**Considerations for Procurement of Legal Services for EPDP Team**

We are writing on behalf of a multi-stakeholder policy development team (the “EPDP” Expedited Policy Development Process”) formed by ICANN (the Internet Corporation of Assigned Names and Numbers) to develop GDPR-compliant policies to govern the operation and procedures of the domain name industry with respect to the data of domain name registrants. The EPDP team (made-up of representatives from the stakeholder groups described below) has been charted for a one (1) year period to develop policy recommendations on registration data. It is approximately half-way through its deliberations, and has carefully read and considered the GDPR, explanatory treatises, and the writings of the EDPB and views expressed by respective DPAs to date. The team is in need of a Service Provider of legal counsel to provide balanced guidance and clarity in GDPR application on a number of essential issues which are central to the policy determination process, and where there are divergent views in the multi-stakeholder community.

The expectations and Statement of Work (“SOW”) to address this need is as follows:

1. The Scope of the requested legal services will include a number of issues as outlined and related to the charter questions of the EPDP Initial Report[[1]](#footnote-1), published on November 20, 2018, and now available for public comment. Counsel should review this Report and be familiar with the open issues identified and be able to provide guidance on how data protection law might apply.
2. The Services are required immediately. It is likely that services will be required for intensive activity during the next 30-45 days but might continue for up to five months in total, which is the remaining time the EPDP team has to release and put in place a final report.
3. The Services will be required within a short frame turn-around, as the Team meets twice weekly and is on a trajectory to produce a draft Final Report within the next two (2) months. Questions will be submitted in writing. Responses in writing are expected in one week or less. Verbal communication, requiring attendance at a regularly scheduled EPDP call, between the EPDP Team and the Service provider might occur when it will save time:
   1. The Service Provider seeks clarification to fully understand the question
   2. The Team seeks clarification to fully understand the written response by the Service Provider

For reference: EPDP calls are generally schedule Tuesday and Thursday 1400-1600 UTC. In addition, the EPDP Team will meet in Toronto (EST) on 16-18 January.

1. The Service Provider shall be well-versed in GDPR and global data protection laws and familiar with and knowledgeable about the ICANN framework and process. The Service Provider should be permitted within its mandate to advise the EPDP Team and its respective stakeholder groups without conflict and without limitations on public comment.
2. Illustrative questions can be provided to demonstrate the types of counsel required.

Notes to ICANN:

One: In selecting the law firm, ICANN will consider whether the law firm has any actual or positional conflicts of interest with respect to the application of GDPR to WHOIS.  In responding to the RFP, interested law firms should note whether they have previously provided advice to ICANN, Contracted Parties, or interested third parties (such as those seeking access to WHOIS), regarding the application of GDPR to WHOIS, that may prevent them from providing advice that may be inconsistent or contrary to prior advice provided on this issue.

Two. In addition, the EPDP Team has discussed ways to ensure that the legal compliance work is conducted in a cost-efficient manner. One approach is to use the same independent outside counsel for both the EPDP Team and ICANN Org.  
  
The EPDP Team believes that both ICANN Org and the EPDP Team will require answers to the same or similar questions. Therefore, reaching out to one firm might avoid duplicate cost and also potentially conflicting advice.   
  
Since we are working on a solution that is fair to all parties facing compliance challenges, we believe that using an independent firm might help to find a balanced solution in which burdens, risks, and benefits are appropriately shared.

1. <https://gnso.icann.org/sites/default/files/file/field-file-attach/epdp-gtld-registration-data-specs-initial-21nov18-en.pdf> [↑](#footnote-ref-1)