

Domain Name Chronicle

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ICANN 80 Policy Forum

The [ICANN 80 Policy Forum](https://meetings.icann.org) was held in Kigali, Rwanda from June 10 – 13, 2024. The four-day meeting was the second ICANN meeting this year and unlike the other meetings, focused almost exclusively on policy-related issues.



Figure 1: <https://meetings.icann.org>

Topics included the next round of new gTLDs

expected to launch in April 2026, use of the Registration Data Registry Directory Service (RDRS), and the impact of the new DNS Abuse Amendments.

ICANN Appoints New CEO

On Day 1 of the Policy Forum, ICANN announced that it had selected its next President and CEO, Kurt Erik “Kurtis” Lindqvist, who begins his term on December 5, 2024. Kurtis has more than 30 years of experience in the business development of Internet Service Providers and worldwide network carriers.

Kurtis previously served as CEO of the London Internet Exchange (LINX), the CEO of Netnod (the operator of the I root and DNS Services provider in Sweden) and a variety of other roles involved



Figure 2: Kurt Erik “Kurtis” Lindqvist

with advising governments on Internet governance, data retention and broadband Policy.

Mr. Lindqvist will replace current Interim CEO, Sally Costerton, who took over for the previous

CEO in December 2022.



Progress on New gTLDs

One of the most highly talked about subjects during this past ICANN meeting (and for the previous number of ICANN meetings) has been on topics and issues related to the next round of new gTLDs, which is set to open in April 2026. The good news is that ICANN is still on track to hit that date. Participants in the 2012 new gTLD round got used to a lot of delays prior to that round, but it looks like ICANN is doing all it can to ensure a launch in the Spring of 2026.

Application Fees

During the first meeting of the Implementation Review Team, ICANN for the first time revealed its current thinking on the fees that will be required to be paid by applicants in the next round of new gTLDs.

Base Fees Per Application (USD In Thousands)	Number of Applications			
	500	1,000	1,500	2000
Program Category				
(1) Implementation	\$70	\$70	\$70	\$70
(2) Evaluations	\$20	\$17	\$17	\$16
(3) QA, Objections, Auctions	\$11	\$9	\$8	\$7
(4) Processing & Program Support	\$87	\$60	\$48	\$42
(5) Org Shared Services	\$18	\$13	\$11	\$10
Subtotal Next Round Program	\$206	\$169	\$154	\$145
(6) Risk / Contingency (30% of Fee)	\$88	\$73	\$66	\$62
Total Fee	\$293	\$242	\$220	\$208
Potential Fees Pending Review				
Variant Subsidy Placeholder	\$7	\$3	\$2	\$2
NCAP2 Placeholder	TBD	TBD	TBD	TBD
Total Net Excess / (Deficit)	(\$35,000)	\$0	\$35,000	\$70,000

Figure 3: New gTLD Fee Discussion from ICANN80

The proposed application fee encompasses essential components such as background screenings, financial evaluation, DNS stability review, and string similarity review. This fee does not cover additional evaluations, including community priority evaluation, geographic name review, exemption requests for brands or the code of conduct, nor does it include costs

associated with re-evaluation due to application change requests or changes in the applicant entity’s structure or new officers or directors.

Additionally, it is crucial to note that technical evaluations of the registry or its registry service providers are excluded from this fee and are discussed in the following section.

The current application fee marks a significant increase from the 2012 New gTLD Round, which was approximately \$185,000. Unlike in 2012, when the fee included technical reviews and exemption requests, ICANN staff has attributed the substantial rise in fees to a 44% inflation rate over the past decade. Furthermore, the fee now needs to cover both historical costs and the

ICANN is currently proposing to set the new gTLD Evaluation Fee in the range of \$208,000 to \$293,000. Additionally, ICANN plans to offer a credit immediately following the application window if more than 1,000 applications are received.

expenses associated with a more comprehensive applicant support program, as well as a contingency fund (one-third of the fee) reserved for litigation and unforeseen expenses.

The ICANN community has expressed dissatisfaction with this significant fee increase and has called on ICANN to provide a more detailed breakdown of how these higher-than-expected costs were determined.



Registry Service Provider Fees

Registry Service Providers (RSPs), also known as Registry Back-End Providers, are entities responsible for delivering all the necessary technical services required to operate and manage a top-level domain (TLD). Numerous RSPs function dually as both the Registry Operator—the entity contracted with ICANN for a specific TLD—and the RSP. For instance, Verisign serves as both the Registry Operator and RSP for the .com and .net TLDs. Similarly, Identity Digital fulfills the roles of both RSP and Registry Operator for various TLDs, including .services, .solutions, and .ninja.

Many Registry Operators, however, subcontract their technical functions to an RSP. For example, Dot Hip Hop, LLC, the Registry Operator licensed to operate the .hiphop TLD, outsources its technical services to its RSP, Tucows Registry Services. Other prominent RSPs include CentralNic, GoDaddy Registry, and Nominet.

During the 2012 New gTLD round, each application was evaluated individually, regardless of the RSP involved or the number of applications submitted by the same applicant or RSP. This meant that Neustar, Inc. (now GoDaddy Registry) had its RSP services evaluated 350 separate times because it supported 350 applications. This process was inefficient and unnecessary, as the same information was repeatedly provided for each application supported by Neustar.

The Subsequent Procedures Policy Development Process (SubPro PDP), co-chaired by Jeff Neuman, Founder of JJN Solutions, developed policy recommendations to establish a separate

RSP Pre-Evaluation Process. This process aims to evaluate existing and new RSPs prior to each subsequent round of new gTLDs. This approach ensures that each RSP's technical solution is evaluated only once, and applicants for new TLDs can be confident that selecting a Pre-Evaluated RSP will meet the technical evaluation requirements.

The ICANN Board has adopted these

RSP Fee Schedule	
Number of RSP Applicants	Fee
0 - 49	USD \$92,000
50 - 59	USD \$77,000
60 and above	USD \$68,500

Figure 4 - [RSP Fee Schedule](#)

recommendations and is currently implementing the new RSP Pre-Evaluation Process, which is set to launch later in 2024. The objective is for ICANN to announce all successfully pre-evaluated RSPs by late 2025, giving applicants ample time to vet and select their RSP service partners before the next round of new gTLDs.

Just prior to ICANN 80, ICANN staff released their proposal for funding the RSP Pre-Evaluation Program. This proposal includes a risk-based fee structure based on the number of RSP applications received. ICANN estimates that it would need between \$68,500 and \$92,000 per application to cover its costs.

Similar to the main application process, ICANN has proposed charging RSP applicants the full \$92,000 upfront. If ICANN receives 50 or more applications from RSPs, a refund will be issued: \$15,000 if 50-59 applications are received, or



\$24,000 if more than 60 applications are received.

At the end of the RSP Pre-Evaluation Process, ICANN will determine the fees for any RSP that has not been pre-evaluated but opts to be evaluated during the main application process. Applicants should note that the RSP fee, which may be as high as \$92,000, is not included in the fees for the main application process. Therefore, applicants seeking to be both an RSP and a Registry Operator may face application fees totaling up to \$385,000.

No Contractual Content Restrictions

Another key decision made by the ICANN Board during its workshop prior to ICANN 80 involved the use of content-based restrictions in the ICANN Registry Operator Agreement. ICANN decided that enforcing obligations that include content regulation would be inconsistent with its Bylaws.



During the 2012 Round of New gTLDs, Registry Operators made commitments to address government and third-party concerns, including Public Interest Commitments (now called Registry Voluntary Commitments). These included implementing eligibility requirements for registrants in sensitive TLDs, like requiring a registrant in the .bank TLD to maintain necessary banking licenses in their jurisdiction. The new

ICANN Board decision is unlikely to affect these eligibility requirements.

However, other commitments, such as adopting a code of conduct to prohibit cyber-bullying or harassment, may not comply with current ICANN Bylaws as they would constitute content-based commitments. Registry Operators can voluntarily adopt such policies, but they may not be included in or enforced by ICANN's Registry Agreements.

Prohibition on Private Auctions?

A key principle of the 2012 New gTLD round was that if multiple parties applied for the same top-level domain string, those parties were given a designated period to privately resolve the contention set independently. However, ICANN prohibited applicants from making material changes to their applications, such as forming joint ventures among some or all applicants. If the applicants were unable to resolve the contention set independently, the matter would be settled through an Auction of Last Resort. In this auction, the highest bidder for the string would proceed to contract negotiations with ICANN to manage the top-level domain.

The proceeds from these auctions were allocated to ICANN to be distributed as grants to projects or organizations that align with the security, stability, and resiliency of the Internet. During the 2012 New gTLD round, ICANN generated approximately \$217 million from these Auctions of Last Resort. ICANN has just begun its grant program. More information about the program can be found at <https://www.icann.org/grant-program-en>.



While some contention sets were resolved through the ICANN auction process, a greater number were resolved privately through auctions conducted among the applicants. In these private auctions, the "losing" applicants would divide the

GAC ADVICE:

“prohibit the use of private auctions in resolving contention” sets in the next round of new gTLDs.”

- GAC ICANN80 COMMUNIQUÉ

proceeds received from the highest bidder. This approach was particularly prevalent among applicants for multiple strings, who used funds from the private auctions they "lost" to strengthen their financial position in resolving other contention sets. As a result, some applicants discovered that they could generate substantial revenue by losing contention sets without securing any top-level domains.

While the SubPro PDP Working Group did not reach a consensus to ban the use of private auctions in future new gTLD rounds, a significant portion of the community believes that without such a ban, there is an incentive for potential applicants to submit applications for reasons other than operating a top-level domain. Governments, in particular, have been critical of using private auctions to resolve contention sets.

At ICANN 80, the Governmental Advisory Committee (GAC) issued advice to the ICANN Board in its [Communiqué](#) that the Board “prohibit the use of private auctions in resolving contention sets in the next round of new gTLDs.” ICANN has

been actively exploring methods to mitigate the use of private auctions and has collaborated with the National Economic Research Associates (NERA) on this issue. Prior to ICANN 80, ICANN published a report from NERA highlighting the challenges of banning private auctions while permitting other forms of private resolution for contention sets. For instance, if ICANN allowed applicants to form joint ventures to resolve contention sets, it would be nearly impossible to prevent applicants from making payments to others for a reduced or non-existent role in the joint venture. This scenario would ultimately create similar incentives for applicants to submit applications for top-level domains without the intention of operating them.

This issue will likely be discussed further in the weeks and months ahead.

The Use of Auctions in General?



The other significant piece of GAC Advice to the ICANN Board at ICANN 80,

was for ICANN to convene a community-wide discussion on alternatives to ICANN auctions of last resort to resolve contention sets especially in the case where there is a contention set involving both commercial and non-commercial entities. The GAC has expressed its concern on numerous occasions that in such contention sets, non-



commercial entities have little chance of success against commercial entities.


The ICANN Board has expressed skepticism regarding any mechanism that differentiates between commercial and non-commercial applicants, favoring equal treatment for all applicants. Additionally, no alternative mechanism, other than auctions of last resort, has been proposed by the community that would be both fair and enforceable. Consequently, the ICANN Board has indicated to the Governmental

Advisory Committee (GAC) that it is likely to reject this advice.

Should the ICANN Board reject this advice, a Bylaws-mandated six-month consultation period between the GAC and the ICANN Board will ensue to explore potential resolutions. If no resolution is achieved during this period, the ICANN Board may proceed with the rejection of the advice, which appears to be the most likely outcome.



Don't forget to listen to Jeff Neuman, Todd Ryan and David Michaels every Tuesday at 6 pm Eastern / 3 pm Pacific on X (formerly Twitter). For more information on the Domain Name Law Show, go to <http://www.dnlshow.com>



JJN Solutions is a proud member of the Internet Commerce Association. For more information on the ICA, please go to <http://www.internetcommerce.org>

JJN Solutions, LLC is a legal and policy consultancy advising clients on domain name disputes, domain name portfolio management, Intellectual Property, entertainment law, licensing, contract negotiations and brand protection.