**QUERIES RECEIVED by JAS WG WITH RESPONSES**

The following text includes comments and questions received subsequently to the release of Milestone Report 2, and may be useful in further clarifying the document's goals and mechanisms. The JAS CWG's responses are shown in red.

The WG thanks the Community for the comments and questions submitted. The answers can be found below.  On a general note, the WG notes that criteria are different from matrix. The development of criteria is part of the JAS WG charter, but matrix is not.

**3.2 Notes on Financial Need**
The overriding consensus of the WG is that financial need and capability is the primary criteria for determining eligible applications. Such need and capability is to be demonstrated through the following criteria:
1.    Applicants must be capable of of contributing $45,000 towards ICANN's application fee, unless ICANN waives, or lowers application fees.
2.    Where applicants anticipate scheduled fees, such as for extended evaluation, the applicant must be capable of contributing a quarter of the scheduled fees.
***[RYSG]  How was this determined? Is it sufficient to demonstrate viability? Some explanation of the WG thinking on this would be helpful.***
3.    Applicants must be capable of contributing $45,000 towards registry operational costs, if the applicant proposes to operate its own registry platform. If the applicant proposes to share registry operational costs with other qualified applicants, the applicant must be capable of contributing the pro- rated proportional share of this cost.
***[RYSG] Is the $45,000 amount an annual figure?  It might make up a very small percentage of operational costs.***
**[JASWG]**  Answer to 3.2 questions:
ICANN previously used figures in this range in 2000 and 2004. As the final fee is not yet fixed (see fee reductions and elsewhere), this minimum applicant capability is subject to increase, or decrease.
Current offers of record by registry technical service providers to potential applicants are significantly lower than this figure e.g. the total marketing budget PuntCat invested in .cat was 2,000 euros.

Nearly a year ago the staggered fee schedule was discussed as an inverse of the refund schedule:
The applicant submits the $5,000 filing fee, and then $50,000 at submission of application, $65,000 after the initial evaluation, and then the final $65,000 when they are approved for delegation.

These figures might change if the applicants are not required to pay that entire fee, but it could still follow the reverse schedule of how the refunds would be issued.

Here are few reasons the WG believes this helps the applicant:

* No need to raise the entire amount up front;
* If the applicant gets through the initial evaluation and then they see they might have a contention string, they wouldn't have had to put out the entire fee up front;
* If it's clear there is no contention set they could raise the final amount of money from their financiers.

The WG discussed this figure extensively and considered it a better than best guess figure that was sufficiently significant to demonstrate a degree of viability. The WG discussed that ICANN previously used figures in this range in 2000 and 2004. As the final fee is not yet fixed (see fee reductions and elsewhere), this minimum applicant capability is subject to increase, or decrease. Current offers of record by registry technical service providers to potential applicants are significantly lower than this figure for instance, In 2004 the total marketing budget PuntCat invested in .cat was 2,000 euros.

First Milestone Report states that the applicant must be able to cover half the costs of the AG process.
4.    Applicants must be capable of of contributing $45,000 towards registry continuity operational costs, if the applicant proposes to fund its own continuity operation. If the applicant proposes to share registry continuity operational costs with other qualified applicants, the applicant must be capable of contributing the pro-rated proportional share of this cost.
***[RYSG] It would be helpful to explain the basis for the $45,000 amount.***
Part 4 - What benefits do qualified applicants receive?
The WG recommends a number of different kinds of support to be made available for eligible applicants, which fall into the following categories:
4.1 Financial support/relief from ICANN
4.1.1 Cost Reductions
The WG recommends the following fee reductions to be made available to all applicants who are determined as meeting the criteria established for support:
•    Waive (consensus for this in the Milestone report) the Program Development Costs (US$26,000)
•    Lower risk/contingency cost (US$60,000)
***[RYSG] If these contingency funds are actually needed at the amount estimated, where would the deficit come from?***
•    Review Base cost (US$100,000) to see if reduction can be made
•    Cost reductions to encourage the build out of IDNs in small or underserved languages.
**[JASWG]** As stated above, current offers of record by registry technical service providers to potential applicants are significantly lower. But, if ICANN is correct in the cost estimates (both for this figure and the $45K above), then any cost increase will be transferred to other applicants and lowering fees for few applicants automatically rises to others.A deficit or mitigation of risk can also be catered for in several ways not yet explored by the WG, with Insurance being one possible mechanism. There seems to be confusion as to what this $60K figure is meant to represent, which requires clarification from staff.
Also regarding contingency or risk costs, as applications are reviewed to a higher standard for eligibility, then rational risk (must of necessity) be altered downward. Thereby reducing rational contingency funding requirements. The same question arises if the contingency funds actually needed are in excess of the amount estimated for regular applications (not reviewed to a higher standard for eligibility).

***[RYSG] Does the WG believe that costs will be less for ‘IDNs in small or underserved languages’?  If not, what is being suggested here?***
•    Lower registry Fixed Fees
**[JASWG]** The WG is not making any assumptions the cost will be different for IDNs. This is, nonetheless, not a leveled field.
What is being suggested is that ICANN consider support build out of IDN language applications and there are cost reductions for an additional IDN language application when the Applicant is already applying for a Latin script string.

***[RYSG]  Assuming the fees are reasonable with regard to services provided to registries, would other registries be expected to make up the deficit?  Or does the WG believe the fees are too high?  If the latter, was any analysis done to support that position?***
•    Exemption or deferment of IPv6 implementation requirements as possible
**[JASWG]** If ICANN is correct in the cost estimates, then cost increase will be transferred to other applicants. Lowering fees for few applicants automatically rises to others. These fees seem high.

***[RYSG]  Could this put the registry at a competitive disadvantage compared to registries that support IPv6?***
Further reductions recommended
•    Reduction of the Financial Continued Operation Instrument Obligation to 6-12 months
**[JASWG]** In the WG’s opinion, no. IPv4 numbers are starting to be treated as an asset with financial value; e.g. Microsoft recently paid $11 per IPv4 address. These companies wait, or even find it in their interest to obstruct, while the underprivileged battle against the bugs in IPv6. It makes no sense for anyone to be a pioneer in transitioning to IPv6; it only makes sense to go there as and when others go there as well. At that point DNS providers who don't keep up with the market (which means IPv6 and DNSSEC in this context) will lose business to those who do.
This will not, in our opinion, be relevant to new registries during the initial year(s) of operation, while the IPv6 requirement is deferred.
In some countries the IPV6 infrastructure might not yet be there, implementation is likely to come with a host of problems and he cost of having their technology is high for some applicants. It is unconscionable to expect the developing world applicants to tackle these problems on their own, therefore it should be deferred or some form of special support be given (so that IPV6 capability is offered to the applicants in need at advantageous terms).

***[RYSG]  What if the registry fails?  Does the WG suggest a higher tolerance for failure in exchange for a smaller continued operation obligation?***
**[JASWG]** The presumption of failure applies to all registries (including the 2000 and 2004 round applicants now, or their successors in interest). The staff's choice of three years of continuity funding rationally reflects the failure scenario for applications made by speculators and other uninformed investors.

The eligibility criteria for applicants seeking support eliminate these likely-to-fail applicants, as the criteria ensure that the likely elapsed time to continuity operator discovery failure (for registries "in continuity" arising from support eligible applicants) is significantly less, than that of random speculator driven failures. As stated above in the response concerning contingency risk, as the same higher review standard is utilized, a lower risk cost principle applies here.
The WG is not suggesting high tolerance for failure; however, the WG believes that the continued operations following the failure is considerably less than the ICANN estimates.
Such lower cost for the financial continued operation instrument obligation can also be catered for in several ways not yet explored by the WG e.g. insurance.

4.1.2 - Staggered Fees
Instead of paying the entire fee upon acceptance of the applications, applicants meeting the criteria established for support could pay the fees incrementally. Staggered fees payment enables an applicant to compete for strings that might otherwise have gone to the first and/or only group with enough money to apply.
***[RYSG]  Staggered over what period of time?  What happens if progress payments are not made on time?***
**[JASWG]** Nearly a year ago the staggered fee schedule was discussed as an inverse of the refund schedule:
It was suggested that the applicant submits the $5,000 filing fee, and then  $50,000 at submission of application, $65,000 after the initial evaluation, and then the final $65,000 when they are approved for delegation.
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Here are few reasons the WG believes this helps the applicant:

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The full details must be specified, but have not yet been fully explored by the WG. ICANN's schedule or process is not under the control of the working group. Therefore the period of time and points of payment depend on the unbundling of the AG, which must be given by staff. If payment is not made the WG must consider and discuss the options for the applicant e.g. the application is put on hold subject to the sunset period defined.

Part 5 - Evaluation process and relationship to the new gTLD Applicant Guidebook (AG)
The WG has determined, at this time, that best possible process to provide support for such applications is to be done through a process that is parallel to, and not a replacement of, the ICANN Applicant Guidebook. Thus, even after the Guidebook is formally approved, this WG can continue its work to refine those components of its mandate which remain unresolved. It is important that the AG make mention of this program and refer interested potential applicants to it, however it is not the WG's intention to otherwise affect the existing application process. To qualify for support applicants may be required to demonstrate that they meet this program's criteria on financial need and public interest; however such activity is intended to supplement, not replace, existing mechanisms in the AG.
The WG had full consensus that Applicants that receive support under this program should repay that support as possible, and that such repayments go into a sustainable revolving fund used to support the future applications. Repayment is dependent on the gTLD Operator's financial success and will take the form of either
•    a capital contribution or lump sum; or
•    an income contribution or annual installment of until a lump sum is repaid; or
•    repayment of the full or a percentage of the reduced base cost fee expended by the Support Development Program.
The following broad steps did not obtain thorough evaluation or full consensus by the WG, but have been suggested as a starting point to this process and will be further refined by the WG based on the Parts 1 to 4 above. Note the process is meant to be to be in parallel with the AG-
1.     the Application is assessed using the criteria described in Part 3 and this Step takes place before the Application enters the AG process
***[RYSG]  Is there enough time for this?***
**[JASWG]** We hope so :-), the WG needs to know when the gTLD program will commence to answer this.

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***From Eric's email on 20th May 2011:***

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This is the section which I pointed out mixes the v6 issue and the COI issue. A proposed clean copy, much shorter, is provided below the original.• Exemption or deferment of IPv6 implementation requirements as possible

\*[JASWG]\*If ICANN is correct in the cost estimates, then cost increase will be transferred to other applicants. Lowering fees for few applicants automatically rises to others. These fees seem high.

\*/[RYSG] Could this put the registry at a competitive disadvantage compared to registries that support IPv6? /\*

Further reductions recommended

• Reduction of the Financial Continued Operation Instrument Obligation to 6-12 months

\*[JASWG]\* In the WG’s opinion, no. IPv4 numbers are starting to be treated as an asset with financial value;e.g. Microsoft recently paid $11 per IPv4 address. These companies wait, or even find it in their
interest to obstruct, while the underprivileged battle against the bugs in IPv6. It makes no sense for anyone to be a pioneer in transitioning to IPv6; it only makes sense to go there as and when others go there as well. At that point DNS providers who don't keep up with the market (which means IPv6 and DNSSEC in this context) will lose business to those who do.

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Begin proposed clean copy:

• Exemption or deferment of IPv6 implementation requirements as possible

\*/[RYSG] Could this put the registry at a competitive disadvantage compared to registries that support IPv6? /\*

In the WG’s opinion, deferment of the IPv6 implementation requirement is unlikely to create competitive advantage.

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***From Tijani's email on 16th May 2011:***

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**Stéphane**

Page 6 says that one criteria for eligibility is "Service in an under‐served language, the presence of which on the Internet has been limited". This is further explained in 3.1.2. But I don't understand what the metrics for these criteria are? What makes a language under-served and how can we measure if its presence on the Internet is limited?

Stéphane is right: our mission is to design **mechanisms** to encourage the build out of Internationalized Domain Names (IDNs) in small or underserved languages (**Item j** of the charter), not to redefine and detail the underserved languages.

Page 9, section 3.3 goes back to my earlier question about where and from whom the group has been getting input. Here it says that the group had agreed on one set of recommendations (govs not entitled to support) but are now working to change those after the GAC has asked them to. Do you, as co-chairs, feel comfortable with this?

This should be explained as the update of the original milestone report according to the comments received (including the GAC’s ones).

Page 12, section 4.2 Do you not feel the deferment of DNSSEC is not in keeping with ICANN's mission of ensuring a stable and secure Internet? As DNSSEC is such a clear security feature, would it not be better to seek (financial) support for applicants that find the cost of implementing it too high, rather than suggesting they need not implement it upon start-up (with the risk that it may then be years before they actually do implement it)?

For countries (areas) where the infrastructure doesn’t support DNSSEC, it would be difficult to implement it by the applicant

**Wolf**

3. Qualification of applicants: I've some doubt's an applicant's self declaration might be sufficient. At least appropriate references should be provided.

We can modify the sentence to read: “Applicants will be expected give a self-declaration, with due proofing documents when applicable, that they are eligible to receive support under these criteria.

3.1.2 under-served language: similar to Stéphane, what are the criteria to define these communities (number of members...)

Already commented

3.2 Financial need: How is the contribution of 45,000 $ calculated? Is this just 25% of the regular application fee?

It was my question when I saw it. This section wasn’t discussed or even read during a call. It was one of the few elements of the document that are part of our mission and that we should address with the maximum of attention.

4.1 Financial support/relief: should this be on top of 3.2?

4.1 dealt with the kinds of support, while 3.2 dealt with the criteria for support

4.4 Development fund: I've concern that this should be under the direction of applicants meeting the support criteria only. At least representatives of the "ICANN community" as well from the ICANN executive management should be part of the directive body.

This needs further discussion.

4.5 The function of an "External funding agency" is not clear to me.

Such as World Bank or any other funding agencies that would like to fund some applicant out of

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***From Eric's email on 16th May 2011:***

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question from Wolf-Ulrich.

> 3.2 Financial need: How is the contribution of 45,000 $ calculated?
> Is this just 25% of the regular application fee?

No, and yes. It is the figure ICANN used in 2000 and 2004, and it is also a quarter of the current application fee.

Assuming the Board approves some reduction in fee (and 50% is just such a presumption), then if the applicants are capable of meeting 50% of that cost, before external support, then the applicants need to be capable of self-funding at the 2000-2004 level.

Ultimately, what fee reduction the Board directs, and what external cost support exists, are controlling.