



## The Internet Corporation for Assigned Names and Numbers

### Report to the GNSO Council on Whois Privacy and Proxy Relay & Reveal studies

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February 11, 2011

#### Background

The GNSO Council has concluded that a comprehensive, objective and quantifiable understanding of key factual issues regarding the gTLD Whois system would benefit future GNSO policy development efforts. In March 2009, the GNSO Council asked ICANN staff to research the feasibility and cost to study several high priority aspects of Whois. Staff categorized these studies into four areas that could be researched independently, and solicited bids using an RFP approach to help determine costs and feasibilities. This report provides staff analysis for one study area: **Whois Privacy/Proxy Relay & Reveal**.

#### Summary of staff approach

To assess feasibility and cost, RFP Terms of Reference (ToR) were drafted so that interested research organizations might propose tasks, schedules, and fees to execute proposed Whois studies. The GNSO community provided input on draft ToRs to ensure alignment between study definitions and key factual issues regarding Whois which they believed would benefit future policy development efforts.

RFPs soliciting bids for proposed Whois studies were then posted as follows:

Whois Misuse	<a href="http://www.icann.org/en/announcements/announcement-28sep09-en.htm">http://www.icann.org/en/announcements/announcement-28sep09-en.htm</a>
Whois Registrant ID	<a href="http://www.icann.org/en/announcements/announcement-23oct09-en.htm">http://www.icann.org/en/announcements/announcement-23oct09-en.htm</a>
Whois Privacy/Proxy Abuse	<a href="http://www.icann.org/en/announcements/announcement-2-18may10-en.htm">http://www.icann.org/en/announcements/announcement-2-18may10-en.htm</a>
Whois Privacy/Proxy Relay & Reveal	<a href="http://www.icann.org/en/announcements/announcement-29sep10-en.htm">http://www.icann.org/en/announcements/announcement-29sep10-en.htm</a>

On 8-Sep-2010, the GNSO Council resolved to proceed with **Whois Misuse** studies. Council has not yet made a decision on **Whois Registrant Identification** and **Whois Privacy and Proxy Abuse** studies. ICANN staff analysis of those RFPs can be found here:

<http://gns0.icann.org/issues/whois/whois-studies-report-for-gns0-23mar10-en.pdf>  
<http://www.icann.org/en/announcements/announcement-2-18may10-en.htm>

The rest of this report focuses on **Whois Privacy/Proxy Relay & Reveal** studies. That RFP was posted on 29-Sep-2010, giving bidders 60 days to respond. No bids were received within the 60 day period. When no bids were received, ICANN staff solicited feedback from research organizations that had submitted high-rated bids for other Whois studies. In doing so we learned that potential bidders had significant concerns with the feasibility of this study and were not confident that those barriers could be overcome. This status report summarizes those perceived barriers and recommends a course of action.

## **Staff Analysis of Whois Privacy/Proxy Relay & Reveal Studies**

In the analysis that follows, staff examines key concerns expressed by research organizations that considered but declined to bid on proposed Whois Privacy/Proxy Relay & Reveal studies. We then propose and provide an estimated cost for launching a pre-study formal feasibility survey to assess those concerns.

**Overview:** The Whois Privacy/Proxy Relay & Reveal studies RFP was drafted to explore a sample of actual relay and reveal requests sent for Privacy/Proxy-registered domain names to document how they are processed and identify factors that may promote or impede timely communication and resolution.

Currently, each Privacy or Proxy provider has its own independent practices for handling these requests. There is no common format for submitting requests and no central repository for tracking them. The highly diverse and distributed nature of these practices has made it difficult to assess the effectiveness of related ICANN policies. The goal of this exploratory study is therefore to help the ICANN community better understand how communication relay and identity reveal requests sent for Privacy/Proxy-registered domain names are actually being handled today.

To accomplish this, the RFP proposed to collect a broad sample of relay and reveal requests from volunteers, including individuals, businesses, first responders, complaint centers, and law enforcement agencies. Privacy/Proxy providers and Registrars would then be given a chance to supply secondary input about their published policies and practices and how sampled requests were actually handled. Given the exploratory and voluntary nature of this study, this sample is not expected to be statistically meaningful. However, the sample should be geographically-diverse, incorporate requests made for a wide variety of reasons, and encompass the top 5 gTLDs and major Privacy/Proxy providers.

**Responses:** Unfortunately, no bids were received in response to this RFP. To understand researcher concerns and perceived study barriers, ICANN staff reached out to organizations that had previously submitted high-rated bids for other studies. Three organizations replied with written feedback, summarized as follows.

The key challenge facing this study is obtaining a sufficient data sample. Researchers could not assess the feasibility of finding willing and able volunteers to supply this sample or the effort to do so.

- Finding diverse participants appears likely to require a very large outreach campaign.
- Some essential parties (e.g., Privacy/Proxy providers) may object to the study in principle.
- Law enforcement agencies are unlikely to supply data pertaining to on-going investigations.
- Many others parties may be unable to supply data due to business sensitivities or privacy laws.
- Even willing participants are likely to have limitations on the data elements they can disclose.
- Incentives and data collection aids may be needed to encourage sufficient participation.

Given sampling uncertainties and extensive third-party dependencies, respondents were uncomfortable estimating study cost or duration. One researcher had actually contacted a number of proposed participants but found that just 12 percent were even potentially viable. Finally, researchers questioned whether results would lack credibility if this study were launched but managed to collect just a sparse anecdotal data sample. One respondent concluded that the chance of generating substantive scientific findings was too low to make the project appealing. However, two respondents offered suggestions about how to overcome study barriers.

### **Staff Recommendations about Privacy/Proxy Relay & Reveal Studies, based on responses:**

Despite lack of RFP bids, we found this candid feedback extremely helpful. In particular, all three organizations identified the same core challenge: obtaining a sufficient data sample.

To address this challenge, one researcher suggested targeted sampling – that is, focusing outreach efforts on a narrower set of volunteers most likely to be willing and able to participate. Another firm not only suggested using a survey to identify willing volunteers, but supplied a proposal to conduct it.

In our view, these suggestions are complementary and merit consideration. Conducting a feasibility survey of limited duration could clarify the above-noted uncertainties while establishing a foundation for targeted sampling. In particular, we recommend conducting a feasibility survey designed to:

- Assess community willingness and ability to participate in a Relay & Reveal study
- Identify potentially-interested volunteers and limitations on their participation
- Identify availability of requested data elements and conditions for sharing it
- Explore the impact of incentives and data collection tools on participation
- Solicit actual request examples for use in formulating a Relay & Reveal study, and for contacting Privacy/Proxy providers to assess willingness to supply secondary input

If this feasibility survey cannot identify a pool of potentially willing and able volunteers (including Privacy/Proxy providers), the proposed Relay & Reveal study may be abandoned without further expense or delay. However, if this survey can shed light on these concerns, researchers may have the clarity needed to bid on a revised RFP to conduct the full-blown exploratory study.

**Cost to perform this pre-study feasibility survey is estimated at \$60K to 80K, to be completed over a 4 month period.** This estimate is based on the above proposal, which demonstrated a solid grasp of the problem at hand and study goals. If GNSO Council were to approve this survey, proposal refinement would be expected. In particular, that proposal covers conducting a survey in English only; if that is not sufficient to meet ICANN community needs, translation fees must be added.

### **Suggested Next Steps**

This report is one of several aimed at responding to the GNSO Council's request to determine the costs and feasibility to conduct various Whois studies. Staff recommends that the Council review this information when considering whether to approve additional Whois studies. Staff is available to answer questions about this report and to provide additional information as requested.