



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 unique identifier system, one of its foundational principles has been to promote competition and choice in the domain-name marketplace while ensuring Internet security and stability.

We are now engaging in a detailed and lengthy consultation process with all constituencies of the global Internet community as to how best to introduce new gTLDs. Representatives from a wide variety of stakeholders—governments, individuals, civil society, business and intellectual property constituencies, and the technology community—were engaged in discussions and bottom-up policy development for more than three years. 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. 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 of the policy process and outcomes at <http://gns0.icann.org/issues/new-gtlds/>.

In October 2008, ICANN published the first Draft Applicant Guidebook for public comment. I would like to thank all of the businesses, governments, individuals, communities, and other groups that provided comment. This feedback is an essential element of the implementation planning process for introducing new gTLDs.

Over 1200 pages of feedback, from more than 300 entities, was received. We also received many more verbal responses in various meetings. These comments have been analysed and considered in the context of the GNSO policy recommendations and the ICANN Board resolution to adopt those recommendations. The second version of the Draft Applicant Guidebook has been developed to reflect and address, to the extent possible, the comments received.

The second version incorporates changes and provides clarification on many issues raised during the comment period. For example additional information on fees and the refund policy is included, updates have been made to the geographical names requirements, and the methodology for resolving string contention has been revised. Additional information on objection standards and standing has also been included and changes have been made to the registry agreement, including further detail regarding registry/registrar separation. This second version of the Draft Applicant Guidebook is now available for comment.



As with the first Draft Applicant Guidebook, several explanatory memoranda will accompany this version to enable readers to better understand the implementation work.

In addition to comments on the various elements of the Draft Applicant Guidebook, comments were also received on a number of important broader issues relating to the introduction of new gTLDs, such as the overall demand for new gTLDs, trademark protection, security and stability concerns relating to root zone capacity, and the potential for increased malicious conduct such as phishing and spoofing as a result of new gTLDs. ICANN is taking steps to engage interested parties in dialogue on those issues. These discussions, and progressing the work to develop a final version of the Draft Applicant Guidebook, will be undertaken concurrently. From an operational perspective, it is not resource effective or efficient to stop this work while discussion is taking place on the broader range of issues. Nor is it the intent to launch the process without resolving these overarching issues. Rather, it is the intention to continue engagement with the broader community while working out other implementation details of the program.

I look forward to receiving comments on this latest version of the Draft Applicant Guidebook.

Sincerely,

A handwritten signature in black ink that reads "Paul D Twomey".

Paul Twomey
President and CEO

Draft Applicant Guidebook, Version 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.



18 February 2009



Draft Applicant Guidebook, v2

Module 1

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18 February 2009

Module 1

Introduction to the gTLD Application Process

Note for Draft Applicant Guidebook v2: Where it is possible to provide a concise description of public comment on the first Draft Applicant Guidebook and how it has been considered in creating this draft, footnotes are included in the text. For a detailed analysis of public comment received on the first Draft Applicant Guidebook, see the summary posted at <http://www.icann.org/en/topics/new-gtlds/agv1-analysis-public-comments-18feb09-en.pdf>.

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://gns0.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. [A simplified interactive graphic of the process is available for reference at](#)

<http://www.icann.org/en/topics/new-gtlds/interactive.htm>.

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 certain stages that may or may not be applicable-apply in any given case are also shown. A brief description of each stage follows.

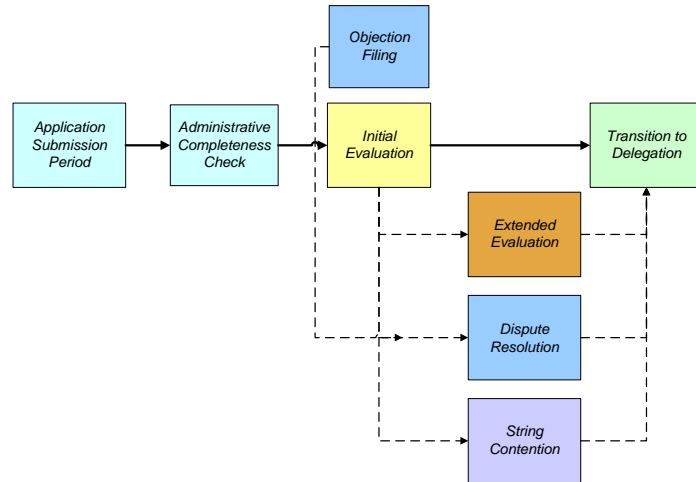


Figure 1-1 – Once submitted to ICANN, applications will pass through multiple stages of processing.

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 at one time a list of applications considered complete and ready for evaluation as soon as practical after the close of the application period. Certain questions, including finance and security-related questions, have been designated by ICANN as confidential: applicant responses to these questions will not be posted. Confidential areas are indicated on the set of applicant questions at <http://www.icann.org/en/topics/new-gtlds/draft-evaluation-criteria-clean-18feb09-en.pdf>.

~~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:

- 1. String reviews (concerning the applied-for gTLD string). String reviews include a determination that the applied-for gTLD string is not likely to cause security or stability problems in the DNS; and

2. 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, operational, and financial capability to operate a registry.

- ~~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 results. 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 ~~subsection 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 ~~period phase~~ will close following the end of the Initial Evaluation period (refer to ~~subsection paragraph~~ 1.1.2.3). There will be a window of time between the posting of the results of Initial Evaluation and the close of the objection filing period. Objections that have been filed during the objection filing ~~period phase~~ will be addressed in the dispute resolution ~~stage phase~~, which is outlined in ~~subsection 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 the ~~objection filing is~~ objection filing 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 certain 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 exchange of information~~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 whose applications that are the subject of a formal objection.

Where formal objections are filed and filing fees paid during the objection filing ~~period~~ phase, dispute resolution service providers (DRSPs) 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. Consolidation of objections filed may occur, at the discretion of the DRSP.

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). In the event of multiple objections, an applicant must prevail in ALL dispute resolution proceedings in order to progress to the next stage. 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 [string](#) or for gTLD [strings](#) 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 ~~[auction alternative mechanism for efficient resolution of string contention](#)~~.

In the event of contention between applied-for [gTLD](#) strings that represent geographical names, the parties may be asked to follow a different process to resolve the contention. [See subsection 2.1.1.4 of Module 2 for more information.](#)

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 [requests 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.

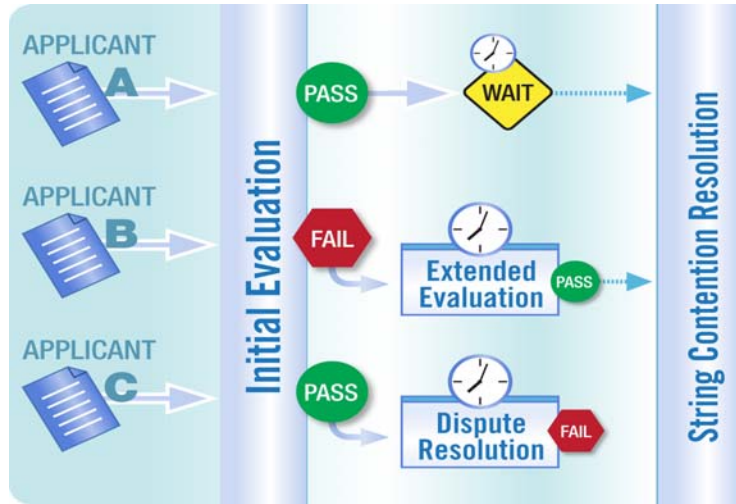


Figure 1-2 – All applications in a contention set must complete all previous evaluation and dispute resolution stages before string contention resolution can begin.

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 results of the string contention resolution 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 show satisfactory performance on technical checks before delegation of the gTLD into the root zone may be initiated. 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 ~~The Role of 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 [subsection 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 [perform due diligence on the comments received](#), ~~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.

[In the event of a comparative evaluation \(see Module 4, String Contention Procedures\), ICANN will provide the comments received to the evaluators with instructions to perform due diligence on the comments and take the information into account in reaching its conclusions.](#)

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/a	N/A	No
7	Fail	Fail	N/A/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 of the applied-for gTLD.

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 of the applied-for gTLD string.

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, ~~the 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 filing period, ~~an valid~~ objection is ~~filed~~ raised on one of the four enumerated grounds 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 can ~~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 ~~filed~~ raised by one or more objectors with standing ~~for in~~ one or more of the four enumerated 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 aspects of 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 filing period, ~~one valid an~~ objection is ~~filed~~raised on one of the four enumerated grounds by an objector with standing. The objection is heard by a dispute resolution service provider panel that ~~finds 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 filing period, ~~an one valid~~ objection is ~~filed~~raised on one of the four enumerated grounds 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 ~~successfully completed Initial or Extended Evaluation~~successfully completed Initial Evaluation, and other stages as applicable~~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 required in this stage. ~~in this phase~~.

1.1.5 Subsequent Application Rounds¹

ICANN's goal is to launch ~~subsequent~~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 Designation

All applicants are required to designate ~~whether their application is each application for a new gTLD as~~ community-based, open, or community-based.

1.2.2.1 Definitions²

~~For purposes of this Applicant Guidebook, 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 ICANN received a number of comments on this section, with some suggesting that ICANN commit to a date for a next application round, and others noting sufficient time should be allotted to assess and incorporate the lessons of the initial evaluation round. ICANN remains committed to a timely implementation of further application rounds, subject to careful evaluation of the lessons of the first. Hence, a one-year goal remains in this draft.

² Some comments on this section questioned the terminology "open" and "community-based," noting that the notion of community is not antithetical to that of openness. ICANN acknowledges that these definitions are not as precise as desired, but has not yet identified a more accurate term that is not also misleading or confusing. "Open" here is used to mean any application that the applicant has not designated as community-based. Further suggestions on clarifying this distinction are welcome.

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.

For purposes of differentiation, an application that has not been designated as community-based will be referred to hereinafter in this document as anFor purposes of this RFP, ~~an open gTLD. 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 or open 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 [Section 4.1 of Module 4](#)) may be obliged to participate in either a comparative evaluation or ~~an auction~~ 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.

~~An auction~~ Another efficient mechanism for contention resolution will result in ~~other cases of contention not resolved by comparative evaluation or agreement between the parties.~~ Auction occurs as a contention resolution means of last resort. 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 ([see the draft agreement at http://www.icann.org/en/topics/new-gtlds/draft-agreement-clean-18feb09-en.pdf](http://www.icann.org/en/topics/new-gtlds/draft-agreement-clean-18feb09-en.pdf)) 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 all material changes to the contract, including changes to community-based nature of the gTLD and any associated ~~provisionse~~ contract changes.

Community-based applications are intended to be a narrow category, for applications where there are distinct associations among the applicant, the community served, and the applied-for gTLD string. Evaluation of an applicant's designation as community-based will occur only in the event of a contention situation that results in a comparative evaluation. However, any applicant designating its application as community-based will, if the application is approved, be bound by the registry

agreement to implement the community-based restrictions it has specified in the application. This is true even if there are no contending applicants.

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.

~~1.4.~~ **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. ~~If audited financial statements are not available, applicants may submit the latest available audited financial statements and unaudited financial statements for the latest interim period. For some applicants, such as newly formed entities, a pro forma balance sheet will be acceptable~~

~~2.5.~~ 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 or 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 **gTLD** 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 subsection~~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 approval 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 network operators may not immediately fully support new top-level domains, even when these domains have been delegated in the DNS root zone, since third-party software modification may be required and may not happen immediately. ~~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. Similarly, software applications sometimes attempt to validate domain names and may not recognize new or unknown top-level domains. ICANN has no authority or ability to require that software accept new top-level domains although it does prominently publicize which top-level domains are valid and has developed a basic tool to assist application providers in the use of current root-zone data.~~

ICANN encourages applicants to familiarize themselves with these issues and account for them in their startup and launch plans. Successful applicants may find themselves expending considerable efforts working with providers to achieve acceptance of their new top-level domain.

Applicants should review <http://www.icann.org/en/topics/TLD-acceptance/> (Informational) RFC 3696 (see <http://www.ietf.org/rfc/rfc3696.txt?number=3696>) for background. IDN applicants should also 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.

1.2.6 Notice of Changes to Information

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. ICANN reserves the right to require a re-evaluation of the application in the event of a material change.

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>).~~
- ~~6.5.~~ Its IDN tables. An IDN 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. Once in use by an active TLD registry, tables will be lodged in the IANA Repository of IDN Practices. For additional information, examples, see existing tables at <http://iana.org/domains/idn-tables/>, and submission-guidelines at <http://iana.org/procedures/idn-repository.html>.
6. 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 ~~is were~~ applying for a string with known issues, it should document steps

that will be taken to mitigate these issues in applications. While it is not possible to ensure that all rendering problems are avoided, it is important that as many as possible are identified early and that the potential registry operator is aware of these issues. Applicants can become familiar with these issues by understanding the IDNA protocol and in particular the proposed new version of the IDNA protocol (see <http://www.icann.org/en/topics/idn/rfcs.htm>), and by active participation in the IDN wiki (see <http://idn.icann.org/>).where some rendering problems are demonstrated.

7. **[Optional]** - Representation of label in phonetic alphabet. The applicant may choose to provide its applied-for gTLD string notated according to the International Phonetic Alphabet (<http://www.arts.gla.ac.uk/IPA/ipachart.html>). Note that this information will not be evaluated or scored. The information, if provided, will be used as a guide to ICANN in responding to inquiries or speaking of the application in public presentations.

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 ~~includes~~ 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 [Applicant GuidebookRFP](#)].

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.

1.4.1.12 Workflow Management

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

1.4.1.23 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.~~

ICANN will take commercially reasonable steps to protect all applicant data submitted from unauthorized access, but cannot warrant against the malicious acts of third parties who may, through system corruption or other means, gain unauthorized access to such data.

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 [Applicant GuidebookRFP](#)] 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 ~~Description~~**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.~~

Note on 2000 proof-of-concept round applicants -- Participants in ICANN's proof-of-concept application process in 2000 may be eligible for a credit toward the evaluation fee. The credit is in the amount of USD 86,000 and is subject to:

- *submission of documentary proof by the applicant that it is the same entity that applied previously and a confirmation that there are no existing legal rights remaining from*

the 2000 proof of concept round process; and

- application for the same TLD string that the same entity applied for in the 2000 proof-of-concept application round.

Applicants may be required to pay additional fees in certain cases where specialized process steps are applicable. 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 subsection 2.1.3 of Module 2 on Registry Services review.³
- **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. Ordinarily, 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

³ Some comments suggested that the Registry Services Review Fee should be folded into the Evaluation Fee paid by all applicants. An extended Registry Services review is expected to be a rare occurrence; however, the cost of the extended review is high, and the actual frequency of the review is uncertain. The approach here features the cost of the Registry Services Review being borne by those applicants who are using the process.

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. In cases where disputes are consolidated and there are more than two parties involved, the advance payment of fees will occur according to the dispute resolution service provider's rules.

- 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. In cases where disputes are consolidated and there are more than two parties involved, the refund of fees will occur according to the dispute resolution service provider's rules.

ICANN estimates that adjudication fees for 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 as a deposit in an amount to cover the cost of the comparative evaluation panel's review of that application. The deposit 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 for circumstances in which a comparative evaluation may take place. An applicant who is declared the winner of a comparative evaluation will have its deposit refunded.

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-gtlds/draft-agreement-clean-18feb09-en.pdf>~~<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 of the gTLD evaluation fee described in section 1.5.1 may be available to applicants who choose to withdraw prior to completing certain stages of the process, as follows:

Refund Available to Applicant	Percentage of Evaluation Fee	Amount of Refund
<u>After posting of applications</u>	<u>70%</u>	<u>USD 130,000</u>
<u>After Initial Evaluation</u>	<u>35%</u>	<u>USD 65,000</u>
<u>After any later stage</u>	<u>20%</u>	<u>USD 37,000</u>

Thus, any applicant that has not been successful is eligible for a 20% refund of the evaluation fee if it withdraws its application.

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 Applicant GuidebookRFP

Applicants may submit questions about completing the application form to [email address to be inserted in final version of Applicant GuidebookRFP]. 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.



Draft Applicant Guidebook, v2

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.

18 February 2009

Module 2

Evaluation Procedures

This module describes the evaluation procedures and criteria used to determine whether applied-for gTLDs are approved for delegation as a gTLD. All applicants will undergo an Initial Evaluation and those that do not pass all elements may request to 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 its 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.~~ See Section 2.2 below.

2.1 Initial Evaluation

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

The first ~~review~~examination focuses on the applied ~~-for~~gTLD string to test:

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

The second ~~review~~examination focuses on the applicant to test:

- Whether the applicant has the requisite technical, operational, 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 ~~subsections~~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 preliminary comparison of each applied-for gTLD string against existing TLDs and against other applied-for gTLD strings. The ~~review~~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. The visual similarity check that occurs during Initial Evaluation is intended to augment the objection and dispute resolution

~~process (see Module 3, Dispute Resolution Procedures) that addresses all types of similarity. ICANN will perform determinations of string similarity in accordance with the steps outlined here.~~

~~This~~ similarity review will be conducted by a panel of String Similarity Examiners. ~~This examination~~ will be informed ~~in part~~ 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 visual 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 ~~threetwo~~ 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; ~~and~~
- Applied-for gTLD strings against strings requested as in IDN ccTLDs processes.

Similarity to Existing TLDs 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 TLD 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 will 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 alternative forms of the same label (RFC 3490).

~~A. 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 ~~application applied for gTLD string~~ that passes this ~~preliminary~~ 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. Such category of objection is not limited to visual similarity. Rather, confusion based on any type of similarity (including visual, aural, or similarity of meaning) may be claimed by an objector. Refer to Module 3, Dispute Resolution Procedures, for more information about the objection process.

~~**String Contention Sets: Similarity with Similarity to Other Applied-for gTLD Strings (String Contention Sets)**~~ – 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 in later stages 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.

An applicant may file a formal objection against another gTLD application on string confusion grounds (see Module 3, Dispute Resolution Procedures). Such an objection may, if successful, change the configuration of the previously-configured contention sets in that the two applied-for gTLD

strings will be considered in direct contention with one another (see Module 4, String Contention Procedures). The objection process will not result in removal of an application from a contention set.

Similarity to TLD strings requested applied for as IDN ccTLDs -

- Applied-for gTLD strings will also be reviewed for similarity to TLD strings requested 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 the following approach take steps to resolving the conflict. ~~(See process for Geographical Names in paragraph 2.1.1.4.)~~

If one of the applications has completed its respective process before the other is lodged, that TLD will be delegated. A gTLD application that has been approved by the Board will be considered complete, and therefore would not be disqualified based on contention with a newly-filed IDN ccTLD request. Similarly, an IDN ccTLD request that has completed evaluation (i.e., is "validated") will be considered complete and therefore would not be disqualified based on contention with a newly-filed gTLD application.

If the gTLD applicant does not have the required approval from the relevant government or public authority, a validated request for an IDN ccTLD will prevail and the gTLD application will not be approved.

If both the gTLD applicant and the IDN ccTLD requestor have the required approval from the relevant government or public authority, both applications will be kept on hold until the contention is resolved through agreement between the parties, i.e., resolved by the government.

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 will be available in multiple scripts. The Algorithm is also available to applicants for testing and informational purposes. The ~~Algorithm and user~~ Algorithm, user guidelines, and additional background information are available at <http://icann.sword-group.com/icann-algorithm/>. ~~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, hyphenation, and string length¹. Note that hyphens are ignored when performing the comparison, so the string "E-X-A-M-P-L-E" would be scored by the Algorithm as identical to the string "EXAMPLE."

2.1.1.2 ~~Review for~~ Reserved Names Review

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.²

Top-Level Reserved Names List

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

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

¹ ICANN received some questions concerning the Algorithm's incorporation of factors such as keyboard proximity, to guard against typosquatting. Keyboard proximity is not addressed as a special category of similarity, as gTLDs are used globally, and keyboards vary from one country to another. However, the purpose of the string similarity check is to avoid confusion and it is expected that typosquatting attempts by applicants will be recognized by the Algorithm or by the Examiners.

² The Top-Level Reserved Names List has not changed for this draft of the guidebook. Some comments questioned the inclusion of ICANN's name and the names of ICANN structures on the list. ICANN has taken a conservative approach by including names already reserved at the second level in most gTLDs, and will undertake the work recommended by the GNSO's Reserved Names Working Group in regard to treatment of the ICANN names. Additionally, comments suggested addition of other categories of names, such as well-known brands or geographical names to the Top-Level Reserved Names List. Discussion of these issues is included in the Public Comments Analysis at <http://www.icann.org/en/topics/new-gtlds/agv1-analysis-public-comments-18feb09-en.pdf>.

In addition, applied-for gTLD strings are reviewed in a process identical to that described in the preceding section to determine whether they ~~are similar to 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 Stability Review~~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 ~~DNS~~String Stability: String Review Procedure

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~~ applied-for gTLD~~proposed~~ strings comply with the requirements relevant standards provided in section 2.1.1.3.2 in the preceding section and
- ~~determine whether any strings raise significant~~ technical security or stability issues that may require further review~~an Extended Evaluation~~.

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

ICANN will notify applicants who have not passed the Initial Evaluation due to security or stability concerns about the applied-for gTLD string at the conclusion of the Initial

Evaluation period. Applicants will have 15 calendar days to decide whether to proceed with Extended Evaluation. 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 ~~complies~~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 (~~i.e. 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. In the case of Punycode (IDNA2008 A-label) representations of IDN labels (U-labels), this includes the four initial characters (xn--).
 - Upper and lower case characters are considered to be syntactically and semantically ~~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", "0377" (255 in octal) or "0xff" (255 in hexadecimal) as the top-level

domain can be interpreted as IP addresses representing decimal, octal, and hexadecimal strings, can be confused for IP addresses.³ As such, labels: Therefore an ASCII label must not be:

- A decimal number consisting entirely of the digits. Must not be wholly composed of digits between "0" through and "9";
 - A hexadecimal number consisting of the digit "0" followed by the uppercase or lowercase letter "x" | "X" followed by a sequence of one or more characters all of which belong to the set of uppercase or lowercase letters "a" | "A" through "f" | "F" and the digits "0" through "9"; or 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". An octal number consisting of the uppercase or lowercase letter "o" | "O" followed by a sequence of one or more characters all of which belong to the set of digits "0" through "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 (i.e., 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 contain 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.

³ Refer to <http://www.icann.org/en/topics/new-gtlds/update-dns-stability-18feb09-en.pdf> for further background on octal and hexadecimal representations, and on the changes in this section.

- The label must be a valid internationalized domain name, as specified in the technical standard *Internationalizing Domain Names in Applications* (RFC 3490) or any revisions of this technical standard currently underway within the IETF. Due to this ongoing revision, the IDN-related technical requirements are subject to change. This includes, but is not limited to, the following constraints. Note that these are guidelines and are not a complete statement of the requirements of the IDNA specifications. The label; the following nonexhaustive list of limitations:
 - Must only contain Unicode code points that are defined as "Protocol Valid" or "Contextual Rule Required" in *The Unicode Codepoints and IDNA* (<http://www.ietf.org/internet-drafts/draft-ietf-idnabis-tables-05.txt>), and that are accompanied, in the case of "Contextual Rule Required," by unambiguous contextual rules where necessary.
 - Must be fully compliant with Normalization Form C, as described in *Unicode Standard Annex #15: Unicode Normalization Forms* (s-See also examples in <http://unicode.org/faq/normalization.html>).
 - Must consist entirely of characters with the same directional same directional property. (Note that this requirement may change with the revision of the IDNA protocol to allow for characters with no directional property defined in Unicode to be available along with either a right-to-left or a left-to-right directionality.)
- 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 are 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.⁴

2.1.1.4 Geographical Names

ICANN will review all applied-for gTLD 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 Categories of Strings Considered Geographical Names Intended to Represent Geographical Entities

The following types of applications are considered geographical names and must be accompanied by documentations of support or non-objection from the relevant government(s) or public authority(ies):⁵

- An aApplications 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_data_bases.htm), as updated from time to time. A meaningful representation includes a representation of the country or territory name in any language. This includes a representation of the

⁴ ICANN received a number of comments suggesting that gTLDs consisting of fewer than three characters should be allowed in some cases, for example, in scripts featuring ideographs. The issues with defining requirements for certain cases are discussed in further detail in the Public Comments Analysis at <http://www.icann.org/en/topics/new-gTlds/agv1-analysis-public-comments-18feb09-en.pdf> and ICANN invites further input on solutions.

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.

A string is deemed a meaningful representation of a country or territory name if it is:

- o The name of the country or territory; or
 - o A part of the name of the country or territory denoting the country or territory; or
 - o A short-form designation for the name of the country or territory that is recognizable and denotes the country or territory.
-
- An application for any string that is an exact match of represents a *sub-national place name*, such as a county, province, or state, listed in the ISO 3166-2 standard⁵, as updated from time to time.
 - An application for any string that is a representation, in any language, of the *capital city name* of any country or territory listed in the ISO 3166-1 standard.
 - An application for a *city name*, where the applicant declares that it intends to use the gTLD for purposes associated with the city name. ~~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>.

In the case of an application for a string which represents a continent or UN region,

⁵ ICANN is continuing to use the ISO 3166-1 and 2 lists as the most applicable references for the new gTLD process. The 3166-2 list is intended to be used in conjunction with the 3166-1 list, which was selected by Jon Postel as the basis for allocating ccTLDs, in the knowledge that ISO has a procedure for determining which entities should and should not be included. The ISO 3166-2 list provides an independent and dynamic source of names which is consistent with ICANN's existing processes.

documentation 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.

An applied-for gTLD string that falls into any the above categories is considered to represent a geographical name. In the event of any doubt, it is in the applicant's interest to consult with relevant governments and public authorities and enlist their support or non-objection prior to submission of the application, in order to preclude possible objections and pre-address any ambiguities concerning the string and applicable requirements.

It is the applicant's responsibility to:

- identify whether its applied-for gTLD string falls into any of the above categories; and
- and to determine the relevant government(s) or governments, or the relevant public authority(ies); and
- identify which level of government support is required.
- ~~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 requirement to include documentation of support for certain applications does not preclude or exempt applications from being the subject of objections on community grounds (refer to subsection 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 Documentation Requirements

The ~~documentation 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 relevant 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 in 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 intended use~~what it will be used for~~.

~~The letter should also demonstrate the government's or public authority's understanding that the string is being sought through the gTLD application process and the applicant is willing to accept the conditions under which the string will be available, i.e., entry into a registry agreement with ICANN requiring compliance with consensus policies and payment of fees.~~

~~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.~~

2.1.1.4.32 *Review Procedure for Geographical Names*

A Geographical Names Panel (GNP) will be established to ~~evaluate applications and~~ confirm whether each applied-for gTLD string represents a geographical name~~term~~, and to verify the relevance and authenticity of the supporting documentation where necessary. It is the intention that ICANN will retain a third party to perform the function of the GNP. The Panel will examine applied-for gTLD strings against a composite database of geographic names drawn from authoritative sources, and review supporting documentation. The GNP will comprise individuals with linguistic, geographic, and governmental expertise. The Geographic Names Panel may consult with additional experts as necessary~~they consider appropriate~~.

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

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

~~forwards applications considered complete to the GNP for confirmation that the applied-for gTLD string is a geographical name (i.e., falls into any of the categories listed in subsection 2.1.1.4.1). For any applications where the applied-for gTLD string is not determined to be a geographical name, the application will pass the Geographical Names review with no additional steps required. For any application where the applied-for gTLD string is determined to be a geographical name (as described in this module), the GNP will confirm that the applicant has provided documentation from all relevant governments or public authorities, and that is a meaningful representation of a country or territory name or a subnational place name, and that the communication from the government or public authority is legitimate and contains the required suggested content.~~

~~An applicant who has not provided the required documentation will be notified of the requirement and given a limited time frame to provide it. If the time frame is not met, the application will be considered incomplete and will not pass the Initial Evaluation. The applicant may reapply in subsequent application rounds, if desired.~~

- ~~• Note that the GNP will review all applications received, not only those where the applicant has designated its applied-for gTLD string as a geographical name.~~

~~1. 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.~~

~~2. 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.~~

~~3. 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~~name as described in this section, and the applications are considered complete (~~i.e., that is,~~ have requisite

government approvals), the applications will be suspended pending resolution by the applicants.

If ~~an application for a string representing a geographical name is in there is a~~ contention ~~set with applications for similar strings that have not been identified as geographical names, between identical (or similar) applicants where one is identified as a geographical name,~~ the string contention will be settled using the string contention ~~procedures~~ 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 *Technical/Operational and Financial Reviews Information Sought*

The questions provided for applicants in the application form are available at

~~<http://www.icann.org/en/topics/new-gtlds/draft-evaluation-criteria-clean-18feb09-en.pdf>~~
~~<http://www.icann.org/en/topics/new-gtld-draft-evaluation-criteria-24oct08-en.pdf>~~

~~–~~Applicants ~~respond to 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 part of this information will result in an application being considered incomplete. Required documents will also be requested and supplied here. ~~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.

~~It is the applicant’s responsibility to ensure that the questions have been fully answered and the required documentation is attached. 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. The Initial Evaluation period provides for Only one exchange of information between the applicant and the evaluators may take place within the Initial Evaluation period.⁶ Any~~

⁶ Some comments suggested that there was a lack of flexibility in the limitation to one exchange between applicant and evaluators during the Initial Evaluation. The design goal is an efficient and predictable process. The opportunity for

such request will be made solely through TAS, rather than by direct means such as phone, letter, email, or other similar means.

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. ~~(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. ~~(2)~~ other products or services that the registry operator is required to provide because of the establishment of a consensus policy; and
3. ~~(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>. Proposed r~~Registry services will be examined to determine if the ~~y proposed registry service~~ might raise significant stability or security issues. Examples of services ~~submitted to the registry services process proposed~~

one communication is a compromise that reduces the bottlenecking issue that would likely occur in an open-ended dialogue, but does afford the opportunity for an applicant to provide any necessary clarifications.

by ~~existing established~~ registries can be found at <http://www.icann.org/en/registries/rsep/>. ~~In most cases, these proposed services successfully pass this inquiry.~~

~~The registration of domain names, for example, is a registry service. Lists of r~~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>.

~~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-gtlds/draft-agreement-clean-18feb09-en.pdf>.

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

~~Procedure~~—ICANN's ~~The first~~ review will ~~include 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 [DNS Stability Technical Panel \(as performed by experts on the existing RSTEP\)](#) (see <http://www.icann.org/en/registries/rsep/rstep.html>). This review, ~~if applicable~~, will occur during the Extended Evaluation ~~period phase~~ (refer to ~~S~~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 [subsection paragraph 2.1.2.1](#)). [There is no additional fee for an extended evaluation in this instance.](#)
- ~~Demonstration of financial capability (refer to [subsection paragraph 2.1.2.1](#)). [There is no additional fee for an extended evaluation in this instance.](#)~~
[An Extended Evaluation may also result if ICANN identifies a need for further review on the following elements:](#)
- ~~DNS stability – String review~~ (refer to [subsection paragraph 2.1.1.3](#)). [There is no additional fee for an extended evaluation in this instance.](#)
- [DNS stability – 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*

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

An applicant who has requested Extended Evaluation will again access the online application system and clarify its answers to those questions or sections on which it received a non-passing score.

The Extended Evaluation allows one additional exchange of information~~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. Applicants may not use the Extended Evaluation period to substitute portions of new information for the information submitted in their original applications.

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>~~<http://www.icann.org/en/topics/new-gtlds/draft-evaluation-criteria-clean-18feb09-en.pdf>, to determine whether the application, now that certain information has been clarified, meets the criteria.⁷

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.

⁷ Some comments were received indicating a preference for a new panel to perform the Extended Evaluation. ICANN will consult with the evaluators retained for this role for their recommendations on what is standard in analogous situations.

2.2.2 ~~DNS Stability -- 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 ~~subsection 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 ~~fails to~~ ~~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 ~~technical~~ 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. In this instance, an applicant has 15 calendar days to notify ICANN of its intent to proceed with the application. If an applicant does not explicitly provide this notice, the application will proceed no further.

2.3 Channels for Communication Probity and Conflicts of Interest

Defined channels for technical support or exchanges of information with ICANN and its evaluators will be made available to applicants during the Initial Evaluation and Extended Evaluation periods. Contacting individual ICANN staff members, Board members, or other individuals performing an evaluation role in order to lobby or obtain confidential information is not appropriate. In the interests of fairness and equivalent treatment for all applicants, any such individual contacts will be referred to the appropriate communication channels, 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 Applicant Guidebook, v2

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.

18 February 2009

Module 3

Dispute Resolution Procedures

This module describes the purpose of the objection and dispute resolution mechanisms, the grounds for lodging a ~~formal~~ 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 ~~dispute resolution panel~~DRSP will apply in ~~reaching its expert determination~~its decisions.

All applicants should be aware of the possibility that an objection may be filed against ~~any~~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 ~~a~~certain parties with standing to have ~~its~~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 the applicability of this gTLD dispute resolution process. Similarly, an objector accepts the applicability of this 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 in the same round of applications.

Legal Rights Objection – The applied-for gTLD string infringes the 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-part-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 [a panel of expert 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 an existing TLD operator successfully asserts string confusion with an applicant, the application will be rejected.

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, [String Contention Procedures](#)). If an objection by ~~one~~ 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 ([which may include either registered or unregistered marks](#)) 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. [ICANN is still working to develop standing requirements for filing objections relating to Morality and Public Order. Some concerns have been expressed about leaving standing open to any person or entity, but concerns have also been raised about limiting this to just one defined group, such as governments. Allowing anyone to object is consistent with the scope of potential harm, but may be an insufficient bar to frivolous objections. On the other hand, while groups such as governments are well-suited to protecting morality and public order within their own countries, they may be unwilling to participate in the process.](#)

~~The current thought, on which ICANN invites further public comment, is to develop a mechanism by which those objecting on the ground of morality and public order must show a legitimate interest and harm or potential harm resulting from the applied-for gTLD string. As in other objection proceedings, such a mechanism likely will lead to a two-phased process for the dispute resolution panels wherein first they would assess standing, and if that is satisfied, the panel would then consider the merits of the objection. 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~~defined communities are eligible to file a community objection. The “defined community” must be a community related to the applied-for gTLD string in the application that is the subject of the 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 Dispute Resolution Service Providers

To trigger a dispute resolution proceeding, an objection must be filed by the posted deadline date, 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 Center of Expertise of the International Chamber of Commerce has agreed in principle to administer disputes brought pursuant to Morality and Public Order and Community Objections.

3.1.43 *Options in the Event of Objection*

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

The applicant can work to reach a settlement with the objector, resulting in withdrawal of the objection or the application;

The applicant can file a response to the objection and enter the dispute resolution process (refer to Section~~subsection~~ 3.23); 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.

3.1.5 *Independent Objector*¹

A formal objection to a gTLD application may also be filed by the Independent Objector. The Independent Objector does not act on behalf of any particular persons or entities, but acts solely in the best interests of the public who use the global Internet.

In light of this goal of this public interest goal, the Independent Objector is limited to filing objections on the grounds of Morality and Public Order and Community.

Neither ICANN staff nor the ICANN Board of Directors will have authority to direct or require the Independent Objector to file or not file any particular objection. If the Independent Objector determines that an objection should be filed, he or she will initiate and prosecute the objection in the public interest.

¹ This section is included to provide an initial opportunity for public comment. For further discussion, see the Explanatory Memorandum at <http://www.icann.org/en/topics/new-gtlds/independent-objector-18feb09-en.pdf>.

The Independent Objector will have considerable experience and respect in the Internet community, unaffiliated with any gTLD applicant.

3.2 Filing Procedures 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. The information included in this section provides a summary of procedures for filing:~~

- ~~• Objections; and~~
- ~~• Responses to objections.~~

~~For a comprehensive statement of filing requirements applicable generally, refer to the New gTLD Dispute Resolution Procedure (“Procedure”) at <http://www.icann.org/en/topics/new-gtlds/draft-dispute-resolution-procedure-18feb09-en.pdf>. Note that the rules and procedures of each DRSP specific to each objection ground must also be followed.~~

~~In the event of any discrepancy between the information presented in this module and the Procedure, the Procedure shall prevail.~~

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 same procedures.

- All objections must be filed electronically with the appropriate DRSP 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 An~~ objector wishing ~~to~~ object to several applications ~~at the same time, the objector~~ must file a ~~separaten~~ objection and pay ~~the accompanying~~ filing fees for each application that is the subject of an objection. If an objector wishes to object to ~~anone~~ application on ~~more than one~~ different grounds, the objector must file ~~a~~ separate objections and pay ~~the accompanying~~ filing fees 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 of the objector, including address, phone, and email address, of all parties submitting an objection.~~
- ~~A statement of the objector's~~ The basis for standing; that is, why the objector believes it has the right to object.
- ~~A description of the objection, including statement of the nature of the dispute, which should include:~~
 - A statement giving the specific ground upon ~~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 it should be upheld, 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 ~~5000~~2500 words or 20 pages, whichever is less, excluding attachments.

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

~~An~~Each applicant and all objectors must provide copies of all submissions to the DRSP associated with the objection proceedings to the applicant~~one another~~, and to ICANN (except that confidential communications between the DRSP and objector shall not be provided to ICANN).

ICANN will publish an announcement~~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

3.2.3.1 Response 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~~ responding to several ~~objections, the applicant must~~ objections must file a

~~separate~~ response and pay ~~the accompanying~~ 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 of the applicant, including address, phone, and email address, of all parties submitting the response.~~
- ~~Each responding applicant's response must contain a point-by-point response to confirmation or denial of the claims made by the 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 ~~5000~~2500 words or 20 pages, whichever is less, excluding attachments.

- ~~Each applicant must provide copies of all submissions to the DRSP associated with the objection proceedings to the objector and to ICANN (except that confidential communications between the DRSP and responder shall not be provided to ICANN).~~
- ~~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.~~

~~3.2.43.2~~ 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.

3.34 Objection Processing Overview **——Dispute Resolution Procedure**

The information below provides an overview of the process by which DRSPs administer dispute proceedings that have been initiated. For comprehensive information, please refer to the New gTLD Dispute Resolution Procedure <http://www.icann.org/en/topics/new-gtlds/draft-dispute-resolution-procedure-18feb09-en.pdf>.

3.34.1 Administrative Review~~**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 right to submit ~~issuance 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 filingsubmitting an objection.

3.34.2 Consolidation of Objections

Once the DRSP receives and processes all objections, at its discretion the DRSP may elect to consolidate certain objections. The DRSP shall endeavor to decide upon consolidation prior to issuing its notice to applicants that the response should be filed and, where appropriate, shall inform the parties of the consolidation in that notice.

An example of a 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.

3.34.3 Negotiation and Mediation

The parties to a dispute resolution proceeding are encouraged—but not required—to participate in ~~negotiations and/or mediation~~ ~~cooling-off period to determine whether the dispute can be resolved by the parties aimed at settling the dispute amicably~~. Each DRSP has ~~experts~~ ~~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 ~~constituted to issue an expert determination in the related dispute to resolve the objection~~.

There are no automatic extensions of time associated with ~~the conduct of negotiations or mediation~~ ~~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. ~~Absent exceptional circumstances, t~~he parties must limit their requests for extension to 30 calendar days.

3.34.4 Selection of Expert Panels and Number of Panelists

~~A panel will consist of a~~ ~~experts~~ ~~panelists will be~~ appropriately qualified appointed to each proceeding by the designated DRSP.

~~Experts~~ ~~Panelists~~ must be independent of the parties to a ~~dispute~~ ~~objection~~ resolution proceeding. Each DRSP will follow its adopted procedures for requiring such independence, including procedures for challenging and replacing a ~~n expert~~ ~~panelist~~ for lack of independence.

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

There will be one ~~expert, or, if all parties agree, three~~ ~~experts~~ ~~panelist~~ with relevant experience in intellectual

property rights disputes in proceedings involving an existing legal rights objection.

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

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

Neither the ~~experts, 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.

3.34.5 Adjudication

~~The panel may decide whether the parties shall submit any written statements in addition to the filed objection and response, and may specify time limits for such submissions.~~

~~In order to achieve the goal of resolving disputes rapidly and at reasonable cost, procedures for the production of documents shall be limited. In exceptional cases, the panel may require a party to produce additional evidence.~~

~~Disputes will usually be resolved without a hearing. The panel may decide to hold a hearing only in extraordinary circumstances. 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.

3.34.6 Expert Determination Decision

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

- A summary of the dispute and findings;
- An identification of the prevailing party; and
- The reasoning upon which the expert determination 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.

~~The findings of the panel will be considered an expert determination and advice that ICANN will accept within the dispute resolution process. 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.~~

3.34.7 Dispute Resolution Costs Fees

Before acceptance of objections, each DRSP will publish or has published a schedule of costs or statement of how costs will be calculated 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~~ten (10) 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 ~~ten (10)~~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 DRSP 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~~expert determination, the DRSP will refund any costs paid in advance to the prevailing party.

3.45 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.

3.45.1 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.²

3.45.2 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 of experts presiding over a legal rights objection will determine whether the potential use of the applied-for gTLD by the applicant takes unfair advantage of the distinctive character or the reputation of the objector’s registered or unregistered 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 gTLD and the objector’s mark, by considering the following non-exclusive factors:

1. Whether the applied-for gTLD 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

²Some comments suggested that the standard should include defined categories of similarity (e.g., visual, aural, similarity of meaning) that may be alleged or considered in a string confusion objection. All types may be considered and the standard is open-ended to allow for disputes to be heard according to the claim made by the objector. The goal is to prevent user confusion.

to the gTLD, as the mark of the objector, of the applicant or of a third party.

4. Applicant's intent in applying for the gTLD, including whether the applicant, at the time of application for the gTLD, 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 gTLD 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 gTLD, 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 gTLD 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 gTLD, and if so, whether any purported or likely use of the gTLD by the applicant is consistent therewith and bona fide.
8. Whether the applicant's intended use of the gTLD would create a likelihood of confusion with the objector's mark as to the source, sponsorship, affiliation, or endorsement of the gTLD.

3.45.3 Morality and Public Order Objection³

~~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~~

³ This section is included to provide implementation details for public comment.

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.

An expert panel hearing a morality and public order objection will consider whether the applied-for gTLD string is contrary to general principles of international law for morality and public order, as reflected in relevant international agreements. Under these principles, everyone has the right to freedom of expression, but the exercise of this right carries with it special duties and responsibilities. Accordingly, certain limited restrictions may apply. The grounds upon which an applied-for gTLD string may be considered contrary to morality and public order according to internationally recognized standards are:

- Incitement to or promotion of violent lawless action;
- Incitement to or promotion of discrimination based upon race, color, gender, ethnicity, religion or national origin;
- Incitement to or promotion of child pornography or other sexual abuse of children; or
- A determination that an applied-for gTLD string would be contrary to equally generally accepted identified legal norms relating to morality and public order that are recognized under general principles of international law.

3.45.4 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;
- 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 Applicant Guidebook, v2

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.

18 February 2009

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 [auction 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.

[For a full description of considerations relating to string contention procedures, see the explanatory memorandum at <http://www.icann.org/en/topics/new-gtlds/string-contention-18feb09-en.pdf>.](http://www.icann.org/en/topics/new-gtlds/string-contention-18feb09-en.pdf)

4.1.1 Identification of Contention Sets

Contention sets are groups of applications containing identical or similar applied-for gTLD strings. (In this [Applicant Guidebook 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 2.1.1.1 [1 of Module 2](#) 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 is 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.

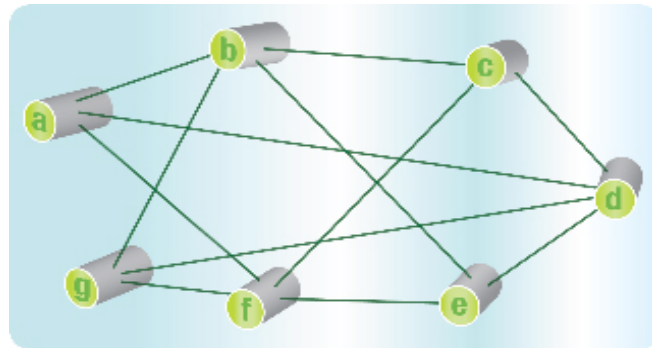


Figure 4-1 – This diagram represents one contention set, featuring both directly and indirectly contending strings.

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 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.

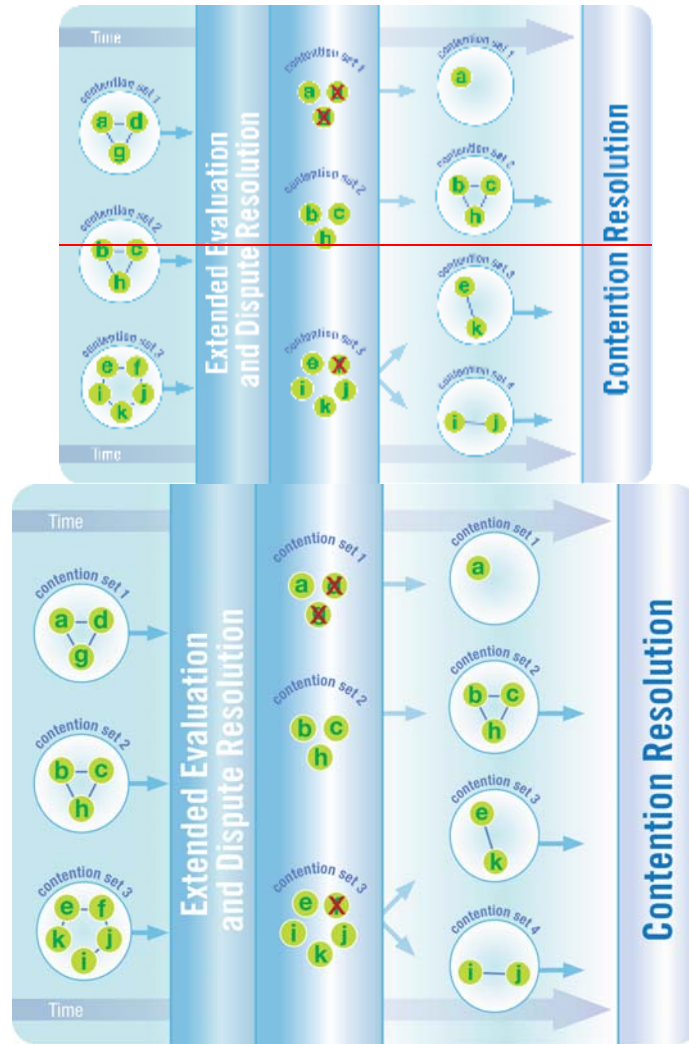


Figure 4-2 – Resolution of string contention cannot begin until all applicants within a contention set have completed all applicable previous stages.

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

As described elsewhere in this document, cases of contention might be resolved by comparative evaluation or some agreement of the parties. Absent that, the last-resort contention resolution mechanism will be an auction.~~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.” (See <http://www.icann.org/en/topics/string-contention-22oct08.pdf>).~~

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, ~~finds rules~~ in favor of the objector), the two applicants will be placed in direct contention with each other. Thus, the outcome of a ~~dispute resolution~~ 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 ~~that resolves the contention 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 resolve string contention in a manner whereby one or more applicants withdraw their applications. An applicant may not resolve string contention by selecting a new string or by replacing itself with a joint venture. It is understood that joint ventures may result from self-resolution of string contention by applicants. However, material changes in applications (for example, combinations of applicants to resolve contention) will require re-evaluation. This might require additional fees or evaluation in a subsequent application round. 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. Applicants are encouraged to resolve contention by combining in a way that does not materially affect the surviving application.~~

4.1.4 Possible Contention Resolution Outcomes

An application that has successfully completed all previous stages and is no longer part of a contention set due to changes within the contention set (as described in subsection 4.1.1) or self-resolution by applicants in the contention set (as described in subsection 4.1.3) may proceed to the next stage.

An application that prevails in a contention resolution procedure, either comparative evaluation or auction, may proceed to the next stage. 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~~ consider a case where string A is in contention with B, and 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 will only occur if a community-based applicant has selected this option in its application. 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; or
- Open.

Only community-based applicants may elect a comparative evaluation. ~~ICANN policy states that if~~ 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.~~ submit a deposit to cover the cost of the comparative evaluation. The deposit will be refunded to applicants that score 14 or higher.

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 ~~provider panel~~'s charter is to determine whether one of the community-based applications clearly and demonstrably have the support of the specified community would add more value to the Internet's Domain Name System. Open applicants within the contention set, if any, will not participate in the comparative evaluation.

If ~~an~~ single community-based applicant is found to meet the criteria (see subsection 4.2.3 below) for succeeding in the comparative evaluation, that applicant will be declared to prevail in the comparative evaluation and may proceed with its application. If more than one community-based applicant is found to meet the criteria, this will be resolved as follows:

- In the case where the applicants are in indirect contention with one another (see subsection 4.1.1), they will both be allowed to proceed to the next stage.
- In the case where the applicants are in direct contention with one another and have named the same community in their applications, one applicant will be granted priority if it has clearly demonstrated that it represents a majority and significantly larger share of the community. If no applicant has made such a demonstration, the applicants will proceed to an auction.
- In the case where the applicants are in direct contention with one another and have named different communities in their applications, the contention will be resolved through an auction among these applicants.

~~emerges as one that clearly and demonstrably adds more value to the namespace than all the competing contending applications. If none of the community-based applicants are found to meet the criteria,~~ 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 ~~four~~ the criteria as follows 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.

Criteria	Score		
	3	2	1
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.

Criteria #1: Nexus between Proposed String and Community

Criteria	Score				
	4	3	2	1	0
<u>Nexus between Proposed String and Community</u>	<u>String is strongly associated with the community or community institution and has no other significant associations.</u>	<u>String is clearly associated with the community but also has other associations.</u>	<u>String is relevant to the community but also has other well-known associations.</u>	<u>The string, although relevant to the community, primarily has wider associations.</u>	<u>The nexus between string and community does not fulfill the requirement for scoring 1.</u>

In detail, the nexus between string and community will be given:

- a score from 3, for strong association with the community, to 0, for insufficient association with the community.
- a score of 1 for absence of other associations to the string, i.e., the string is unique to this community, and a score of 0 if the string is known to also be a label for other communities.

Criteria #2: Dedicated Registration Policies

Criteria	Score				
	4	3	2	1	0
<u>Dedicated Registration Policies</u>	Registration eligibility is strictly limited to members of the pre-established community identified in the application. Registration policies also include name selection and other 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 formally associated with the community to register. Policies include most elements for a high score but one element is missing.	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 for the high score but more than one element is missing.	Registration eligibility is encouraged or facilitated for members of the pre-established community identified in the application, and also permits others to register. Policies include only one of the elements for high score.	The registration policies do not fulfill the requirement for scoring 1

In detail, the registration policies will be given:

- A score from 2 for eligibility restricted to community members, to 0 for a largely unrestricted approach to eligibility.
- A score of 1 for clear rules concerning name selection and other requirements for registered names of relevance to the community addressed, and a score of 0 for absence of rules concerning name selection and other requirements for registered names, or rules that are insufficient or lack relevance.
- A score of 1 for satisfactory enforcement measures and a score of 0 for absence of enforcement measures or measures that are insufficient.

Criteria #3: Community Establishment

<u>Criteria</u>	<u>Score</u>				
	<u>4</u>	<u>3</u>	<u>2</u>	<u>1</u>	<u>0</u>
<u>Community Establishment</u>	<u>Clearly identified, organized, and pre-established community of considerable size and longevity.</u>	<u>The community addressed fulfills all but one of the requirements for a high score.</u>	<u>The community addressed fulfills more than one of the requirements for a high score, but fails on two or more requirements.</u>	<u>The community addressed fulfills only one of the requirements for a high score.</u>	<u>The community addressed does not fulfill any of the requirements for a high score.</u>

In detail, the community establishment will be given:

- a score from 2, for a clearly identified, organized, and pre-established community, to 0 for a community lacking clear identification, organization, and establishment history.
- a score from 2 for a community of considerable size and longevity, to 0 for a community of very limited size and longevity.

Criteria #4: Community Endorsement

<u>Criteria</u>	<u>Score</u>				
	<u>4</u>	<u>3</u>	<u>2</u>	<u>1</u>	<u>0</u>
<u>Community Endorsement</u>	<u>Application from, or endorsement by, a recognized</u>	<u>Endorsement by most groups with apparent</u>	<u>Endorsement by groups with apparent</u>	<u>Assorted endorsements from groups of</u>	<u>Limited endorsement by groups of</u>

Criteria	Score				
	4	3	2	1	0
	community institution, or application endorsed by member organizations.	relevance, but unclear if the whole community is supportive.	relevance, but also some opposition from groups with apparent relevance.	unknown relevance, but also clear opposition from groups with apparent relevance.	unknown relevance, Strong opposition from groups with apparent relevance.

In detail, the community endorsement will be given:

- a score from 2 for clear and documented support, to 0 for no or limited endorsement of uncertain relevance.
- a score of 2 for no opposition of relevance, to 0 for strong and relevant opposition.

Scoring – An applicant must score at least 14 points to be declared a winner in a comparative evaluation. If no applicant scores 14 or more, there is no clear winner. If only one applicant scores 14 or more, that applicant will be declared the winner.

If more than one applicant scores 14 or more, all will be declared winners and the contention will be resolved according to the procedure described in subsection 4.2.2, 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 an auction-subsequent contention resolution process. Applications with no remaining contention will proceed toward delegation.

4.3 Auction: Mechanism of Last Resort¹

Efficient Mechanism for Contention Resolution

It is expected that most cases of contention will be resolved by the two-phased comparative evaluation, or agreement of the parties. Auction is a tie-breaker method for resolving string contention among the applicants within a contention set, if the contention has not been resolved by other means.

In practice, ICANN expects that most contention cases will be resolved through other means before reaching the auction stage. There is a possibility that significant funding will accrue to ICANN as a result of one or more auctions.²

4.3.1 Auction Procedures

This section provides applicants an informal introduction to the practicalities of participation in an ascending-clock auction. It is intended only as a general introduction and is only preliminary. If conflict arises between this section and the auction rules issued prior to commencement of any auction proceedings, the auction rules will prevail.

All auctions will be conducted over the Internet, with participants placing their bids remotely using a web-based software system designed especially for auction. The auction software system will be compatible with current

¹ This information is included to provide implementation details for public comment.

² The purpose of an auction is to resolve contention in a clear, objective manner. Proceeds from auctions will be reserved and earmarked until the uses of the proceeds are determined. It is planned that costs of the new gTLD program will offset by fees, so any funds coming from a last resort contention resolution mechanism such as auctions would result (after paying for the auction process) in additional funding. Therefore, consideration of a last resort contention mechanism should include the uses of funds. Funds must be earmarked separately and used in a manner that supports directly ICANN's Mission and Core Values and also maintains its not for profit status.

Possible uses include formation of a foundation with a clear mission and a transparent way to allocate funds to projects that are of interest to the greater Internet community, such as grants to support new gTLD applications or registry operators from communities in subsequent gTLD rounds, the creation of an ICANN-administered/community-based fund for specific projects for the benefit of the Internet community, the creation of a registry continuity fund for the protection of registrants (ensuring that funds would be in place to support the operation of a gTLD registry until a successor could be found), or establishment of a security fund to expand use of secure protocols, conduct research, and support standards development organizations in accordance with ICANN's security and stability mission.

Further detail on the potential uses of funds will be provided with the proposed budget for the new gTLD process and updated Applicant Guidebook materials.

versions of most prevalent browsers, and will not require the local installation of any additional software.

Auction participants (“bidders”) will receive instructions for access to the online auction site. Access to the site will be password-protected and bids will be encrypted through SSL. If a bidder temporarily loses connection to the Internet, that bidder may be permitted to submit its bids in a given auction round by fax, according to procedures described in the auction rules. The auctions will generally be conducted to conclude quickly, ideally in a single day.

The auction will be carried out in a series of auction rounds, as illustrated in Figure 4-3. The sequence of events is as follows:

1. For each auction round, the auctioneer will announce in advance: (1) the start-of-round price, (2) the end-of-round price, and (3) the starting and ending times of the auction round. In the first auction round, the start-of-round price for all bidders in the auction will be USD 0. In later auction rounds, the start-of-round price will be its end-of-round price from the previous auction round.



Figure 4-3 – Sequence of events during an ascending-clock auction.

2. During each auction round, bidders will be required to submit a bid or bids representing their willingness to pay within the range of intermediate prices between the

start-of-round and end-of-round prices. In this way a bidder indicates its willingness to stay in the auction at all prices through and including the end-of-auction round price, or its wish to exit the auction at a price less than the end-of-auction round price, called the exit bid.

3. Exit is irrevocable. If a bidder exited the auction in a previous auction round, the bidder is not permitted to re-enter in the current auction round.
4. Bidders may submit their bid or bids at any time during the auction round.
5. Only bids that comply with all aspects of the auction rules will be considered valid. If more than one valid bid is submitted by a given bidder within the time limit of the auction round, the auctioneer will treat the last valid submitted bid as the actual bid.
6. At the end of each auction round, bids become the bidders' legally-binding offers to secure the winning slot at prices up to the respective bid amounts, subject to closure of the auction in accordance with the auction rules. In later auction rounds, bids may be used to exit from the auction at subsequent higher prices.
7. After each auction round, the auctioneer will disclose the aggregate number of bidders remaining in the auction at the end-of-round prices for the auction round, and will announce the prices and times for the next auction round.
 - Each bid should consist of a single price associated with the application, and such price must be greater than or equal to the start-of-round price.
 - If the bid amount is strictly less than the end-of-round price, then the bid is treated as an exit bid at the specified amount, and it signifies the bidder's binding commitment to pay up to the bid amount if its application is approved.
 - If the bid amount is greater than or equal to the end-of-round price, then the bid signifies that the bidder wishes to remain in the auction at all prices in the current auction round, and it signifies the

bidder's binding commitment to pay up to the end-of-round price if its application is approved. Following such bid, the application cannot be eliminated within the current auction round.

- To the extent that the bid amount exceeds the end-of-round price, then the bid is also treated as a proxy bid to be carried forward to the next auction round. The bidder will be permitted to change the proxy bid amount in the next auction round, and the amount of the proxy bid will not constrain the bidder's ability to submit any valid bid amount in the next auction round.
 - No bidder is permitted to submit a bid for any application for which an exit bid was received in a prior auction round.
 - If no valid bid is submitted within a given auction round for an application that remains in the auction, then the bid amount is taken to be the amount of the proxy bid, if any, carried forward from the previous auction round or, if none, the bid is taken to be an exit bid at the start-of-round price for the current auction round.
8. This process continues, with the auctioneer increasing the price range for each given TLD string in each auction round, until there is one remaining bidder at the end-of-round price. After an auction round in which this condition is satisfied, the auction concludes and the auctioneer determines the clearing price. The last remaining application is deemed the successful application, and the associated bidder is obligated to pay the clearing price.

Figure 4-4 illustrates how an auction for five contending applications might progress.

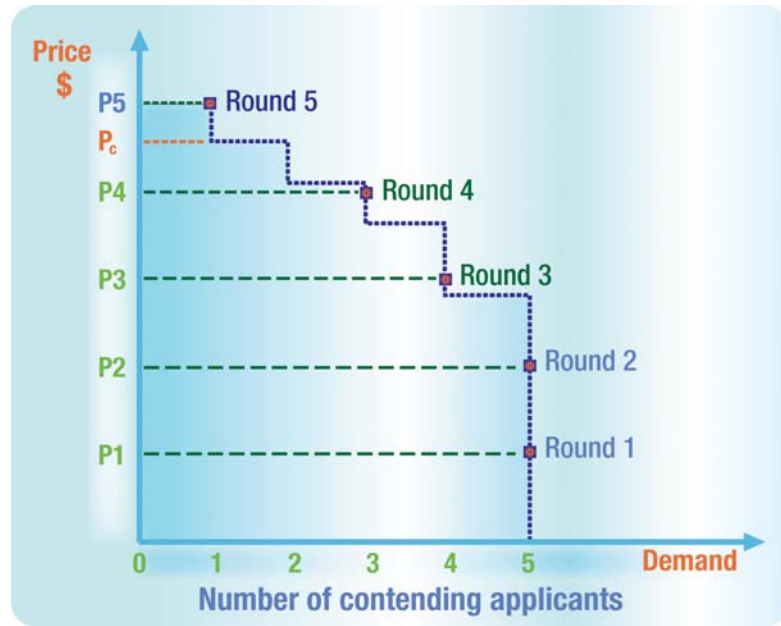


Figure 4-4 – Example of an auction for five mutually-contending applications.

- Before the first auction round, the auctioneer announces the end-of-round price P_1 .
- During Auction round 1, a bid is submitted for each application. In Figure 4-4, all five bidders submit bids of at least P_1 . Since the aggregate demand exceeds one, the auction proceeds to Auction round 2. The auctioneer discloses that five contending applications remained at P_1 and announces the end-of-round price P_2 .
- During Auction round 2, a bid is submitted for each application. In Figure 4-4, all five bidders submit bids of at least P_2 . The auctioneer discloses that five contending applications remained at P_2 and announces the end-of-round price P_3 .
- During Auction round 3, one of the bidders submits an exit bid at slightly below P_3 , while the other four bidders submit bids of at least P_3 . The auctioneer discloses that four contending applications

remained at P_3 and announces the end-of-round price P_4 .

- During Auction round 4, one of the bidders submits an exit bid midway between P_3 and P_4 , while the other three remaining bidders submit bids of at least P_4 . The auctioneer discloses that three contending applications remained at P_4 and announces the end-of-auction round price P_5 .
- During Auction round 5, one of the bidders submits an exit bid at slightly above P_4 , and one of the bidders submits an exit bid at P_c midway between P_4 and P_5 . The final bidder submits a bid greater than P_c . Since the aggregate demand at P_5 does not exceed one, the auction concludes in Auction round 5. The application associated with the highest bid in Auction round 5 is deemed the successful application. The clearing price is P_c , as this is the lowest price at which aggregate demand can be met.

To the extent possible, auctions to resolve multiple string contention situations may be conducted simultaneously.

4.3.1.1 Currency

For bids to be comparable, all bids in the auction will be submitted in any integer (whole) number of US dollars.

4.3.1.2 Fees

A bidding deposit will be required of applicants participating in the auction, in an amount to be determined.

All deposits from nondefaulting losing bidders will be returned following the close of the auction.

4.3.2 Winning Bid Payments

Any applicant that participates in an auction will be required to sign a bidder agreement that acknowledges its rights and responsibilities in the auction, including that its bids are legally binding commitments to pay the amount bid if it wins; that is, if its application is approved, and to

enter into the prescribed registry agreement with ICANN— together with a specified penalty for defaulting on its bid.

The winning bidder in any auction will be required to pay the full amount of the final price within 10 business days of the end of the auction. Payment is to be made by wire transfer to the same international bank account as the bidding deposit, and the applicant's bidding deposit will be credited toward the final price.

Any winning bidder for whom the full amount of the final price is not received within 10 business days of the end of an auction is subject to being declared in default. At their sole discretion, ICANN and its auction provider may delay the declaration of default for a brief period, but only if they are convinced that receipt of full payment is imminent.

4.3.3 Post-Default Procedures

Once declared in default, the winning bidder is subject to immediate forfeiture of its position in the auction and assessment of default penalties. After a winning bidder is declared in default, the remaining bidders will receive an offer to have their applications accepted, one at a time, in descending order of their exit bids. In this way, the next bidder would be declared the winner subject to payment of its last bid price.

Each bidder that is offered the relevant gTLD will be given a specified period—typically, four business days—to respond as to whether it wants the gTLD. A bidder who responds in the affirmative will have 10 business days to submit its full payment.

The penalty for defaulting on a winning bid will be the greater of the following: (1) 10% of the defaulting bid, or (2) the amount by which the defaulting bid exceeds the bid amount that ICANN is ultimately paid by an applicant for the identical or similar contending gTLD string.

Default penalties will be charged against any defaulting applicant's bidding deposit before the associated bidding deposit is returned and, to the extent that the default penalty exceeds the associated bidding deposit, the defaulting applicant will also be liable for the additional amount.

_____ 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 the winner of a contention resolution process will proceed by entering into contract execution step-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 ~~fourteen~~eleven, might be selected to ~~proceed toward~~go on to the next step, delegation. (Refer to Module 5.) Similarly, in an ~~auction~~efficient mechanism for contention resolution, another applicant who would be considered the runner-up applicant might proceed to ~~ward 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 Applicant Guidebook, v2

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.

18 February 2009

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-gtlds/draft-agreement-clean-18feb09-en.pdf>. ~~<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> ~~<http://www.icann.org/en/topics/new-gtlds/draft-summary-changes-base-agreement-18feb09-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, e~~Each applicant will be required to complete pre-delegation ~~testing 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 <http://www.icann.org/en/topics/new-gtlds/draft-evaluation-criteria-clean-18feb09-en.pdf> ~~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 listing all characters supported for registration of names in the TLD must be developed and provided by the IDN string applicant at the time the application is was submitted. The table must fulfill the requirements off 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

Question		Criteria
		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.
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	<i>Note: This requirement is under consideration and the community is urged to provide feedback on this requirement.</i>
	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 . http://www.icann.org/en/topics/new-gtlds/draft-escrow-spec-clean-18feb09-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?	Applicant will self-certify adherence to this requirement and provide materials to ICANN that demonstrate adherence. Examples of self-certification

Question	Criteria
See http://www.icann.org/en/topics/new-gtld-draft-performance-spec-24oct08-en.pdf , http://www.icann.org/en/topics/new-gtlds/draft-performance-spec-clean-18feb09-en.pdf .	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 ~~its future 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 ~~request 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, v2

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.

18 February 2009

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 ~~determine not to proceed with~~ ~~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 IN COURT OR ANY OTHER JUDICIAL FORA 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 IN COURT OR ANY OTHER JUDICIAL FORA 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 to the confidentiality of the application will not be sufficient for these purposes. Except for information afforded confidential treatment 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, in draft form at <u>http://www.icann.org/en/topics/new-gtlds/draft-evaluation-criteria-18feb09-en.pdf</u> . as at
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.
Auction	A method for allocating property or goods to the highest bidder.
Auction round	Within an auction, the period of time commencing with

	<u>the announcement of a start-of-round price and concluding with the announcement of an end-of-round price.</u>
AXFR	Asynchronous full transfer, a DNS protocol mechanism through which a DNS zone can be replicated to a remote DNS server.
<u>Bidder</u>	<u>An applicant who participates in an auction.</u>
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 (DNS)	The Internet Domain Name System. The DNS helps users find their way around the Internet. Every computer on the Internet has a unique address—just like a telephone number—which is a rather complicated string of numbers. Called an IP address (IP stand for Internet Protocol), the string of numbers is hard to remember. The DNS makes using the Internet easier by allowing a familiar string of letters (the domain name) to be used instead of the arcane IP address. So instead of typing 207.151.159.3, a user can type www.internic.net . It is a mnemonic device that makes addresses easier to remember.
Domain Name System Security Extensions (DNSSEC)	DNSSEC secures domain name lookups 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-gtlds/draft-agreement-18feb09-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.

Unicode

Unicode is a commonly used single encoding scheme that provides a unique number for each character across a wide variety of languages and scripts. The Unicode standard contains tables that list the “code points” (unique numbers) for each local character identified. These tables continue to expand as more and more characters are digitalized.

In Unicode, characters are assigned codes that uniquely define every character in many of the scripts in the world. These “code points” are unique numbers for a character or some character aspect such as an accent mark or ligature. Unicode supports more than a million code points, which are written with a “U” followed by a plus sign and the unique number in hexadecimal notation; for example, the word “Hello” is written U+0048 U+0065 U+006C U+006C U+006F.

Uniform Domain Name Dispute Resolution Policy (UDRP)	A policy for resolving disputes arising from alleged abusive registrations of domain names (for example, cybersquatting), allowing expedited administrative 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.

