
ICANN Transcription
GNSO New gTLD Subsequent Procedures Working Group
Thursday, 27 February 2020 at 20:00 UTC

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ANDREA GLANDON: Good morning, good afternoon, and good evening, and welcome to the new gTLD Subsequent Procedures PDP call being held on Thursday the 27th of February 2020 at 20:00 UTC. In the interest of time, there will be no roll call. Attendance will be taken by the Zoom room. If you are only on the audio bridge, could you please let yourselves be known now? We do have Cheryl Langdon-Orr who is only on the audio bridge, it appears.

Thank you. Hearing no further names, I would like to remind all participants to please state your name before speaking. One moment, please. Okay. Please state your name before speaking for transcription purposes and please keep your phones and microphones on mute when not speaking to avoid any background noise. With this, I will turn it over to Jeff Neuman. Please begin.

JEFFREY NEUMAN: Thanks, Andrea. That was some interesting music. I think that might have been someone putting us on hold. Welcome, everyone. We have quite a busy schedule. Paul, I think your line is open. Okay. If you look at the agenda, we're going to start with a

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discussion on the working method documents that we sent around earlier today, and then go into the material. Specifically today, we'll be talking about applicant reviews. That includes the technical, operational, financial, and registry services component of the review.

But before we do that, let me just ask to see if there are any updates to any statements of interest? Okay. Not seeing any hands. All right. Why don't we, then, just jump into the working method? Earlier, I had sent around an e-mail to the group. I just wanted to go over this. We did discuss it a few ... I guess it might have been last week or even, maybe, the week before. No, I guess it was last week. It's hard to keep track of time.

Essentially, what this is is how we're going to work and get to a final draft report that we will be putting out for comment. We'll talk later about—not later today but later on as we get closer to the report—how that comment period can be structured. But for now, what we're going to do is, as you know, we've been going through the Google Doc.

It's called a "working document" and we've been going through that as sections are ready to be discussed. After those sessions where we discuss it, we're going back and we're working to put any of their notes or edits so that we can make sure that the next version will reflect the topics of discussion during the call and address the issues that came up.

This is the document that we're going to continue to use as a working document for these types of discussions, like the one

today, for the next several weeks as we go through topics that we haven't covered in this depth or in this format going forward.

Once the sections are discussed on a call, we've been working—the leadership team with our ICANN colleagues—on producing a clean version of these sections. We're tentatively calling that a “production document,” which will be a read-only document for the working group.

We're trying to put them in logical sections, so we're not going to be releasing one section at a time. We're trying to come up with, once a series of sections are done, releasing those in this production format so that the working group can take a look at it.

But at that point, once we send out that document, because we are getting close to final, we're asking that each of the working group members, if they have a proposed change or any concepts or things that they don't think are right, if we can just click ... Yeah, there we go.

So, this is the form that we're asking to be filled out so that we can keep track of all the comments and others can see the comments, as well. And then, we can check them off when we've gone over them.

But also, it's really getting to the point where we're asking for, what can you not live with? Right now, and for the past several years, we've been working on a format where people have been putting comments in, discussions on whatever their opinion is on the matter, changes they'd like to see.

But I think, at this point, because we've gone over, and over, and over all of these topics on many occasions, we're going to be at the point where we're asking that you only comment on pieces of the sections or reports that you cannot live with. This is the way that, also, the ePDP has been working on some of its activities. It's a good way forward to make sure that we're really, now, only working on the parts of the report that are really the deepest-held beliefs and things that, I think people say, "Would you die in a ditch for this?"

So what we're asking for is that you would put in the applicable text that you have an issue with, along with each of the sections are going to have specific numbers, so you'll be able to put that section number in it, then put in why you can't live with that particular section worded the way it is. And then, some suggested changes that you would make to the text, but also keeping in mind the previous discussions on the topic, but also what others have already voiced in terms what they can live with or cannot live with.

That's what we're asking for in terms of the format going forward. It's kind of a new way of working, in terms of this production document, so it's going to take some time getting used to. We're not anticipating having any sections of the production document out until mid-March, at the earliest. We'll have time to go over this process again but I just wanted to introduce it now to get you all thinking about this on a going-forward basis.

I think I've covered ... Let me just make sure. I'll go through the e-mail here and cover this out. Oh, the last bullet which says that "any issues that are identified on this list"—and again, everyone will have access to this list—"will work out on the mailing list or, if absolutely

necessary, we'll work it out on a subsequent call, but the hope is to do as much as we can online." Okay. Jim, please.

JIM PRENDERGAST: Yeah. Thanks, Jeff. You know, I think this is something the ePDP used. I think it worked out fairly well. It's kind of new to some of the folks who are on this team. A question for you, though: this is just to get us to the document that actually goes out for public comment? This form is not something that would be used beyond this group but for the public comment period? It only applies to the inner workings of the group and doesn't apply to the actual comment period itself, is that correct?

JEFFREY NEUMAN: Yeah, absolutely. Right. This is to get to the document that we put out for public comment. Of course, if you want to file comments to the report, either individually or with a group stakeholder constituency, whatever, yeah, absolutely, you can certainly do that. This is just the internal document to get us to that report. Okay. Thanks, Jim.

And then, I would assume, after we get the comments in and we go through the comments, we'll likely use something like this, as well, to get to the final, final report before we take a consensus call.

Okay. Any other questions? It's a good question, Jim. All right. Like I said, we'll go through this again when we actually start doing that but, for now, I just wanted to introduce it so you had some time to think about it.

If we could also go through or put up the work plan, right now? Because on the last call, we talked about doing some meetings which you, I believe, should have gotten e-mail invites for already, I think. Calendar invites. And because we added those sessions, we updated the work plan to reflect these new sessions in there. And what you'll notice, if you had compared this to the old one, is by having these sessions put in ... One of the new ones, for example, is next Thursday, March 5th. The two meetings directly the week after ICANN which, because normally folks are traveling, we don't schedule meetings, but since we're doing the meeting remotely we're able to have a meeting on the 16th and 19th.

So, with the ability to do that, plus the progress we hope to make at ICANN67, which we'll talk about in a second, we actually think we could shave close to a month off of what the timeline was.

Now, the ultimate goal would be to get out the report for public comment prior to ICANN68, if my numbers are correct. Yes. So, whether that's remote or face-to-face, whatever it is, the goal is to get the report out before that meeting.

And so, the next topic is that we're going to be starting applicant reviews today—likely, that'll bleed over into the meeting on Monday—and then get into registrant protections, which is a relatively short section that doesn't cover all of the registrant protections because some of them are baked into other sections, but it covers a specific subset of ones.

And then, we added in for Thursday, March 5th, registrar support for new gTLDs, non-discrimination, and registry/registrar. Whatever you want to call that, separation, standardization, that's the topic.

This means that after ICANN the plan is to continue some of the discussions that we are having during the ICANN sessions, which hopefully will cover things like the global public interest community applications, so that we can follow up on those the following week—or the following two weeks, I guess—and then get into the subjects you see there.

So, if we could scroll down, what all of this means is that we hope to have a report out for public comment by ICANN68 and, if we are able to schedule one or two longer sessions in the end of April or May, then we could even have some more buffer prior to ICANN68. Any questions on that? Okay.

Let's go to the first topic for today, the applicant reviews. I know I had seen that there was an e-mail or two on the working methods. I haven't had a chance to read them yet but I will respond to them, or Cheryl or I will respond to them, but just haven't looked at the questions, yet. I know there are a couple of comments in there.

All right. We are now talking about applicant reviews. If you remember, whether it was last week or the week before, we actually talked about registry testing. During that discussion, we talked about the difference between testing and evaluation. What we're talking about today is specifically the evaluation processes, one of the components of which is technical.

This is the review of answers given to the application questions. When we talk about “the technical and operational questions,” for this purpose we want you to be thinking of both through the regular application process but also potentially through an RSP. I think

we're calling it "evaluation process." I'm trying to remember what we ended up calling it, now. I don't know why I'm blanking here.

But with the principle that the evaluations that take place during the regular application process will be the same evaluations that take place during the pre-evaluation process that we were discussing a couple of weeks ago. Does that make sense?

Okay. So, the first ... Actually, wait. It sounds like someone has their hand up and I might have missed it. Let me go ... Oh, no. Greg, did you have a ...? Your mic is open. Did you want to say something? Nope? Okay.

The first section applies to just a general notion of applicant reviews, and then we get into some more specifics on the technical, operational, financial, and registry services.

The first affirmation is affirming several principles and recommendations from the 2007 policy that were related to applicant reviews. Those are principles D and E, and then also what was called in that document "recommendation one," "recommendation nine," and "recommendation 18," with a slight modification.

So principle D basically says, essentially, that there must be a set of technical criteria to assess a new gTLD registry applicant to minimize the risk of harming the operational stability, security, and global interoperability of the Internet.

Principle E says, "A set of capability criteria for a new registry applicant must be used, providing assurance that the applicant has

the capability to meet its obligations under the terms of the ICANN registry agreement.”

What was called “recommendation one” in 2007 was, “ICANN must implement a process that allows the introduction of new top-level domains. The evaluation and selection procedures for new gTLD registries should respect the principles of fairness, transparency, and non-discrimination. All applicants for a new gTLD registry should, therefore, be evaluated against transparent and predictable criteria fully available to the applicants prior to the initiation of the process. Normally, therefore, not subsequent additional selection criteria should be used in the selection process.” That was the wording back in 2007 we think still holds today.

“Recommendation nine” talks about “there must be a clear and pre-published application process using objective and measurable criteria.” And finally, there was “recommendation 18,” which stated that “if an applicant offers an IDN service then ICANN’s IDN guidelines must be followed.” Slightly modified it to, basically, say “the then-current IDN guidelines.” I think when the new gTLD process started we may have been on IDN Guidelines version two. Since then, I think there has been a version three and now a version four.

So I'm just looking at a comment real quick from Elaine which says, “Jeff said the evaluation application is not the same as the pre-evaluation.” No, it actually is the same. Whatever is being evaluated during pre-evaluation would be evaluated, or those that have not been pre-evaluated would be evaluated during the regular process. Sorry, that sounded really confusing.

If you go back to the RSP pre-evaluation process, that was, and is, a voluntary program, and if you're using an RSP that has been pre-evaluated, you don't then have to go through the technical evaluation again during the application process. We'll get some more about that in through these recommendations.

So, the first recommendation was, or is, that evaluation scores on all questions should be limited to a pass/fail scale. As Rubens notes in the chat, there were two-point questions offering "extra credit," if you will, if you were to commit to doing certain things or you provided a stellar answer.

At the end of the day, scoring higher than someone else really didn't necessarily mean much of anything, as long as you passed the overall evaluation. And so, when Work Track 4 was discussing this issue, it didn't see the need to continue that practice of having extra points.

Just going back to the chat, and then I'll go to Jim's comment. Okay. Yeah. This evaluation, again, just to reiterate, is performed for every RSP. It's either performed during the pre-evaluation process if they participate or during the application process if they don't participate in the pre-evaluation or, for some reason, if they don't pass the pre-evaluation and have to be evaluated again.

As Rubens notes, I didn't mention that ICANN's implementation review report also recommended dropping the two-point questions because, at the end of the day, it didn't really serve a purpose.

Sorry, let me go to Jim's comment on the side, there. He says, "As I recall, there were some questions worth more than one point."

Right, because of their importance. “As an example, are we suggesting that the description of purpose is on par with efforts to address DNS abuse if we limit point values to one?”

I think what we’re saying, Jim, here, is that you’re going to have a pass and a fail. If you, or if we as a community, or if ICANN wants DNS abuse to be covered in order to pass, then it should put that in the criteria to score one point, or to pass.

Anything it finds that it wants to make sure will go to the point earlier, if you scroll up a little bit and you look at the affirmations, we say—where is it?—principle D, “You must have technical criteria to minimize risk of harming operational stability, security, and global interoperability,” and principle E, which is that “the applicant has the capability to meet its obligations under the registry agreement.”

So if ICANN wants to have things about DNS abuse in there, or the community wants that, then they should put that in the definition of what it means to pass versus failing, as opposed to giving an “extra credit” point, which didn’t really amount to much. Because, at the end of the day, even if you got two points on one area, which is an extra point above passing, you still had to pass every other section. If you think about it and you’ve passed every other section anyway, the extra point doesn’t do anything for you. I hope that makes sense. Okay. Jim says, “Makes sense.” Cool.

All right. If we scroll down, then, back to where we were. Okay. Sorry, recommendation number two, which states that “all application evaluation questions and any accompanying guidance must be written such that it maximizes predictability and minimizes the likelihood of clarifying questions.”

What this relates to is that there were lengthy conversations in Work Track 4 where there were clarifying questions that were asked of almost every single registry applicant. There were some questions, I think, that went to 90%, which tells us not that 90% of the registries were just deficient in providing answers but it really tells us that there must not have been a good understanding of what ICANN was trying to get at by asking the questions in the manner in which they did.

If it was 10% or 20% of the applicants that were asked clarifying questions about some of the questions, then you could chalk that up to, “Okay, that particular applicant or those particular applicants didn’t really answer the question right.” But when you have 90% of the applicants that don’t give the answer that ICANN or the evaluators were expecting, that’s more likely a problem with the question itself than the answers you got.

That is the reason why we’re recommending that all application evaluation questions and any guidance that comes with it must be written such that it maximizes predictability and minimizes the likelihood of clarifying questions.

Then, under this recommendation, there is implementation guidance which states that, “In order to meet the objectives of the relevant recommendation, ICANN Org should, at a minimum, conduct a detailed analysis of CQs,” that’s “clarifying questions,” “and CQ responses, additional guidance to the Applicant Guidebook, the knowledge articles that were written, and the supplemental notes from the 2012 round of the new gTLD program to better understand the basis for applicants providing what we were just talking about, which were unanticipated responses to the

2012 questions, and, therefore, how to improve the clarity of their questions in the future.”

For those of you that participated in Work Track 4, you may remember that we tried really hard to get a copy of the clarifying questions that were issued. We also tried to get a copy of the answers that were given and, if you also recall, applicants were also asked whether they would consent to having their answers to the public portions of the application disclosed so that we could evaluate them and see if we could work on improving the questions.

For a whole bunch of reasons which we won't get into now, but maybe over a beer at the next face-to-face ICANN meeting, we were not able to get copies of those questions or the responses. And so, therefore, this implementation guidance is doing the next best thing, saying that, “Look, if we can't do it, that's fine. But ICANN, you really need to review the questions you asked, the clarifying questions and the responses you got, in order to help you and the community come up with the questions that should be asked in future rounds.”

Rubens goes into it a little bit more by saying that there were confidentiality terms that the evaluators had that did not allow them to disclose any information. Yeah. There were a whole bunch of issues, without assigning fault to anyone, that just made it difficult for us to get that data.

Jim states, “is Jothan a member of this group? He was an evaluator and may be able to shed some light.” That's what Rubens responded to and said “they are bound by confidentiality.” Yeah, we

have tried to have conversations with some of the evaluators and they basically gave the answer that Rubens was referring to.

But I think that's fine. I'm not sure that the community needs to write those questions. I think the community agrees with the types of information that ICANN was seeking, and is really just sending the message now through this guidance that we should improve the wording of the questions because that will help you issue less clarifying questions in the future, at least in theory.

Okay. Moving on, then, to last one before we get to technical and operational, that "ICANN Org must publish CQs and CQ responses related to public questions. ICANN Org may redact parts of the CQ and/or the CQ response if there is non-public information directed contained in these materials or if publication in full is likely to allow the inference of non-public or confidential information."

Just one item on this recommendation. Even though ICANN published and set out in advance, it was going to publish your answers to questions 31 through 44, let's say, or 43. Those were published, no issues there. But if ICANN asked a clarifying question on your public response there was no mechanism, or ICANN did not believe it had the authority to publish those questions or responses. We thought, especially Work Track 4, that that didn't make sense. The whole point of having a section be public is that it is public, and any questions that ask to clarify things in that public question should also be public. We think that that made sense. Anyone have questions on that one? Okay.

Now we're talking specifically about the technical and operational evaluation. Again, keep in mind that this could be the evaluation

either during a pre-evaluation process, if an RSP participates, or the regular evaluation process if an RSP either didn't participate in the evaluation process or if it did but didn't pass and has to do it again.

The first affirmation is recommendation seven, which is actually slightly modified with some additional text. That's in italics. "Applicants must be able to demonstrate their technical and operational capability to run a registry operation for the purpose that the applicant sets out"—this is what we added—"either by submitting it to evaluation at application time or agreeing to use a pre-evaluated RSP."

Make sense? Questions? Let me go to the comments, here. Is Jim's comment to this one? Because I can't hover over it. Yes, okay. Jim says, "This suggests alternate language. Use an RSP who has successfully completed the pre-evaluation program, then link back to the section."

I actually think that is a better way to state it. That does make sense. Let me just see if there is anyone on the call that would object to changing it to the language that Jim has. Okay. I know it's sort of putting people on the spot but it does look like it says the same things we're trying to say but better so thanks, Jim. Okay. Julie's comment below, that's to a different recommendation, right? I'm just trying to make sure. Yeah. Okay, that's to the next one.

The next affirmation is, "While affording the improvements to clarity that will result from the previous recommendations, ICANN Org should retain the same substantive framework for the technical and operational questions utilized in the 2012 round of the new gTLD

program. The exception to this affirmation is question 30(b), security policy,” which we talk about in the implementation guidance, so I’ll go over that one before I go over the comment.

In the implementation guidance, it says, “A mechanism should be established to meet the spirit of the goals embodied within question 30(b), security policy, without requiring applicants to provide their full security policy.”

This was discussed at length with Work Track 4 and I do know first-hand that there were with number of organizations that have a security policy that encompasses much more than just the registry security, and therefore they were very reluctant to want to disclose their entire security policy over to an entity, ICANN, which they didn’t know. And so, getting the entire security policy was not easy at all and, frankly, some of these security policies were thousands of pages and most, or 99.9% of it, referred to items that had nothing to do with the registry operation.

As an example, if you can imagine, I’ll take someone that I never worked with so apologies for singling someone out, but you can imagine asking for Cisco’s security policy, I’m sure, was an interesting thing to ask for and get, since they run a lot of the infrastructure around the world and to divulge a security policy like that could lead to vulnerabilities that have nothing to do with the registry.

Jim’s comment here is that “we need to ensure that the applicant ...” No, I’m sorry. Actually, this might have been to a different one. Let me do Julie’s comment first, that when we say “recommendation” we’re referring to the recommendation above

about improving the clarity. Sorry, Jim's comment is to this one, too. So we say, in here, to meet the spirit of the goals embodied within 30(b). What Jim's saying here is "we should make sure that the Applicant Guidebook clearly defines what the spirit of the goals embodied within question 30(b) are, otherwise it's open to interpretation."

One of the things we can do, as well, is cite to "the explanatory material" — I think that's what it was called. If you recall, in module two in the attachment that had the questions, there were not only the questions but there was a description of the types of things that ICANN was looking for to evaluate security and stability, so maybe we have a link to that.

Paul states in the notes, "ICANN has some data breaches in the applications, or had some data breaches in the application system, making them extra scared to turn over security plans, absolutely a classic example of the regulatory being less sophisticated than the regulatees."

Yeah, that didn't help the situation. When a number of us convinced these large corporations to turn over these security policies, assuring them that everything was safe and secure, we had some very difficult conversations when ICANN had to announce its data breach. Now, fortunately, its data breach did not result in the disclosure of security plans but you could imagine what some of those discussions were like with people that had clients that didn't want to provide it in the first place.

Okay. The next recommendation is that the technical and operational evaluation must be done in an efficient manner, as

described in the implementation guidance below. Okay, I'll go onto the next implementation guidance because the recommendation will make more sense.

Implementation guidance with rationale six states, "ICANN Org or its designee should aggregate and/or consolidate the technical and operational evaluation across applications to the extent feasible. Where the applications for all intents and purposes share identical responses to the relevant questions, particularly as it relates to the proposed registry services, this is intended to apply even when an applicant indicates that they will not use a pre-evaluated RSP."

"For example, if an applicant submits multiple applications or multiple applications are submitted from different applicants that share a common technical infrastructure, the technical and operational evaluation may only need to be performed once, as opposed to being evaluated for each individual application."

So this implementation guidance is taking the concepts behind the pre-evaluation process and carrying it forward to the regular evaluation process. So it's saying that, "Look, if you go through the regular evaluation process and you have your RSP tested out or evaluated at that point in time, so long as all the applications that use that RSP that follow that one are identical in respect to the services that are being offered, there should be no need to have to re-evaluate them hundreds of times if there are hundreds of applications." Makes sense? Okay.

The next recommendation is that, consistent with implementation guidance—I will get to this in a minute—the technical and operational evaluation must emphasize the evaluation of elements

that are specific to the application and/or applied-for TLD and should avoid evaluating elements that have already been thoroughly considered, either as part of the RSP pre-evaluation program or previously in connection with another application and/or applied-for TLD.

So this says similar things to the last implementation guidance but it also goes one step further because what it's saying here is that if an RSP presents a technical solution that is different than the one that was previously evaluated, either during the pre-evaluation program or during the application program, then you don't need to test it again unless there are specific elements to that string or to that application that are different or would cause a different type of review. I look at those two as being two sides of the same coin.

Next recommendation: "When responding to questions, applicants must identify which services are being outsourced to be performed by third parties." What was unclear in Work Track 4 when they went through a number of the technical responses was whether the technical and operational services that were described in the application, were they being provided by the applicant, were they being provided by the RSP, or some combination of the two? It just wasn't clear in there.

Rubens is saying I missed an application guidance, so let me go back. Sorry about that. We're skipping back to the implementation guidance that is highlighted right now, which is, "Applicants should have a streamlined technical and operational evaluation if the applicant has either selected a pre-evaluated RSP in its application submission or if it commits to only using a pre-evaluated RSP

during the evaluation phase and actually selects its chosen pre-evaluated RSP during the transition to delegation process.”

If you or I were to reword that, what it’s saying is only evaluate the new components that weren’t previously evaluated, or if an applicant just says, “I’m going to use a pre-evaluated RSP but I haven’t named it yet because I want to wait to get my application approved,” it could do so but it has to, by the time it gets to signing its contract, which is the beginning of the transition to the delegation phase, indicate who it’s going to use.

So it won’t need to indicate that during the evaluation phase. It will need to during the transition to delegation phase, or contracting phase. Does that make sense, everyone? Okay.

Moving to the next one. This is the rationale number nine one: “The technical and operational evaluation must also consider the total number of TLDs and expected registrations for an applicant’s given RSP.” This is a tough one and there were some questions as to whether we should keep it.

There were definitely discussions within the group about the importance of this but, on the other hand, if there’s an RSP in the pre-evaluation process, they won’t necessarily know the number of TLDs or expected registrations that they’re going to have. So what this really amounts to, and it’s put into the rationale later on, is that, essentially, you have to evaluate a registry service provider’s ability to scale to meet anticipated demand.

And so, whatever that registry service provider is evaluated, the evaluators will look for scalability and to make sure that, if an RSP

says, "Look, this registry can handle up to ten million names and, if there are more, here are the steps that we would take in order to scale up," that's what would get evaluated. Makes sense? Okay. We're making some good progress. Sorry, Karen. Please.

KAREN LENTZ:

Thank you, Jeff. I have a question from back at ... I think was rationale number six. I'm sorry to take us backwards. I was looking for the piece that the working group had on application queueing. This recommendation talks about evaluating applications in groups, essentially where answers are identical and where they're most likely submitted by the same or related applicants. So, does that match the recommendations that are currently in place or in draft for how applications get prioritized? Thanks.

JEFFREY NEUMAN:

Thanks, Karen. It's a good question. I would say that they're sort of apples and oranges because I think what this is saying is that the first time you evaluate an RSP, either if that's during a pre-evaluation process or during the regular application process, the first time that RSP is evaluated the results of that will carry forward to every other time that RSP is utilized in an application.

So during that first evaluation, whenever that is, in the queue ... Let's say they didn't go through the pre-evaluation process but they want to go through the regular evaluation process. Whether they come up first at number one because they're associated with an IDN, if that's the way it goes, or the first time they get evaluated is

at number 1,000 because that's where it falls in the lottery, I think the principle still applies.

I don't think there's an impact of the RSP technical evaluation on the queueing of applications and the order. But Karen, your hand is up, so maybe I didn't answer. Please go ahead, Karen.

KAREN LENTZ:

Thank you. I think what you said makes sense. I'm just thinking through what that looks like so I'll put my hand down and I'll come back if I come up with another question. Thanks.

JEFFREY NEUMAN:

Yeah. Great, thanks. Steve, please.

STEVE CHAN:

I just wanted to point out on part of the text, here. Actually, Julie's cursor is hanging over right here where I want to point out the element. The way that this last sentence is worded was partially to account for, I think, what Karen just mentioned, that there may be circumstances where the same technical infrastructure could be evaluated again.

As Jeff noted, I think the expectation of the working group was that that would not be needed in the vast majority of cases, but this only was intended to account for those rare instances where it could require an additional evaluation for whatever the case may be. I just wanted to point that out. That was [inaudible]. I'm not sure if the

working group has, hopefully, noticed that nuance but is also in agreement with it or, if not, then it can be adjusted. Thanks.

JEFFREY NEUMAN:

Yeah, thanks. This might be, actually, an interesting area, because my interpretation of that when we were discussing it when we wrote it was that the reason we're saying "may only need to be performed once" was that if an applicant has a different service that wasn't evaluated prior then it will need a new evaluation, at least for that additional component.

So the way the sentence reads is that the technical and operational evaluation may only need to be performed once, as opposed to being evaluated for each individual application. So the point there is that for every subsequent application you wouldn't need to evaluate it unless there is some new service being proposed, or some new element that makes the implementation of those previously evaluated services different than how they were initially evaluated. Does that make any sense?

So this "may only need to be performed once" was not meant as a discretionary element where ICANN can just say, "Ah, I want to do it again. I want to evaluate again." No, ICANN would have to come back and say, "We're only evaluating the new elements in the application." Hopefully, that makes sense if we have to reword it. Elaine says, "Yes, just shortening the amount of time the repeat RSP app spends from start to finish," right. Okay.

If we then go onto ... I'll wait. Sorry. Pausing a second for Steve to just write a note. Okay. So, now we're into the financial evaluation.

This one took a long time with Work Track 4 through many different discussions, and as we go through these recommendations and guidance you'll see why.

The first recommendation is that “the working group recommends that the financial evaluation was focused on ensuring that an applicant is able to demonstrate financial wherewithal and assure long-term survivability of the registry, thus reducing the security and stability risk to the DNS.”

“The working group believes that the following implementation guidance will simplify the process but still allow for meaningful assurance of an applicant’s financial capabilities while duly taking into account how the applicant will operate its registry.”

I'll get to the comments in a second because I think the comments will make more sense after we go through some of the implementation guidance. The first implementation guidance is that, “as part of the financial evaluation, ICANN should not evaluate proposed business models, nor provide sample business models and/or tools for applicants to demonstrate financial wherewithal. The Applicant Guidebook should provide applicants with a list of resources to get information on RSPs, stakeholder groups, and associations from which applicants can get information.”

Let's unpack this one because it's a little complicated. During the 2012 round, ICANN had some very generic criteria about how applicants could demonstrate financial stability and also asked questions about, “Show us your business model,” which included your projected sales and your projected costs. And, frankly, after going through the thousands of business models, ICANN, or the

evaluators, realized that there was just no way for them to judge the business model.

You've got some registries that said, "I'm going to get five million names after the first six months," and then it showed its revenues from those five million names and it showed its costs, but it was just a guess. It was, in some cases, not even an educational guess. So then, ICANN said, "Well, okay. We know that's difficult so we'll give you a model that we think, if you believe you're going to run a registry that'll have X number of names, you should have a business model that produces Y amount of revenue," but that didn't work for any of the brands because the brands didn't treat this as a revenue-generation tool, necessarily, but more just a cost.

So at the end of the day, what we found was that the ICANN evaluators pretty much disregarded all of the financial models that were presented. They didn't disregard the evaluations to see whether organizations had the financial wherewithal to perform the services, but they disregarded the "I'm going to look at this applicant's business model and then approve it or not approve it." It just didn't have any basis to do that.

So what we're saying here is, "Okay, ICANN. We understand that, so we're no longer going to ask you to get business models from the applicants, nor would you provide the guidance to say, 'well, ICANN believes that if you're going to have X number of registrations we think you should have Y value of revenue and Z number of registrations,'" which it tried to do in 2012. We're saying "don't do that this time."

The second one is that “the evaluation should determine whether an applicant will be able to withstand missing revenue goals, exceeding expenses, funding shortfalls, or the inability to manage multiple TLDs in the case of registries that are dependent upon the sale of registrations. This evaluation must recognize and take into account the different ways to operate a registry, including instances where there is no reliance on the sale of third party registrations to generate revenue. Therefore, determining the financial wherewithal of an applicant to sustain the maintenance of a TLD may require different criteria for different types of registries. Criteria should not be established in a ‘one size fits all’ manner.”

As Cheryl said, yes, the lesson is learned, hopefully, with these recommendations where mediation applied. Paul states that it truly showed how stuck ICANN was in its second-level sales mentality. Right. Okay.

Then, further implementation guidance on this: “If any of the following conditions are met, the applicant should be allowed to self-certify that it’s able to meet the goals it described in the above implementation guidance. More specifically, that it serves as evidence that the applicant has the financial wherewithal to support its application for the TLD.”

So what we’re saying is that if an applicant can show that it’s a publicly traded company, or an affiliate of a publicly traded company, then that should be enough to judge the financial wherewithal of the applicant.

The second part is, “If an applicant and/or its officers are bound by law and its jurisdiction to represent financials accurately and the

applicant is in good standing in that jurisdiction, that's other evidence of financial wherewithal."

And the third one is, "If an applicant is an affiliate of a current registry operator that's not in default of any of its financial obligations under its applicable registry agreement and it has not previously triggered the utilization of a continued operations instrument, that should be considered enough to show financial wherewithal." Okay. A little typo Rubens found. Thanks.

Let me see if I have to go over any of the comments above because one of them ... Oh, from Steve. Yeah, okay. So, that first one, yeah. Those notes from Steve I don't think require us to do anything at this point.

Okay. Then it states, "If an applicant is unable to meet their requirements for self-certification," in other words didn't qualify under those three above, "the applicant must provide credible third-party certification of its ability to meet the goals as described in implementation guidance." That'll go back to the spirit comment.

What we're saying here is that if you're not a public company, if you're not bound to disclose financials, or if you're not an affiliate of an existing registry, self-certification will not be enough. You'll need to actually go through a full evaluation. Steve, please.

STEVE CHAN:

Thanks, Jeff. For implementation guidance related to the third bullet, "if the applicant is an affiliate," in the process of drafting this one I was curious if it was intended to be limited to just affiliates, or if it would actually also be the registry operator itself in good

standing, and then the affiliate is in addition to the actual registry operator that is in good standing. It wasn't clear in drafting what the working group truly intended in this circumstance so I want to make sure that the proper intent is reflected. Thanks.

JEFFREY NEUMAN:

Thanks, Steve. I think what you're asking is, we probably should have drafted it in saying that if the applicant itself is a current registry, that is not default, etc., or it's an affiliate of a current registry. So yeah, it's meant to cover the applicant or its affiliates. Rubens is confirming that. Okay.

If we go to the next affirmation, "The working group affirms recommendation eight of the 2007 policy, which states 'applicants must be able to demonstrate their financial and organizational operational capability'" this is what we've added, I think, "in tandem for all currently owned and applied-for TLDs that would become part of a single registry family."

What we're saying here is we're modifying the "demonstrate their financial and organizational operational capability" to take into consideration not just what they're applying for but what any affiliates have applied for as well, or what they have applied for as well, or what they currently have.

So if it's Donuts, let's say, Donuts already has 200 registries so when you're doing a financial you don't want to look at Donuts as a silo. You want to look at them and say, "Okay, well they currently have this many registrations and this number of TLDs. We need to

evaluate whether they can have this plus another set of TLDs and still hold their good standing.” Hopefully, that makes sense.

And then, implementation guidance. This is rationale ten. The following is a tentative but exhaustive set of financial questions. This comes from the questions that were asked in the Applicant Guidebook in the module two: “Identify whether the financial information is shared with another application, provide financial statements.”

And then it goes further detail, “and then provide declaration; self-certify by an officer where applicable or independently certified if unable to meet the requirements of self-certification that the applicant will be able to withstand, missing revenue goals, exceeding expenses, funding shortfalls, etc.” Anything we need to cover on this one? All right, good.

Registry services. Now, this one also got a lot of discussion but I'm hoping we've clarified it to the point where we're not going to need to discuss too much from here. But what we say is that, a recommendation, “A certain set of operational pre-approved additional registry services will not require registry services evaluation, and those selected by the applicant at the time of application submission will automatically be included in the applicant's exhibit A. Upon a contract execution, that list will include those that are included in the registry agreement and on the fast-track RSEP process and standard authorization language page, as of the drafting of this report, and as updated from time to time.”

So an example is, let's say a registry is proposing to run a service so affectionately called BTAPPA at this point in time, which is a Bulk

Transfer After Partial Portfolio Acquisition. I personally want to apologize for that awful name because I was with the registry that first proposed it and we couldn't think of a name so that's how we got BTAPPA. Sorry.

That process, and that service, is routine, now. I believe every registry implements it in pretty much the same way. And so, because it's one of those voluntary registry services that ICANN already knows the process of how to get those contracts through, what we're saying here is that, rather than having to do a separate evaluation for that service they just have to state that they want to it, and the manner in which they're going to do it, and then that gets approved. Rubens puts up in the chat, "The current list of services that are available on the fast-track RSEP is at that link." Okay.

The next recommendation: "Any additional operational registry services that are not included in that pre-approved list must be reviewed in a timely manner to determine if they might raise significant stability or security issues," and then it goes into the criteria as to how to determine that.

So what we're saying here is that if you're going to propose a service that has not been pre-approved in one way or another then you're going to have to go through the registry services' technical evaluation panel and you may be subject to fees if ICANN continues to want to charge for that service.

Implementation guidance under this: "The registry services' evaluation policy process workflow should be amended to fit within the new gTLD process and timelines using priority number to order

evaluation, using clarifying questions to address issues.” Any questions? All right.

Let’s talk a little bit about the deliberations. Most of those are pretty self-explanatory. We talk about why we removed the two points, if you can go down a little more. We talk about transparency and clarifying questions so it just goes into more detail on the recommendations we made.

Stop here, I want to just make sure we cover Jim’s comment. So, a sentence we have in the rationale for clarifying questions: “We state accordingly there is support for a thorough examination of why there were so many CQs in 2012 and how they can be significantly reduced in future rounds.” I think we should say, “Such that the ...” Sorry, I’m trying to put in Jim’s component, there.

“There is support for a thorough examination prior to the finalization of the Applicant Guidebook,” I would think, because the questions need to be ... If it turns out that there were a number of CQs for a particular question and that was because of the way the question was worded, that kind of thing needs to be in the Applicant Guidebook, and so that needs to be done prior to the Applicant Guidebook being published. Jim, please. Hey, Jim. I can’t hear you. I’m not sure if it’s just me.

JIM PRENDERGAST:

I was making so much sense, too. So, in the chat, Rubens is talking actually having it available earlier so that the IRT can use it to fine-tune the AGB, and I tend to agree with that.

JEFFREY NEUMAN: Yeah. I mean, it makes sense that that be done during the implementation of this program.

JIM PRENDERGAST: I just think being specific and having the inclusion on when a deliverable needs to be done is important.

JEFFREY NEUMAN: I guess what we could say there is, "Accordingly, there is support for a thorough examination during the implementation review process of ..." Would that address it, Jim? So, we're not saying that there's a deadline, or we're not setting an arbitrary deadline. We're saying, "Do the review during the implementation process."

JIM PRENDERGAST: Yeah. As long as it's done, I think that's the important part. As long as it's done during the implementation part, yeah, I think that's fine.

JEFFREY NEUMAN: Right. Because, at the end of the day, the exercise is to help them word the questions better and the questions are going to be in the Applicant Guidebook.

JIM PRENDERGAST: Yep. Okay. That's good.

JEFFREY NEUMAN: Okay?

JIM PRENDERGAST: Yep.

JEFFREY NEUMAN: Okay. Let me make sure I got it. Okay. So, Rubens' comment is on what we were just talking about. The rationale for the technical and operational evaluation, I didn't see any comments here but, as always, just look through this, make sure you agree with the rationale that we've used or that the rationale we've discussed in going through these recommendations actually corresponds to what's written, here. That's going to be important.

Yeah. Let's jump to the financial evaluation rationale, which is right there on the screen now. Again, this is important. We're talking about why we believe that there's no longer a need to look at proposed business models but rather, instead, looking at the overall financial wherewithal of applicants. And in registry services, this, again, goes to what we were talking about of where over 50% of applications required CQs and, in fact, a lot of them require the same CQs and we attribute that to a lack of clarity in the question, as opposed to the awful answers that RSPs may have given. I'm saying that sarcastically.

Okay. Then, going to the new issues raised. This is where we talk about some new things that came up after the publication of the initial report. There were, in the public comments, some concerns expressed about eliminating the requirement of submitting the security policy: "The Working Group believes that requiring applicants to submit their security policy introduces risk to

applicants in the event that the policy falls into the wrong hands. However, the SSAC expressed concerns that removing this requirement would weaken the ability to evaluate applicants' expertise to assure the secure and stable operation of the registry. The working group considered how to meet the spirit of the SSAC's concerns without requiring applicants to provide the full security policy. There were suggestions of on-site visits, posing yes/no questions or checkboxes asking how often the policy is activated/reviewed/updated as examples."

"The working group did not agree on the precise method for balancing the concerns of applicants and the SSAC but believe they are both important considerations. The Working Group believes that the evaluation process should continue to validate the adequacy of applicants' security policy, which is consistent with the goal to allow applicants to demonstrate its expertise and assure the secured and stable operation of the registry."

So in other words, yes, we're saying that you don't have to give your entire security policy over to ICANN to risk a data breach or something like that, which could compromise entire businesses. What we're saying is, "You can ask questions that are aimed at getting responses that will demonstrate the types of things in the security policy that SSAC believes ICANN should be looking for." So without requiring the actual security policy, you or ICANN could ask, what is the change process? Who has access to the systems? How do those authorized personnel access the systems?

You can ask these questions or you could ask questions in a probative way to have value on understanding the applicants' knowledge and ability to have a secure and stable registry without

requiring them to turn over their actual security policy. Then, we have some dependencies, here; RSP pre-evaluation program, and then the registrant protections. Okay.

We covered a lot of material. Just reading Cheryl's comment on the last one, "Probing questions that stress-test any decent security policy," right. That's what governments do. That's what most major corporations in an RFP would do for its vendors. It would not say, "Give me your security policy." They would say, "Describe whether your policy does this and how you meet this goal." Okay. We've covered a lot of material and we've covered all the material for today. If we can just click on the work plan, the next ...

[JIM PRENDERGAST:] Sorry, there is a suggestion from Rubens in the chat.

JEFFREY NEUMAN: Ah. Rubens is saying, "I believe we could read Steve's comment on COI times/registrant protections because, depending on the COI decision, it might come into play." Sorry. Where's Steve's comment, there? "Possible recommendation, though this would be connected to the outcome of COI," which I think is the next subject, "to the extent that it is determined that a continued operations instrument will be required, it should not be part of the financial evaluation but rather should only be required at the time of executing a registry agreement."

Yeah. I think that would be in the registrant protections section as opposed to here but we could put it as a ... Is it in the dependency zone already? I'm forgetting even though I just read it. Yeah. Okay,

cool. Good. All right. Yeah. Let's make sure that we cover that during the registrant protections section.

All right. Can we just quickly pull up the work plan? Okay. Speaking of registrant protections, we're going to start with registrant protections on Monday. And then, what I'm going to do as well is put in the next few topics, basically, if we have time. We will release all those sections, if they haven't already been, shortly so that you can prepare for Monday's call.

Any questions on that? All right. I think we made some really great progress. Thanks, everyone. I'm confident that we can beat the timeline that we just asked the council to approve. Roger only got four [miles], okay.

CHERYL LANGDON-ORR: No jinxes, Jeff.

JEFFREY NEUMAN: Thanks.

CHERYL LANGDON-ORR: No jinxes.

JEFFREY NEUMAN: All right. Thanks, everyone.

CHERYL LANGDON-ORR: Thanks, everyone. Bye for now.

ANDREA GLANDON: Thank you. This concludes today's conference. Please remember to disconnect all lines and have a wonderful rest of your day.

[END OF TRANSCRIPTION]