legal rights of others that are recognized or enforceable under generally accepted and internationally recognized principles of law"), a DRSP panel presiding over a legal rights objection will determine whether the potential use of the applied-for TLD by the applicant takes unfair advantage of the distinctive character or the reputation of the objector's trademark or service mark ("mark"), or unjustifiably impairs the distinctive character or the reputation of the objector's mark, or otherwise creates an impermissible likelihood of confusion between the applied-for TLD and the objector's mark, by considering the following non-exclusive factors:

1. Whether the applied-for TLD is identical or similar, including in appearance, phonetic sound or meaning, to the objector's existing mark.

2. Whether the objector's acquisition and use of rights in the mark has been bona fide.

3. Whether and to what extent there is recognition in the relevant sector of the public of the sign corresponding to the TLD, as the mark of the objector, of the applicant or of a third party.

4. Applicant's intent in applying for the TLD, including whether the applicant, at the time of application for the TLD, had knowledge of the objector's mark, or could not have reasonably been unaware of that mark, and including whether the applicant has engaged in a pattern of conduct whereby it applied for or operates TLDs or registrations in TLDs which are identical or confusingly similar to the marks of others.

5. Whether and to what extent the applicant has used, or has made demonstrable preparations to use, the sign corresponding to the TLD in connection with a bona fide offering of goods or services or a bona fide provision of information in a way that does not interfere with the legitimate exercise by the objector of its mark rights.

6. Whether the applicant has marks or other intellectual property rights in the sign corresponding to the TLD,

and, if so, whether any acquisition of such a right in the sign, and use of the sign, has been bona fide, and whether the purported or likely use of the TLD by the applicant is consistent with such acquisition or use.

7. Whether and to what extent the applicant has been commonly known by the sign corresponding to the TLD, and if so, whether any purported or likely use of the TLD by the applicant is consistent therewith and bona fide.

8. Whether the applicant's intended-use of the TLD would create a likelihood of confusion with the objector's mark as to the source, sponsorship, affiliation, or endorsement of the TLD.

3.5.3 Morality and Public Order Objection

This section is under construction. ICANN expects to implement a standard for morality and public order objections in accordance with international legal principles. Accordingly, ICANN has reviewed legal systems in all ICANN regions. ICANN has also consulted with judges, attorneys, and legal experts in many jurisdictions. The general principles guiding ICANN in the establishment of dispute resolution standards are: (1) everyone has the right to freedom of expression; and (2) such freedom of expression may be subject to certain narrowly interpreted exceptions that are necessary to protect other important rights. See Articles 19 and 20 of the International Covenant on Civil and Political Rights. ICANN continues to address the challenge of identifying standards appropriate for the global namespace.

3.5.4 Community Objection

The four tests described here will enable a DRSP panel to determine whether there is substantial opposition from a significant portion of the community to which the string may be targeted. For an objection to be successful, the objector must prove that:

- The community invoked by the objector is a defined community; and
- Community opposition to the application is substantial; and
- There is a strong association between the community invoked and the applied-for gTLD string; and

- There is a likelihood of detriment to the community named by the objector if the gTLD application is approved.

Each of these tests is described in further detail below.

Community – The objector must prove that the community expressing opposition can be regarded as a well-defined community. A panel could balance a number of factors to determine this, including:

- Level of public recognition of the group as a community at a local and / or global level;
- Level of formal boundaries around the community and what elements are considered to form the community;
- How long the community has been in existence;
- How globally distributed is the community (breadth, level of importance)(this may not apply if the community is territorial); and
- How many people make up the community.

If opposition by a number of people is found, but the group claiming opposition is not determined to be a distinct community, the objection will fail.

Substantial opposition – The objector must prove substantial opposition within the community it has identified. A panel could balance a number of factors to determine whether there is substantial opposition, including:

- Number of expressions of opposition relative to the composition of the community;
- Distribution or diversity among sources of expressions of opposition, including:
    - Regional
    - Subsectors of community
    - Leadership of community
    - Membership of community
- Nature/intensity of opposition; and
- Costs incurred by objector in expressing opposition, including what other channels they have used to convey their opposition.

If some opposition within the community is determined, but it does not meet the standard of substantial opposition, the objection will fail.

Targeting – The objector must prove an association between the applied-for gTLD string and the community expressing opposition. Factors that could be balanced by a panel to determine this include:

- Statements contained in application;
- Other public statements by the applicant;
- Associations by the public.

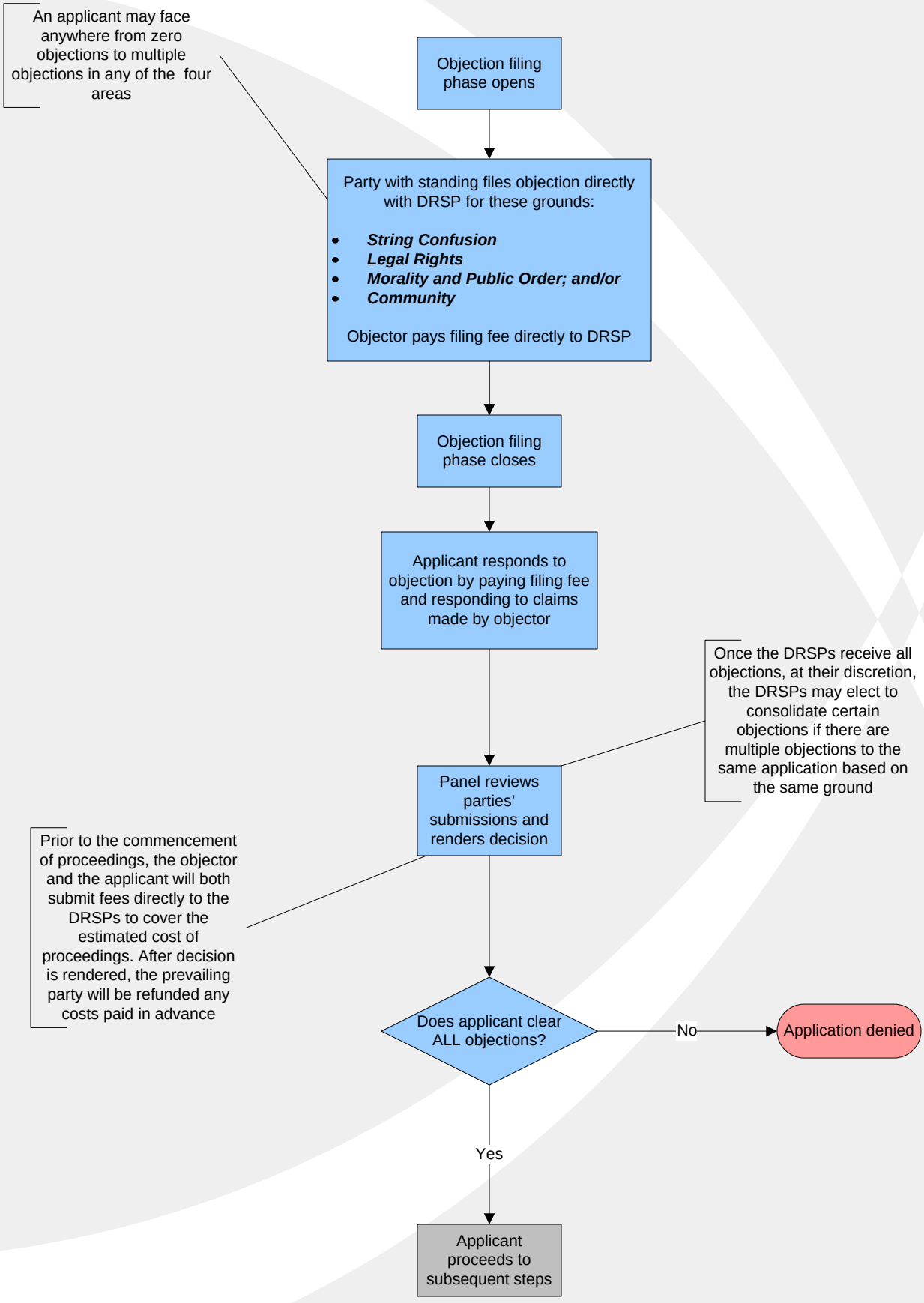
If opposition by a community is determined, but there is no clear connection between the community and the applied-for gTLD string, the objection will fail.

Detriment – The objector must prove that there is a likelihood of detriment to the rights or legitimate interests of its associated community. Factors that could be used by a panel in making this determination include:

- Damage to the reputation of the community that would result from the applicant's operation of the applied-for gTLD string;
- Evidence that the applicant is not acting or does not intend to act in accordance with the interests of the community;
- Interference with the core activities of the community that would result from the applicant's operation of the applied-for gTLD string; and
- Dependence of the community on the DNS for its core activities.

Defenses – Satisfaction of the standing requirements for filing a Community Objection (refer to paragraph 3.1.2.4) by the applicant is a complete defense to an objection filed on community grounds.

DRAFT - New gTLD Program – Objection and Dispute Resolution



Draft Applicant Guidebook

Module 4

Please note that this is a discussion draft only. Potential applicants should not rely on any of the proposed details of the new gTLD program as the program remains subject to further consultation and revision.

24 October 2008

Module 4

String Contention Procedures

This module describes situations in which contention over applied-for gTLD strings occurs, and the two methods available to applicants for resolving such contention cases.

4.1 String Contention

String contention occurs when either:

1. Two or more applicants for an identical gTLD string successfully complete all previous stages of the evaluation and dispute resolution processes; or

2. Two or more applicants for similar gTLD strings successfully complete all previous stages of the evaluation and dispute resolution processes, and the similarity of the strings is identified as creating a probability of user confusion if more than one of the strings is delegated.

ICANN will not approve applications for proposed gTLD strings that are identical or that would result in string confusion, called contending strings. If either situation 1 or 2 above occurs, such applications will proceed to contention resolution through either comparative evaluation or an efficient mechanism for contention resolution, both of which are described in this module. A group of applications for contending strings is referred to as a contention set.

4.1.1 Identification of Contention Sets

Contention sets are groups of applications containing identical or similar applied-for gTLD strings. (In this RFP, "similar" means strings so similar that it is probable that detrimental user confusion would result if the two similar gTLDs are delegated into the root zone.) Contention sets are identified during Initial Evaluation from review of all applied-for TLD strings by the panel of String Similarity Examiners. ICANN will publish contention sets by the close of the Initial Evaluation period.

Applications for identical gTLD strings will be automatically assigned to a contention set. For example, if Applicant A and Applicant B both apply for .TLDSTRING, they will be

identified as being in a contention set. Such testing for identical strings also takes into consideration the code point variants listed in any relevant language reference table.

The String Similarity Examiners will also review the entire pool of applied-for strings to determine whether the strings proposed in any two or more applications are so similar that they would create a probability of user confusion if allowed to coexist in the DNS. The panel will make such a determination for each pair of applied-for gTLD strings. The outcome of the String Confusion Review described in subsection 2.1.1 is the identification of contention sets among applications that have direct or indirect contention relationships with one another.

Two strings are in **direct contention** if they are identical or so similar that there is a probability of user confusion if both were to be delegated as TLDs in the root zone. More than two applicants might be represented in a direct contention situation: if four different applicants applied for the same gTLD string, they would all be in direct contention with one another.

Two strings are in **indirect contention** if they are both in direct contention with a third string, but not with one another. Direct and indirect contention are explained in greater detail in the example that follows.

In Figure 4-1, Strings A and B are an example of direct contention. Strings C and G are an example of indirect contention. C and G both contend with B, but not with one another. The figure as a whole is one contention set. A contention set consists of all applications that are linked by string contention to one another, directly or indirectly.

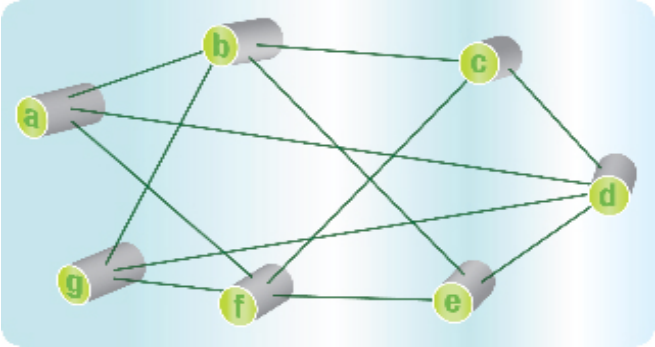


Figure 4-1 – This diagram represents one contention set, featuring both directly and indirectly contending strings.

While contention sets are determined during Initial Evaluation, the final configuration of the contention sets can only be established once the evaluation and dispute resolution process steps have concluded. This is because any application excluded through those steps might modify a contention set identified earlier. A contention set may be split it into two sets or it may be eliminated altogether as a result of an Extended Evaluation or dispute resolution proceeding.

Refer to Figure 4-2: In contention set 1, applications D and G are eliminated. Application A is the only remaining application, so there is no contention left to resolve.

In contention set 2, all applications successfully complete Extended Evaluation and Dispute Resolution, so the original contention set remains to be resolved.

In contention set 3, application F is eliminated. Since application F was in direct contention with E and J, but E and J are not in contention with one other, the original contention set splits into two sets: one containing E and K in direct contention, and one containing I and J.

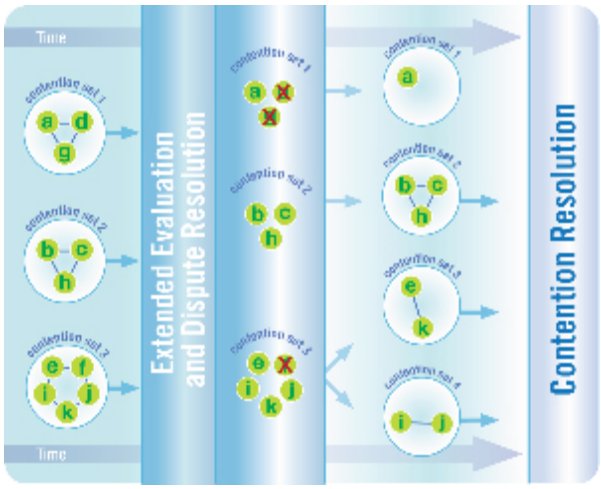


Figure 4-2 – Resolution of string contention cannot begin until all applicants within a contention set have completed all applicable previous stages.

The remaining contention cases must then be resolved through comparative evaluation or an efficient mechanism for contention resolution, depending on the circumstances. In this process, ICANN addresses each contention set to achieve an unambiguous resolution.

In their policy advice, the GNSO called for an efficient process to resolve cases of contention where there was no claim of community representation to be used as a factor for resolving the contention. While not settled, candidate means for this process are discussed below and in more detail in a companion paper to the Draft Applicant Guidebook called "Resolving string contention—a complete lifecycle including string contention resolution."

4.1.2 *Impact of Dispute Resolution Proceedings on Contention Sets*

If an applicant files a string confusion objection against another applicant (refer to Module 3), and the panel does find that string confusion exists; that is, rules in favor of the objector, the two applicants will be placed in direct contention with each other. Thus, the outcome of a proceeding based on a string confusion objection would result in a new contention set structure for the relevant applications.

4.1.3 Self-Resolution of String Contention

Applicants that are identified as being in contention may elect to reach a settlement or agreement among themselves whereby one or more applicants withdraws its application. This may occur at any stage of the process, once ICANN publicly posts the applications received on its website.

Applicants may not resolve a case of string contention by changing their applications by, for instance, selecting a new TLD string or creating a joint venture as a means to resolve the contention case.

4.1.4 Possible Contention Resolution Outcomes

Any application with no contention situation left to resolve is allowed to proceed to the next step. In some cases, an applicant who is not the outright winner of a string contention resolution process can still proceed. This situation is explained in the following paragraphs.

There may be more than one application that passes contention resolution within a contention set. If the strings within a given contention set are all identical, the applications are in direct contention with each other and there can only be one winner that proceeds to the next step.

However, where there are both direct and indirect contention situations within a set, more than one string may survive the resolution.

For example, if string A is in contention with B, B is in contention with C, but C is not in contention with A. If A wins the contention, B is eliminated but C can go on since C is not in direct contention with the winner and both strings can coexist in the DNS without risk for confusion.

4.2 Comparative Evaluation

Comparative evaluation can begin once all applicants in the contention set have completed all previous stages of the process.

The comparative evaluation is an independent analysis. Scores received in the applicant reviews are not carried forward to the comparative evaluation. Each applicant participating in the comparative evaluation begins with a score of zero.

4.2.1 Eligibility for Comparative Evaluation

As described in subsection 1.2.2 of Module 1, all applicants are required to identify whether their application type is:

- Open; or
- Community-based.

Only community-based applicants may elect a comparative evaluation. ICANN policy states that if there is contention for strings, a claim to support a community by one party will be a reason to award priority to that application. If one community-based applicant within a contention set makes this election, all other community-based applicants in the same contention set will be part of the comparative evaluation.

Applicants designating their applications as community-based will also be asked to respond to a set of questions in the application form that would provide relevant information if a comparative evaluation occurs.

Before the comparative evaluation begins, all community-based applicants in the contention set may be asked to provide additional information relevant to the comparative evaluation. Additionally, the community-based applicants will be required to pay a Comparative Evaluation Fee (refer to Section 1.5 of Module 1) to participate in the comparative evaluation.

4.2.2 Comparative Evaluation Procedure

Comparative evaluations for each contention set will be performed by a comparative evaluation provider appointed by ICANN to review all applications for contending gTLD strings. The panel's charter is to determine whether one of the community-based applications clearly and demonstrably would add more value to the Internet's Domain Name System. Open applicants within the contention set will not participate in the comparative evaluation.

If no single community-based applicant emerges as one that clearly and demonstrably adds more value to the namespace than all the competing contending applications, then all of the parties in the contention set (both open and community-based applicants) will proceed to an alternate mechanism for efficient contention resolution.

4.2.3 Comparative Evaluation Criteria

A panel appointed by the comparative evaluation provider will review and score the one or more community-based applicants who elected comparative evaluation against the criteria in the following table:

Criteria	Score		
	3	2	1
Nexus between Proposed String and Community	String is name or well-known abbreviation of community institution.	String is relevant to applicant's area of interest but also has other well-known associations.	No connection.
Dedicated Registration Policies	Registration eligibility is strictly limited to members of the pre-established community identified in the application. Registration policies also include name selection and use requirements consistent with the articulated scope and community-based nature of the TLD. Proposed policies include specific enforcement measures including investigation practices, penalties, takedown procedures and appeal mechanisms.	Registration eligibility is predominantly available to members of the pre-established community identified in the application, and also permits people or groups informally associated with the community to register. Policies include some elements of the above but one or more elements are missing.	No dedicated registration policies.
Community Establishment	Clearly identified, organized and pre-established community of considerable size and longevity.	The community addressed fulfills some but not all the requirements for a score of 3.	No community addressed.
Community Endorsement	Endorsement by a recognized institution or by member organizations.	Endorsement by some groups with apparent relevance, but also some opposition by groups with apparent relevance.	Assorted endorsements from individuals or groups of unknown relevance – or – no endorsement by any community.

If no applicant scores 11 or more, there is no clear winner. If only one applicant scores 11 or more, that applicant will be declared the winner.

If more than one applicant scores 11 or more, the evaluators will consider what portion of the community is represented by the application. *If one applicant represents*

a much larger share of the relevant community than another, that will be a basis for awarding priority.

Following the comparative evaluation, ICANN will review the results and reconfigure the contention set as needed. The same procedure will occur for remaining contention sets involving any community-based application that has elected comparative evaluation. If no community-based applicant that has elected comparative evaluation is left in the contention set, any applications remaining in contention will proceed to a subsequent contention resolution process. Applications not in contention will proceed toward delegation.

4.3 Efficient Mechanism for Contention Resolution

A tie-breaker mechanism will be developed for resolving string contention among the applicants within a contention set, if the contention has not been resolved by other means. Unless the specific conditions for comparative evaluation outlined in Section 4.2 apply, this mechanism will be used to resolve the contention. This mechanism may also be used if no clear winner is identified during the comparative evaluation process.

The GNSO policy recommendations call for an efficient means of resolution. Continued investigation regarding the availability of alternative methods will guide ICANN's development of this mechanism.

The first efficient means of resolution that will be employed is a settlement arrived at by contending parties. Applicants for identical or similar TLDs can arrive at an accommodation where all in direct contention withdraw except for one. As described earlier, those withdrawing cannot apply for a new string. Nor can contending parties combine to form a new applicant. It is expected that many cases of contention will be resolved in this manner as it will be the most efficient and economical for the contending parties.

Failing to arrive at accommodation of the type described just above, auctions are one means of last resort that is being explored to resolve the contention. The purpose of an auction is to resolve contention in a clear, objective manner.

Auction proceeds – The purpose of an auction is to resolve contention in a clear, objective manner. It is not to raise revenue. While there may be significant proceeds from auctions in the event they occur, it is important to understand that this in no way the purpose of the auction. The annual budget process sets ICANN's funding and spending limits. ICANN has no authorization to spend beyond the budget. ICANN already has precedent of returning revenue to the community when last year and in 2006 ICANN reduced registration fees from 25¢ to 20¢ over two years as a result of an unforeseen growth in revenue. Proceeds from auctions will be reserved until the uses of the proceeds are determined through a community consultation. The proceeds will not go into ICANN's general expense budget but will be separately earmarked for projects or uses identified by the community. This important aspect of the auction process and its result will be an important part of the communications plan for the new gTLD program.

The new gTLD application fee is designed to be cost/revenue neutral. It factors in costs already forgone, future processing costs and legal expenses that are significant and would be a large drain on the Corporation's established budget.

See further details on the exploration of an auction model in the contention lifecycle at http://www.icann.org/en/topics/string-contention-22oct08.pdf.

In practice, ICANN expects that most contention cases will be resolved through other means before reaching this stage.

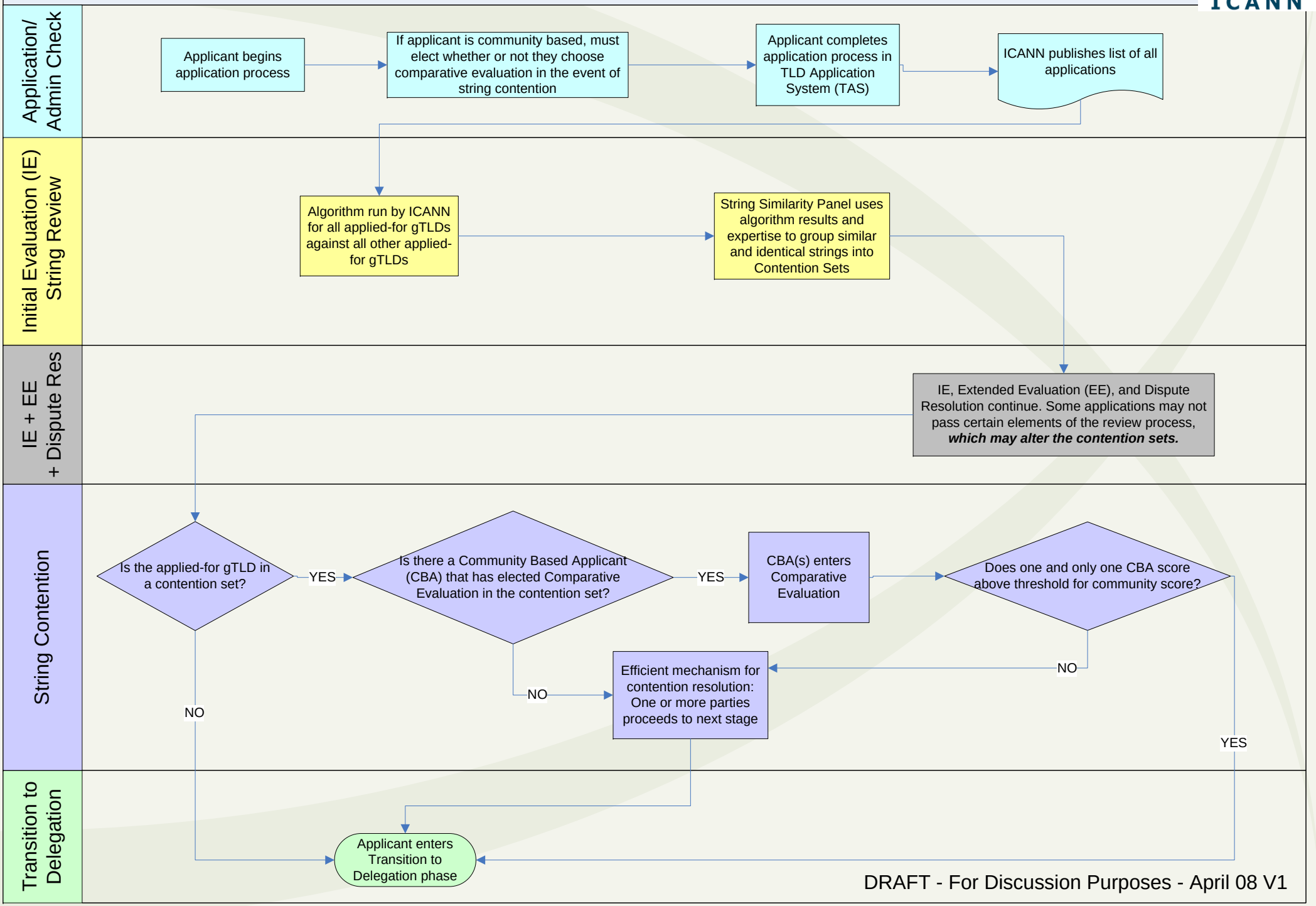
4.4 Contention Resolution and Contract Execution

An applicant that has been declared winner of a contention resolution process will proceed by entering into the contract execution phase. (Refer to section 5.1 of Module 5.)

If the winner of the contention resolution has not executed a contract within 90 days of the decision, ICANN has the right to extend an offer to the runner-up applicant to proceed with its application. For example, in a comparative evaluation, the applicant with the second-

highest score (if equal to or greater than eleven, might be selected to go on to the next step, delegation. (Refer to Module 5.) Similarly, in an efficient mechanism for contention resolution, another applicant who would be considered the runner-up applicant might proceed to the delegation step. This offer is at ICANN's option only. The runner-up applicant in a contention resolution process has no automatic right to an applied-for gTLD string if the first place winner does not execute a contract within a specified time.

DRAFT - New gTLD Program - String Contention



DRAFT - For Discussion Purposes - April 08 V1

Draft Applicant Guidebook

Module 5

Please note that this is a discussion draft only. Potential applicants should not rely on any of the proposed details of the new gTLD program as the program remains subject to further consultation and revision.

24 October 2008

Module 5

Transition to Delegation

This module describes the final steps required of an applicant, including execution of a registry agreement with ICANN and preparing for delegation of the new gTLD string into the root zone.

5.1 Registry Agreement

All applicants that have successfully completed the evaluation process—including, if necessary, the dispute resolution and string contention processes—are required to enter into a registry agreement with ICANN in order to proceed to delegation.

It is important to note that the agreement referred to below does not constitute a formal position by ICANN and has not been approved by the ICANN Board of Directors. The agreement is set out here for review and community discussion purposes and as a means to improve the effectiveness of the agreement in providing for increased competition and choice for consumers in a stable, secure DNS.

The contract terms can be reviewed at http://www.icann.org/en/topics/new-gtld-draft-agreement-24oct08-en.pdf. All successful applicants are expected to enter into the agreement substantially as written. The terms of the contract and, in particular, differences with existing registry agreements are explained in a companion paper to the agreement, *Summary of Changes to Base Agreement for New gTLDs,* http://www.icann.org/en/topics/new-gtld-draft-summary-changes-24oct08-en.pdf.

After an applicant has successfully completed the application process, ICANN may conduct a pre-contract review. To ensure that an applicant continues to be a going concern in good legal standing, ICANN reserves the right to ask the applicant to submit updated documentation and information before entering into the registry agreement.

If at any time during the evaluation process information previously submitted by an applicant becomes untrue or

inaccurate, the applicant must promptly notify ICANN and submit updated information. This includes applicant-specific information such as changes in financial position and changes in ownership or control of the applicant.

5.2 Pre-Delegation Testing

Following completion of the Board review, each applicant will be required to complete pre-delegation steps as a prerequisite to entering the IANA process for delegation into the root zone. The pre-delegation check must be completed within the time period specified in the registry agreement.

5.2.1 Technical Testing

The purpose of the pre-delegation technical test is to verify the applicant has met its commitment to establish registry operations in accordance with the technical and operational criteria described, along with the applicant questions. (Refer to Module 2.) The checks are also intended to ensure that the applicant can operate the gTLD in a stable and secure manner. All applicants will be tested on a pass/fail basis according to the questions and criteria that follow.

Question		Criteria
1	IDN (variant) tables	
	If applicant will be supporting IDNs, was the IDN table attached to the application when originally submitted and does it fulfill IDN and IANA guidelines and requirements?	IDN tables must be developed and provided by the IDN string applicant at the time the application was submitted. The table must fulfill the requirements from the IDN Guidelines as well as the IANA repository requirements in order to be considered valid (see http://iana.org/procedures/idn-repository.html).
2	DNSSEC keys, materials	
	If DNSSEC is offered as part of registry services at time of application, can applicant comply with requirements?	Trust anchor for the registry will be published in the IANA Interim Trust Anchor Repository. Validity will be determined by verifying that DNS resolvers that support DNSSEC can successfully retrieve and DNSSEC validate information from that zone when configured with the published trust anchor for the zone.
3	Architecture load requirements	
	Has the applicant implemented a network architecture necessary to support load characteristics, as outlined in its application?	Applicant will self-certify adherence to this requirement and provide materials to ICANN that demonstrate adherence. Examples of self-certification documents include but are not limited to a network/system diagram of the as-built network system (demonstrating correspondence to documentation in initial application), results of load testing performed by the applicant, and actual performance of the configuration in use for other registries. At ICANN's discretion, aspects of this self-certification documentation can be audited on-site at the services delivery point of the registry.

Question		Criteria
4	IPv6 for registrants	
	Does registry support provisioning of IPv6 services for its registrants?	Registry must support provisioning of IPv6 services on behalf of its registrants. This means that registrar systems will allow entry of IPv6 addresses in all relevant address fields, that the SRS system is set up to support the communication of IPv6 addresses, and that registry name servers can be provisioned with IPv6 addresses. Applicant will demonstrate successful provisioning of a test account with IPv6 name server entries.
5	IPv6 reachability	*Note: This requirement is under consideration and the community is urged to provide feedback on this requirement.*
	Does registry support access to DNS servers over an IPv6 network?	IANA currently has a minimum set of technical requirements for IPv4 name service. These include two nameservers separated by geography and by network topology, which each serve a consistent set of data, and are reachable from multiple locations across the globe. The registry will meet this same criterion for IPv6, requiring IPv6 transport to their network. Applicant will identify IPv6-reachable name servers that meet these requirements, and reachability will be verified by ICANN.
6	Escrow deposit sample	
	Has the applicant demonstrated the ability to conform to registry escrow requirements? See http://www.icann.org/en/topics/new-gtld-draft-escrow-spec-24oct-08-en.pdf.	The applicant will provide a conforming sample of a dummy data deposit showing correct type and formatting of content. The applicant will also provide evidence of an agreement with an escrow provider complying with Part B of the Data Escrow Requirements.
7	System monitoring	
	Has the applicant implemented the system monitoring described by the applicant in the initial application?	Applicant will self-certify adherence to this requirement and provide materials to ICANN that demonstrate adherence. Examples of self-certification documents include but are not limited to: diagrams of monitoring systems (demonstrating correspondence to documentation provided in the application), output of periodic monitoring runs performed by the applicant demonstrating capability claimed in the application, and actual performance of this monitoring set up in use for other registries. At ICANN's discretion, aspects of this self-certification documentation can be audited on-site at the services delivery point of the registry.
8	Registry continuity planning	
	Has applicant demonstrated capability to comply with ICANN's Registry Continuity Plan? See http://www.icann.org/registries/failover/icann-registry-failover-plan-15jul08.pdf	Applicant will self-certify adherence to this requirement and provide materials to ICANN that demonstrate adherence. Examples include identification of appropriate contact points and evidence of the registry's own continuity plan, and identification of a registry services continuity provider.
9	System performance requirements	
	Has applicant demonstrated capability to comply with the performance specifications? See http://www.icann.org/en/topics/new-gtld-draft-performance-spec-24oct08-en.pdf	Applicant will self-certify adherence to this requirement and provide materials to ICANN that demonstrate adherence. Examples of self-certification documents include but are not limited to performance and availability results that demonstrate DNS availability at stated levels for at least one month, and Whois service availability for at least one month. At ICANN's discretion, aspects of this self-certification documentation can be audited on-site at the services delivery point of the registry.

5.2.2 Additional Requirements

At the pre-delegation stage, an applicant must also provide documentary evidence of its ability to fund ongoing basic registry operations for then-existing registrants for a period of three to five years in the event of registry failure, default or until a successor operator can be designated. This obligation can be met by securing a financial instrument such as a bond or letter of credit (i.e., evidence of ability to provide financial security guaranteed by a creditworthy financial institution); contracting with and funding a services provider to extend services; segregating funding; or other means.

Once an applicant has met the requirements in 5.2.1 and 5.2.2 above, it is eligible to proceed to delegation of its applied-for gTLD string by IANA.

If an applicant does not complete the pre-delegation steps within the time period specified in the registry agreement, ICANN reserves the right to terminate the registry agreement.

5.3 IANA Delegation Process

Upon notice of successful completion of the ICANN pre-delegation testing, applicants may initiate the process for delegation of the new gTLD into the root zone database. Information about the delegation process is available at http://iana.org/domains/root/.

5.4 Ongoing Operations

ICANN will continue to provide support for gTLD registry operators as they launch and maintain registry operations. ICANN's gTLD registry liaison function provides a point of contact for gTLD registry operators for assistance on a continuing basis.

The registry agreement contains a provision for ICANN to perform audits to ensure that the registry operators remain in compliance with agreement obligations.

Draft Applicant Guidebook

Module 6

Please note that this is a discussion draft only. Potential applicants should not rely on any of the proposed details of the new gTLD program as the program remains subject to further consultation and revision.

24 October 2008

Module 6

Top-Level Domain Application – Terms and Conditions

By submitting this application through ICANN's online interface for a generic Top Level Domain (gTLD) (this application), applicant (including all parent companies, subsidiaries, affiliates, agents, contractors, employees and any and all others acting on its behalf) agrees to the following terms and conditions (these terms and conditions) without modification. Applicant understands and agrees that these terms and conditions are binding on applicant and are a material part of this application.

1. Applicant warrants that the statements and representations contained in the application (including any documents submitted and oral statements made in connection with the application) are true and accurate and complete in all material respects, and that ICANN may rely on those statements and representations fully in evaluating this application. Applicant acknowledges that any material misstatement or misrepresentation (or omission of material information) will reflect negatively on this application and may cause ICANN and the evaluators to reject the application.

2. Applicant warrants that it has the requisite organizational power and authority to make this application on behalf of applicant, and is able to make all agreements, representations, waivers, and understandings stated in these terms and conditions and to enter into the form of registry agreement as posted with these terms and conditions.

3. Applicant acknowledges and agrees that ICANN has the right to reject any and all applications for new gTLDs, and that there is no assurance that any additional gTLDs will be created. The decision to proceed with review and consideration of an application to establish one or more gTLDs is entirely at ICANN's discretion. ICANN reserves the right to reject any application that ICANN is prohibited from considering for a gTLD under applicable law or policy, in which case any fees submitted in connection with such application will be returned to the applicant.

4. Applicant agrees to pay all fees that are associated with this application. These fees include the evaluation fee (which is to be paid in conjunction with the submission of this application), and any fees associated with the progress of the application to the extended evaluation stages of the review and consideration process with respect to the application, including any and all fees as may be required in conjunction with the dispute resolution process as set forth in the application. Applicant acknowledges that the initial fee due upon submission of the application is only to obtain consideration of an application. ICANN makes no assurances that an application will be approved or will result in the delegation of a gTLD proposed in an application. Applicant acknowledges that if it fails to pay fees within the designated time period at any stage of the application review and consideration process, applicant will forfeit any fees paid up to that point and the application will be cancelled.

5. Applicant shall indemnify, defend, and hold harmless ICANN (including its affiliates, subsidiaries, directors, officers, employees, consultants, evaluators, and agents, collectively the ICANN Affiliated Parties) from and against any and all third-party claims, damages, liabilities, costs, and expenses, including legal fees and expenses, arising out of or relating to: (a) ICANN's consideration of the application, and any approval or rejection of the application; and/or (b) ICANN's reliance on information provided by applicant in the application.

6. Applicant hereby releases ICANN and the ICANN Affiliated Parties from any and all claims by applicant that arise out of, are based upon, or are in any way related to, any action, or failure to act, by ICANN or any ICANN Affiliated Party in connection with ICANN's review of this application, investigation or verification, any characterization or description of applicant or the information in this application, or the decision by ICANN to recommend, or not to recommend, the approval of applicant's gTLD application. APPLICANT AGREES NOT TO CHALLENGE, IN COURT OR IN ANY OTHER JUDICIAL FORA, ANY FINAL DECISION MADE BY ICANN WITH RESPECT TO THE APPLICATION, AND IRREVOCABLY WAIVES ANY RIGHT TO SUE OR PROCEED ON THE BASIS OF ANY OTHER LEGAL CLAIM AGAINST ICANN AND ICANN AFFILIATED PARTIES WITH RESPECT TO THE APPLICATION. APPLICANT ACKNOWLEDGES AND

ACCEPTS THAT APPLICANT'S NONENTITLEMENT TO PURSUE ANY RIGHTS, REMEDIES, OR LEGAL CLAIMS AGAINST ICANN OR THE ICANN AFFILIATED PARTIES WITH RESPECT TO THE APPLICATION SHALL MEAN THAT APPLICANT WILL FOREGO ANY RECOVERY OF ANY APPLICATION FEES, MONIES INVESTED IN BUSINESS INFRASTRUCTURE OR OTHER START-UP COSTS AND ANY AND ALL PROFITS THAT APPLICANT MAY EXPECT TO REALIZE FROM THE OPERATION OF A REGISTRY FOR THE TLD.

7. Applicant hereby authorizes ICANN to publish on ICANN's website, and to disclose or publicize in any other manner, any materials submitted to, or obtained or generated by, ICANN and the ICANN Affiliated Parties in connection with the application, including evaluations, analyses and any other materials prepared in connection with the evaluation of the application; provided, however, that information will not be published to the extent that the application specifically identifies such information as confidential. A general statement as the confidentiality of the application will not be sufficient for these purposes. Except for information that ICANN determines to treat as confidential, applicant understands and acknowledges that ICANN does not and will not keep the remaining portion of the application or materials submitted with the application confidential.

8. Applicant certifies that it has obtained permission for the posting of any personally identifying information included in this application or materials submitted with this application. Applicant acknowledges that the information that ICANN posts may remain in the public domain in perpetuity, at ICANN's discretion.

9. Applicant gives ICANN permission to use applicant's name and/or logo in ICANN's public announcements (including informational web pages) relating to top-level domain space expansion.

10. Applicant understands and agrees that it will acquire rights in connection with a gTLD only in the event that it enters into a registry agreement with ICANN, and that applicant's rights in connection with such gTLD will be limited to those expressly stated in the registry agreement. In the event ICANN agrees to recommend the approval of the application for applicant's proposed gTLD, applicant agrees to enter into the registry agreement with ICANN in the form published in

connection with the application materials. Applicant may not resell, assign, or transfer any of applicant's rights or obligations in connection with the application.

11. Applicant authorizes ICANN to:

    a. Contact any person, group, or entity to request, obtain, and discuss any documentation or other information that, in ICANN's sole judgment, may be pertinent to the application;

    b. Consult with persons of ICANN's choosing regarding the information in the application or otherwise coming into ICANN's possession.

12. For the convenience of applicants around the world, the application materials published by ICANN in the English language have been translated into certain other languages frequently used around the world. applicant recognizes that the English language version of the application materials (of which these terms and conditions is a part) is the version that binds the parties, that such translations are non-official interpretations and may not be relied upon as accurate in all respects, and that in the event of any conflict between the translated versions of the application materials and the English language version, the English language version controls.

Glossary

Terms Applicable to this RFP and to the New gTLD Application Process

A-Label	The ASCII-Compatible Encoding (ACE) form of an IDNA-valid string.
Applicant	An entity that has applied to ICANN for a new gTLD by submitting its application form through the online application system.
Application	An application for a new gTLD lodged in response to this RFP. An application includes the completed Application Form any supporting documents, and any other information that may be submitted by the applicant at ICANN's request.
Application form	The set of questions to which applicants provide responses, as at http://www.icann.org/en/topics/new-gtld-draft-evaluation-criteria-24oct08-en.pdf.
Application interface	The web-based interface operated by ICANN, available at [URL to be inserted in final version of RFP]
Application round	The complete succession of stages for processing the applications received during one application submission period for gTLDs. This RFP is for one application round. Any subsequent application rounds will be the subject of subsequent RFPs.
Application submission period	The period during which applicants may submit applications through the application interface.
Applied for gTLD string	A gTLD string that is subject of an application.
American Standard Code for Information Interchange (ASCII)	A character encoding based on the English alphabet. ASCII codes represent text in computers, communications equipment, and other devices that work with text. Most modern character encodings—which support many more characters than did the original—have a historical basis in ASCII.
AXFR	Asynchronous full transfer, a DNS protocol mechanism through which a DNS zone can be replicated to a remote DNS server.
Business ID	A number such as a federal tax ID number or employer information number.

ccTLD	Two-letter top-level domains corresponding with the ISO 3166-1 country code list. See http://iana.org/domains/root/db/.
Community-based TLD	A community-based gTLD is a gTLD that is operated for the benefit of a defined community consisting of a restricted population. An applicant designating its application as community-based must be prepared to substantiate its status as representative of the community it names in the application
Community objection	An objection based on the grounds that there is substantial opposition to a gTLD application from a significant portion of the community to which the gTLD string may be explicitly or implicitly targeted.
Comparative evaluation	A process to resolve string contention, which may be elected by a community-based applicant.
Consensus policy	A policy created through the GNSO policy development process listed in Annex A of the ICANN Bylaws. See http://www.icann.org/en/general/bylaws.htm#AnnexA. A list of current consensus policies is available at http://www.icann.org/en/general/consensus-policies.htm.
Contention sets	A group of applications containing identical or similar applied-for gTLD strings.
Country-code TLD	See ccTLD.
Delegation	The process through which the root zone is edited to include a new TLD, and the management of domain name registrations under such TLD is turned over to the registry operator.
Digit	Any digit between "0" and "9" (Unicode code points U+0030 to U+0039).
Dispute Resolution Service Provider (DRSP)	An entity engaged by ICANN to adjudicate dispute resolution proceedings in response to formally filed objections.
Domain name	A name consisting of two or more (for example, john.smith.name) levels, maintained in a registry database.
Domain Name System Security Extensions (DNSSEC)	DNSSEC secures domain name look-ups on the Internet by incorporating a chain of digital signatures into the DNS hierarchy.
Existing TLD	A string included on the list at http://iana.org/domains/root/db

Extended Evaluation	The second stage of evaluation applicable for applications that do not pass the Initial Evaluation, but are eligible for further review.
Extended Evaluation period	The period that may follow the Initial Evaluation period, for eligible applications which do not pass the Initial Evaluation.
Evaluator	The individuals or organization(s) appointed by ICANN to perform review tasks within Initial Evaluation and Extended Evaluation under ICANN direction
Evaluation fee	The fee due from each applicant to obtain consideration of its application.
Geographical Names Panel (GNP)	A panel of experts charged by ICANN with reviewing applied-for TLD strings that relate to geographical names.
Generic Names Supporting Organization (GNSO)	ICANN's policy-development body for generic TLDs and the lead in developing the policy recommendations for the introduction of new gTLDs.
Generic top-level domain	See gTLD
gTLD	A TLD with three or more characters that does not correspond to any country code.
Hyphen	The hyphen "-" (Unicode code point U+0029).
Internet Assigned Numbers Authority (IANA)	IANA is the authority originally responsible for overseeing IP address allocation, coordinating the assignment of protocol parameters provided for in Internet technical standards, and managing the DNS, including delegating top-level domains and overseeing the root name server system. Under ICANN, IANA distributes addresses to the Regional Internet Registries, coordinate with the IETF and other technical bodies to assign protocol parameters, and oversees DNS operation.
ICANN	Internet Corporation for Assigned Names and Numbers
ICANN-accredited registrar	A company that registers domain names for Internet users. There are more than 900 ICANN-accredited registrars who provide domains to Internet users. The list of ICANN-accredited registrars is available at http://www.icann.org/en/registrars/accredited-list.html
Internationalized Domain Name (IDN)	A domain name including at least one character other than those in letters (a,…,z), digits (0,…,9) and the hyphen (-).
Internationalizing Domain Names in Applications (IDNA)	The technical protocol used for processing domain names containing non-ASCII characters in the DNS.

IDN ccTLD Fast Track	The process for introducing a limited number of IDN ccTLDs associated with the ISO-3166 two-letter codes. See http://www.icann.org/en/topics/idn/fast-track/.
IDN table	A table listing all those characters that a particular TLD registry supports. If one or more of these characters are considered a variant this is indicated next to that/those characters. It is also indicated which character a particular character is a variant to. The IDN tables usually hold characters representing a specific language, or they can be characters from a specific script. Therefore the IDN table is sometimes referred to as "language variant table", "language table", "script table" or something similar.
IGO	Inter-governmental organization.
Internet Engineering Task Force (IETF)	The IETF is a large, open international community of network designers, operators, vendors, and researchers concerned with the evolution of the Internet architecture and the smooth operation of the Internet.
Initial Evaluation period	The period during which ICANN will review an applied-for gTLD string, an applicant's technical and financial capabilities, and an applicant's proposed registry services.
International Phonetic Alphabet	A notational standard for phonetic representation in multiple languages. See http://www.arts.gla.ac.uk/IPA/IPA_chart_(C)2005.pdf.
IXFR	Incremental Zone Transfer, a DNS protocol mechanism through which a partial copy of a DNS zone can be replicated to a remote DNS server.
LDH (Letter Digit Hyphen)	The hostname convention defined in RFC 952, as modified by RFC 1123.
Legal Rights objection	An objection on the grounds that the applied-for gTLD string infringes existing legal rights of the objector.
Letter	Any character between "a" and "z" (in either case) (Unicode code points U+0061 to U+007A or U+0041 to U+005A).
LLC	Limited liability corporation.
Morality and public order objection	An objection made on the grounds that the applied-for gTLD string is contrary to generally accepted legal norms of morality and public order that are recognized under international principles of law.
Objection	A formal objection filed with a Dispute Resolution Service Provider in accordance with that provider's procedures.
Objection filing period	The period during which formal objections may be filed

	concerning a gTLD application submitted to ICANN
Objector	One or more persons or entities that have filed a formal objection against a new gTLD application with the appropriate DRSP.
Open TLD	An open TLD can be used for any purpose consistent with the requirements of the application and evaluation criteria, and with the registry agreement. An open TLD may or may not have a formal relationship with an exclusive registrant or user population. It may or may not employ eligibility or use restrictions.
Pre-delegation test	A technical test and other steps required of applicants before delegation of the applied-for gTLD string into the root zone.
Primary contact	The person named by the applicant as the main contact for the application, and having authority to execute decisions concerning the application.
Principal place of business	The location of the head office of a business or organization.
Registrar	See ICANN-accredited registrar.
Registry	A 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 that allows computers to route Internet traffic to and from top-level domains anywhere in the world.
Registry Agreement	The agreement executed between ICANN and successful gTLD applicants, which appears in draft form at http://www.icann.org/en/topics/new-gtld-draft-agreement-24oct08-en.pdf.
Registry operator	The entity entering into the Registry Agreement with ICANN, responsible for setting up and maintaining the operation of the registry.
Registry services	(1) Operations of the registry critical to the following tasks: (i) the receipt of data from registrars concerning registrations of domain names and name servers; (ii) provision to registrars of status information relating to the zone servers for the TLD; (iii) dissemination of TLD zone files; (iv) operation of the registry zone servers; and (v) dissemination of contact and other information concerning domain name server registrations in the TLD as required by the registry agreement; and (2) other products or services that the registry operator is required to provide because of the establishment of a consensus policy; and (3) any other products or services that only a registry operator is capable of providing, by reason of its

	designation as the registry operator.
Registry Services Technical Evaluation Panel (RSTEP)	The Registry Services Technical Evaluation Panel is a group of experts in the design, management, and implementation of the complex systems and standards-protocols used in the Internet infrastructure and DNS. RSTEP members are selected by its chair. All RSTEP members and the chair have executed an agreement requiring that they consider the issues before the panel neutrally and according to the definitions of security and stability.
Reserved Name	A string included on the Top-Level Reserved Names List (Refer to paragraph 2.1.1.2 of Module 2.)
Request for Comments (RFC)	The RFC document series is the official publication channel for Internet standards documents and other publications of the IESG, IAB, and Internet community.
Rightsholder	The person or entity that maintains a set of rights to a certain piece of property.
Root Zone	The root zone database represents the delegation details of top-level domains, including gTLDs and country-code TLDs. As manager of the DNS root zone, IANA is responsible for coordinating these delegations in accordance with its policies and procedures.
Round	See application round.
Script	A collection of symbols used for writing a language. There are three basic kinds of script. One is the alphabetic (e.g. Arabic, Cyrillic, Latin), with individual elements termed “letters”. A second is ideographic (e.g. Chinese), the elements of which are “ideographs”. The third is termed a syllabary (e.g. Hangul), with its individual elements represent syllables. The writing systems of most languages use only one script but there are exceptions such as for example, Japanese, which uses four different scripts, representing all three of the categories listed here. It is important to note that scripts which do not appear in the Unicode Code Chart are completely unavailable for inclusion in IDNs.
Security	In relation to a proposed registry service, an effect on security by the proposed Registry Service means (1) unauthorized disclosure, alteration, insertion, or destruction of registry data, or (2) unauthorized access to or disclosure of information or resources on the Internet by systems operating in accordance with all applicable standards.
Shared Registry System (SRS)	A system that allows multiple registrars to make changes

	to a registry simultaneously.
Stability	In relation to a proposed registry service, an effect on stability means that the proposed registry service (1) does not comply with applicable relevant standards that are authoritative and published by a well-established, recognized, and authoritative standards body, such as relevant standards-track or best current practice RFCs sponsored by the IETF; or (2) creates a condition that adversely affects the throughput, response time, consistency, or coherence of responses to Internet servers or end systems, operating in accordance with applicable relevant standards that are authoritative and published by a well-established, recognized and authoritative standards body, such as relevant standards-track or best current practice RFCs and relying on registry operator's delegation information or provisioning services.
String	The string of characters comprising an applied-for gTLD.
String confusion objection	An objection filed on the grounds that the applied-for gTLD string is confusingly similar to an existing TLD or to another applied-for gTLD.
String Similarity Algorithm	An algorithmic tool used to identify applied-for gTLD strings that may result in string confusion.
String Similarity Examiners	A panel charged with identifying applied-for gTLD strings that may result in string confusion.
String contention	The scenario in which there is more than one qualified applicant for the same gTLD or for gTLDs that are so similar that detrimental user confusion would be the probable result if more than one were to be delegated to the root zone.
TLD Application System (TAS)	The online interface for submission of applications to ICANN.
Top-level domain (TLD)	TLDs are the names at the top of the DNS naming hierarchy. They appear in domain names as the string of letters following the last (right-most) dot, such as "net" in www.example.net. The TLD administrator controls what second-level names are recognized in that TLD. The administrators of the root domain or root zone control what TLDs are recognized by the DNS.
U-Label	A "U-label" is an IDNA-valid string of Unicode characters, including at least one non-ASCII character, expressed in a standard Unicode Encoding Form, normally UTF-8 in an Internet transmission context.
Uniform Domain Name Dispute Resolution Policy	A policy for resolving disputes arising from alleged abusive registrations of domain names (for example, cybersquatting), allowing expedited administrative

(UDRP)	proceedings that a trademark rights holder initiates by filing a complaint with an approved dispute resolution service provider.
User registration fee	The fee paid by prospective applicants for new TLDs to obtain access to the TLD Application System (TAS).
Whois	Records containing registration information about registered domain names.