

## Work Track 1

### 1.1 RSP Accreditation Program

The establishment of a Registry Certification program, through which a potential registry services provider (RSP) could pre-qualify as meeting the programs technical requirements, has the potential to significantly improve the participation in any subsequent new gTLD process and we strongly support it. Such an approach would increase competition amongst RSPs thereby encouraging efficiency, stimulating innovation, disciplining prices and providing much needed transparency and clarity to potential applicants on what registry costs will be. This would free applicants to focus on their own business plans and market innovation. This would be of particular benefit to groups who might have less experience in the industry, allowing them to put proposals together without the need to have often expensive technical advice. This could be of particular benefit to applicants from underserved regions. This will also reduce overall program costs for ICANN and applicants, as it will obviate the need for RSPs to be certified multiple times. Most important is the notion that an RSP should need only complete a certification process once regardless of the number of strings they may ultimately support. We have provided some additional commentary in response to selected specific questions below.

#### 1.1.2

**If an RSP program is established for new gTLDs, do you have any suggestions for some of the details or requirements of the program? For instance, how would the scalability of the RSP be measured across a variable numbers of registries?**

The process in Round One did not consider scalability as part of the evaluation process. In our own experience, this has not proven to be an issue. We would support keeping the evaluation criteria as close as possible to the original testing requirements to ensure a level playing field for potential players which would suggest not adding additional elements for scalability.

It is understood however that each Registry Operator is obligated to meet specific performance targets that clearly will ultimately fall under the purview of the RSP. ICANN, through its contracted monitoring requirements are able to monitor and assess performance and may take remedial action when and where required per the Registry Agreement (RA).

One specific suggestion is to allow divorcing the application process from the requirement to have a specific RSP identified in your application. Instead, applicants would have the option to select a certified RSP only **in the event their application is approved**. This reduces the workload on potential RSPs not needing to be involved with applications which may never be awarded and allows applicants to have a more certain business case to present to potential RSP providers when seeking their services. Freeing applicants from the need to identify a specific RSP at the time of their application would allow them to concentrate their energy and resources on developing innovative business models, and potentially reduce the overall cost of participating in the process, thereby encouraging more applicants.

### **1.1.3 Who should be responsible for evaluating whether an RSP meets the requirements of the program?**

The model in Round One worked well from an overall evaluation perspective. The selection of the testing provider was completed by a competitive process and the resulting platform worked well. We are not aware of any issues that resulted from this approach. Given that it is already well understood by the registry community, it would help to streamline the subsequent process were it to remain unchanged. Overall, we see no reason for that element of the program to change.

### **1.1.5 Should there be an Agreement between an RSP and ICANN? If so, what enforcement mechanisms should be made available to ICANN in the event that such an Agreement is breached?**

We see no need or benefit from there being a contractual agreement between ICANN and the RSP. We are not aware of any issues that could arise, which could not be resolved using the existing compliance mechanisms and agreements. The RSP has a contractual relationship with the Registry Operator which should be sufficient. The Registry Operator will ensure that all terms of the RA as related to the RSP (particularly as related to performance service levels) would be included in any such agreement, either explicitly or by reference and if necessary, ICANN could make such an inclusion an explicit requirement with the Registry Operator. ICANN has enforcement mechanisms built in to the RA with respect to registry performance targets; these should be the necessary and sufficient elements to ensure the ongoing technical performance of the registry.

### **1.1.7 Should there be a process to reassess RSPs on a periodic basis? If so, how often should an assessment be conducted and what would the process be for a re-approval?**

There is no need to reassess RSPs on a *periodic* basis given that ICANN requires the Registry Operator to meet specific performance objectives on a *continual* basis. ICANN may consider aggregating registry operator provided data by RSP in order to have a better vision of an RSP's overall performance. But this information would be used only in the context of informing and dealing with the registry operator who may be in danger of breaching their performance obligations as a result of an RSP's inability to meet those service levels.

### **1.1.8 If there is an RSP Program, how far in advance should such a Program be launched prior to the opening of the next application window?**

Any RSP certification program must be launched well in advance of the next application window to allow any potential RSP to obtain certification in time to be able to pursue potential registry operators as customers. An early decision on the RSP certification program should be taken and then immediately announced, ideally as early as by the end of calendar 2017. The earlier registry service providers can become certified, the earlier potential gTLD applicants can engage

with them meaningfully to determine registry features and costs, thereby allowing the development and refinement of new gTLD business models.

**1.1.9 Should there be an RSP application “cut-off” date to allow sufficient time for an RSP seeking approval to receive approval in order for their application to be approved before the opening of an application window?**

We would suggest that RSP certification not have a cut-off date. Instead, a deadline would be established that would ensure certification was possible prior to the opening of the application window but the certification process would remain open, perhaps indefinitely on the assumption the required infrastructure for testing could be easily set-up and torn-down (as may be possible if deployed in the cloud).

It is not clear yet that the “next round” will indeed be a “round” or will represent an opening of an ongoing process. In the latter case, the potential for an RSP to certify will also need to be ongoing. Further, if an applicant is allowed to submit an application without a specific commitment to any one particular RSP (as mentioned previously in our responses to 1.1.1 and 1.1.8), then again the certification process will need to remain available.

**1.1.10 If there is a list of pre-approved RSPs in any RSP Program, should there be a provision granted to organizations that act as an RSP to an existing delegated TLD? If yes, how would such a provision work? If not, could ICANN use an RSP’s existing performance to satisfy any of the technical requirements and/or tests used in the approval process?**

Yes, absolutely. Existing RSPs who have already conducted Pre-Delegation testing (some have done so numerous times), have also demonstrated their capability to run a registry by virtue of being in production for a number of years. Under the scrutiny of ICANN RA performance requirements, these RSPs have fully demonstrated what would otherwise be tested in any kind of certification process (unless the criteria are expanded in a critical way as a result of the review process). Simply put, existing RSPs that are providing service to one or more registry operators, have previously conducted the PDT testing and are meeting the performance targets stipulated under the ICANN RA should be offered RSP Certification without the need for further testing.

**1.1.11 If an RSP program is established, how should it be funded? For instance, should registries pay into the program which will reduce related ICANN evaluation fees (and associated application fees)?**

On the assumption that ICANN does in fact reduce application and ongoing operational fees, it would be reasonable to expect an RSP (not the registry) to pay a fee (perhaps annual) to maintain their certified status. Re-certification on an annual basis could be based on an RSPs ability to demonstrate the ongoing meeting of the performance targets (in the aggregate) of strings for which they already provide registry services. Such fee should not be dependent on

the number of strings for which an RSP provided service but may be scaled based on the total number of domains under management of the RSP platform. Presumably, any such certification fee will likely be passed along to the registry operator and ultimately the consumer and so it would be a reasonable target to keep this fee to a minimum.

An alternate option would be to follow the current model for registrar fees that includes a fixed and variable component that is derived from the actual budget required to support the program. Preferably, the variable component would be based on the number of domains under management by the RSP to not overly burden RSPs serving a smaller market (i.e. brands and geos). As mentioned earlier, the intent is not to establish an RSP as a contracted party to ICANN but rather create a framework through which an RSP can acquire certification. Registry Operators, as a contracted party, would be obligated under contract to operate their registry ONLY with a certified RSP.

## **1.4 Application Fee**

### **1.4.1 The application fee of \$185,000 USD for the 2012 round of the New gTLD Program was established on the principle of breaking even whereby the program's total revenues are equal to all Page 4 related expenses. In addition, the fee should ensure the program is fully funded and not subsidized by any other sources of revenue. Should another mechanism be considered? For example, cost plus reasonable return, fixed plus variable, volume discounts, or other?**

We agree that the program should be self-funding. However, clearly given the existence of significant surplus, we expect that ICANN will be able to substantially reduce this fee in future processes. The program has numerous areas where the components of the application fee can be made smaller. For example;

- there is no need to require a technical evaluation of all applicants in the event an RSP Certification program exists.
- the need for a legal contingency set-aside we believe has been and should be greatly reduced

We would also add that applicants need the certainty of a fixed cost so that they can develop their business plans with a certain level of confidence. We would be opposed to any fees or components of fees that might be based on future variable costs or profitability of the applicant. Such an approach would bring about needless and unnecessary complexity and additional compliance costs, to both the applicants and ICANN, by obligating ICANN to require the provision of financial information from applicants on an ongoing basis, and then likely requiring ICANN to audit the validity of this information. There will likely be some applicants that do not expect to generate a profit on a stand-alone basis, but rather may seek their own gTLD for overall corporate and/or geographical branding purposes. Moreover, having such a variable

component of the fee goes against the principle of cost recovery – if ICANN has fixed costs, all applicants, both successful and unsuccessful, should be responsible for these. Otherwise, one would have the undesirable outcome of successful businesses subsidizing the unsuccessful ones.

Notwithstanding the need to be self-funding, ICANN still needs to be held responsible to a budget performance target that is well articulated for the program in advance. The high-water-mark of \$185K clearly was an over estimate of the costs and has resulted in a significant surplus. This should not happen again. ICANN is in a much better position to fully articulate the true costs of administering the program and so application fees should be better reflective of these known costs.

**1.4.2 Although the 2012 round is not complete, there is currently a surplus of fees collected relative to costs incurred. As such, do you believe that the principle of breaking even was implemented effectively? Do you believe \$185,000 was a reasonable fee? Is it still a reasonable fee? Should the basic structure of the application fee (e.g., approximately one third of the fee was allocated for (i) the cost recovery of historical development costs, (ii) operations and (iii) legal and other contingencies) be reassessed or restructured? Is it too early to make this assessment? With the experience gained from the 2012 round, do you think that a break-even model can be more accurately implemented for future applications? Do you have suggestions on how to minimize any surpluses or shortfalls?**

There is no question the original \$185,000USD fee was too high. It was a barrier to entry to many smaller applicants (we are aware of a number of municipalities that considered applying in round one but abandoned the possibility when confirmed with the application fee). The principal of breaking even was implemented effectively BUT the forecasting of the actual costs that would be incurred was totally incorrect.

Yes, a better break-even model should be possible given much of the development costs have already been spent, the evaluation process (outside of RSP certification) are well understood and can be contracted for more effectively, legal considerations were largely not a requirement and the need to evaluate every application on technical merit will no longer be a requirement under a program that includes RSP certification.

It would be easy to justify an application fee well under the \$100USD level on the following basis:

- Using a certified RSP model eliminates the need to evaluate each RSP with each application. This would seem to have been the single largest evaluation component including PDT testing which under an RSP certification program can be taken out of the application process. Estimated fee reduction: \$20-30K

- ICANN set aside a portion of the application fee in anticipation of a need for legal fees which simply did not appear to the extent expected. Estimated fee reduction: \$20-30K.
- At the most recently quarterly update, ICANN had a surplus of \$128M in new gTLD funds reflecting \$65,979 per original application. Clearly the estimated cost to run the new gTLD application program was overestimated. In addition, ICANN should be better aware how to administer the program more efficiently and so the real costs should be reduced even further. Estimated fee reduction: \$40-50K

These three areas would allow for a total fee reduction of \$80-110K suggesting a realistic fee in the next opportunity to apply could (and should) be below \$100K.

**1.4.3 Should the concept of break-even be strictly adhered to or should other aspects be considered? Some WG members have noted concerns about the responsibility required to run a registry which could be negatively impacted by a fee that is "too low." Others have noted that the fee is potentially too high and could create barriers to entry in some underserved regions. As such, should there be a cost floor (minimum) or cost ceiling (maximum) threshold that the application fee should not go below/above despite costs estimates? If so, do you have suggestions in how the cost floor and ceiling amounts should be set?**

Break-even is a reasonable target but not at the expense of small applicants that would be deterred by a higher fee. We have been advocating across Canada with local municipalities and communities about the value a dedicated top level domain can bring to the community in terms of brand, security and trust online. Without exception, the opportunity is understood. And, without exception, with a need to be sensitive to spending public funds, the financial model currently in place is definitely a barrier to entry (both in terms of application fee and ongoing transaction fee minimums). Our response to the previous question provides a rationale for the development of a lower application fee.

**1.4.4 If there is a price floor, how should the excess funds resulting from floor costs less the actual costs be justified? Conversely, how would shortages be recovered if the ceiling costs are below actual costs?**

ICANN should endeavour to plan the financial aspect of the program more accurately and be held accountable to that plan both in terms of excesses and shortages. Applicants require certainty for the purposes of business planning and should not be held accountable if somehow ICANN has budgeted poorly. The discrete costs in running the program are well known at this stage (or should be after processing 1930 applications) and so ICANN should be able to transparently propose a financial model and all of its components based on actual data.

If ICANN operates the program with a shortfall then the program simply runs at a deficit and will need to be funded from contingency. If ICANN operates with a surplus, then the financial plan should include a “degree of discrepancy” that is acceptable after which excesses must be returned to the community in some fashion to be determined.

The real key in this whole discussion is to create an environment for applicants that reduces the barrier to entry as much as possible and achieves transparency and trust in the programs costing model.

## 1.5 Variable Fees

The PDP did not have any specific questions around the structure of variable fees and how these may be changed. We would like to suggest that the ICANN minimum transaction fees be tiered to reflect the size of the registry operator (which may be a direct reflection of their individual business model, i.e. geo, brand). Rather than having a single minimum fee currently based on a 50,000 transaction volume, an alternate possible tiered structure could be as follows:

Quarterly Transaction Level	Fixed Transaction Fee	Variable Transaction Fee
10000	\$1,250	0
20000	\$2,500	0
30000	\$3,750	0
40000	\$5,000	0
50000	\$6,250	\$0
>50000	\$6,250	\$0.25/name

By offering an operational model that recognizes smaller operators, and lessens the financial burden on those operators, ICANN creates an environment that encourages applications from smaller geos and brands that would otherwise not apply. Ultimately any addition of a new applicant to the process will provide ICANN with additional funding and potentially reduce overall program costs for all. This also recognizes those applicants who may not see a financial ROI but absolutely recognize the branding opportunity and potential in having their own gTLD and ultimately making the internet a better place for consumers.

In the absence of being able to establish a tiered model for applications, ICANN should at least dramatically reduce the application fee to reflect the current reality.

**1.5.1 Should the New gTLD application fee vary depending on the type of application? For instance, open versus closed registries, multiple identical applications or other factors? The 2012 round had “one fee fits all,” and there seems to be support within the WG for continuing that approach provided**

**that the variance between the different types of applications is not significantly different - do you agree? If not, how much of a variance would be required in order to change your support for a one fee for any type of application approach?**

We do not believe there need be variation in the "application" fee since the costs associated with the application review should be the same regardless of application type. Variation in costing should occur at a performance level (i.e. quarterly transaction fees, both fixed and variable) and be modelled specifically based on domains under management.

**1.5.2 The WG believes costing information on the different types of applications should be attained and evaluated once the different types of applications are defined. What are the implications of having different costs by type of application and how could they impact future budgeting efforts? How could they impact competition and choice?**

Offering a varied costing model will promote gaming among applicants seeking to minimize initial costs. If a varied costing model were to be employed, ICANN would need to then implement a compliance adherence process that would ensure a registry maintained the operating model of their original application. This will incur ongoing additional costs at ICANN that could not possibly be recovered as part of an applicant fee.

The real difference in any one string will be reflected by utility served by domains under management. If a brand chooses to use only 100 strings in the support of their online presence and a municipality also only uses 100 strings to deliver services to constituents, then both should be treated with the same costing model despite having very different types of applications.

**1.5.3 Should the application fee be variable based on the volume of applications received from a single applicant? If so, how should the fee be adjusted and what are the potential impacts from doing so?**

No, each application should stand alone both in the context of evaluation as well as costing. Otherwise, it could encourage the use of single entities to 'front' for the individual applicants. ICANN cannot prevent any change in ownership of gTLDs after the application has been approved.



## **Additional Questions**

**1. The topics above, and the corresponding questions, are all related to the scope of work as determined in this WG's charter. Do you feel that all topics must be fully resolved before any subsequent new gTLD procedures can take place? If not, do you believe that there is a critical path of issues that MUST be considered and addressed? Alternatively, do you believe that there are certain challenging issues where an existing solution may be present (e.g., in the Applicant Guidebook), which can serve as an interim solution, while debate can continue in parallel with the launch of subsequent new gTLD procedures?**

The near completion of the first round with very little "hiccups" is testimony to the fact that the process, for the most part, worked. There are a number of issues (pricing, RSP certification) that should be resolved prior to opening the next round. But there are many issues which can be addressed in parallel or indeed be adopted as the process moves forward. In so much as a policy decision does not limit the ability of a registry operator to go about their business but rather define needed refinements to an operational process; it can be done after the fact.

**2. Many in the community have noted the length of time from the close of the application submission period (i.e., June of 2012) to the informal projections for the beginning of subsequent new gTLD procedures (e.g., 2020). Do you have any suggestions on how to shorten that timeline, either now in the event of future rounds or other procedures?**

The community can (is) become mired in detail that is unnecessary for the continued launch of the program. And, where specific policy decisions may not apply to specific applicant types, these issues need not be resolved prior to an applicant window being opened for those applicant types (notably brands and/or geo-tlds).