



Generic Names Supporting Organization (GNSO) Review

Terms of Reference – Evaluator Request for Proposal

1. Introduction

- 1.1.** This document should be read in conjunction with the *GNSO Review – Background Information* document (found at <http://www.icann.org/gns0/review-tor-background-04nov05.htm>). Read together, the two documents provide the materials necessary to consider the *GNSO Review Terms of Reference (GNSO ToR)* which will be completed in early 2006. The documents reflect detailed consultation between ICANN Staff, the GNSO Council and between the GNSO Council and individual members of the ICANN Board.
- 1.2. ICANN now seeks to appoint an independent consultant to undertake the Review. The information outlined below illustrates the scope of the work and the selection criteria for evaluators.

2. Objectives

- 2.1. The review is [\(among other actions\)](#) designed to [make lead to significant](#) improvements to one of the key policy development supporting organisations within the ICANN community. The ICANN Board requested a review of the GNSO in compliance with the ICANN Bylaws and resolved at its annual general meeting in Vancouver, Canada to formally initiate the Review.
- 2.2. The Review is due to begin in early February 2006 and should be completed by early Q2 2006. A full project timeline will be developed but it is anticipated that a key milestone will include the presentation of a draft report at the Wellington, New Zealand meeting in March 2006.
- 2.3. The evaluation of the GNSO [will rely on is expected to include](#) face to face interviews, on-line surveys and desk research using information provided by the GNSO constituencies. [The successful candidate is](#)



[welcome to suggest additional forms of soliciting the information.](#) ICANN will provide to the evaluation team baseline statistics which have been requested of each of the GNSO constituency chairs. ICANN will also provide background documentation and reports and access to a range of historical data.

- 2.4. Evaluators are expected to have detailed knowledge of or similar experience with policy making in an on-line environment, most particularly in relation to Internet governance.

3. Tender Scope and Conditions

- 3.1. Given the GNSO Review Terms of Reference found below and responding specifically to the requests for further information, applicants should provide:

- 3.1.1. **Statement of Suitability.** The Statement of Suitability must include a detailed outline of the applicant's ability to perform the work showing past consultancies, research and publications.

- 3.1.2. **Work Approach.** The Work Approach needs to detail the way in which the applicant would respond to the Terms of Reference; provide details about specific skills with interview techniques, data gathering and report writing. [Successful candidate will be required to communicate through email, conference calls, and video conference over IP.](#)

- 3.1.3. [Description of Final Product. Describe, prospectively, the form and organization of a final report. The report should be suitable for electronic transmission, i.e., limited file size and widely used format.](#)

- 3.1.4. **Team Curriculum Vitae.** The response must include Curriculum Vitae for the whole team showing each individual's suitability for the proposed work.



- 3.1.5. **ICANN Contract Compliance:** Applicants should warrant that they are willing to comply with ICANN's standard non-disclosure agreement which is found at Annex A.

- 3.2. Interested applicants should submit their proposals by email to Kurt Pritz, Vice President – Operations (kurt.pritz@icann.org) and Dr Liz Williams, Senior Policy Counselor (liz.williams@icann.org) by UTC 01:00 Tuesday 20 December 2005.

4. Contract Terms

- 4.1. The proposal should include a work schedule including key milestone dates and a statement of fees.

- 4.2. Evaluators will be required to sign ICANN's standard non-disclosure agreement a copy of which is found at Annex A.



Generic Names Supporting Organization (GNSO) Review

Terms of Reference

1. GNSO History and Purpose

1.1. The GNSO commenced operation when the Board approved the Transition Article of the ICANN By Laws on 15 December 2002. The Transition Article shifted operations from the old Domain Name Supporting Organization to the new Generic Names Supporting Organization. The GNSO will have been operating for three years on 15 December 2005. The purpose and structure of the GNSO is described in Article X of the ICANN By Laws.

The GNSO is responsible for developing and recommending to the ICANN Board substantive policies relating to generic top-level domains. The GNSO shall consist of various Constituencies representing particular groups of stakeholders, as described in Section 5 of this Article and a GNSO Council responsible for managing the policy development process of the GNSO.

The Constituencies are:

- a. **gTLD Registries** (representing all gTLD registries under contract to ICANN);*
- b. **Registrars** (representing all registrars accredited by and under contract to ICANN);*
- c. **Internet Service and Connectivity Providers** (representing all entities providing Internet service and connectivity to Internet users);*
- d. **Commercial and Business Users** (representing both large and small commercial entity users of the Internet);*
- e. **Non-Commercial Users** (representing the full range of non-commercial entity users of the Internet); and*



*f. **Intellectual Property Interests** (representing the full range of trademark and other intellectual property interests relating to the DNS).*

Each Constituency shall maintain its recognition, and thus its ability to select GNSO Council representatives, only so long as it in fact represents the interests globally of the stakeholder communities it purports to represent, and shall operate to the maximum extent feasible in an open and transparent manner and consistent with procedures designed to ensure fairness.

No individual or entity shall be excluded from participation in a Constituency merely because of participation in another Constituency.

Any group of individuals or entities may petition the Board for recognition as a new or separate Constituency. Any such petition shall contain a detailed explanation of:

Why the addition of such a Constituency will improve the ability of the GNSO to carry out its policy-development responsibilities; and

Why the proposed new Constituency would adequately represent, on a global basis, the stakeholders it seeks to represent.

- 1.2. During the Review the six Constituencies and the Council will be subject to identical analysis. With respect to the GNSO Council, the findings and recommendations of the December 2004 *GNSO Council Review*, will be taken into account.
- 1.3. Article X of the By Laws also specifies what actions could be triggered by the results of the Review. "...The results of the Review may give rise to a petition for the recognition of a new Constituency [which] shall be posted for public comment. The Board may create new Constituencies in response to such a petition, or on its own motion, if it determines that such action would serve the purposes of ICANN. In the event the Board is considering acting on its own motion it shall post a detailed explanation of why such action is necessary or desirable, set a reasonable time for public comment, and not make a final decision on whether to create such new Constituency until after reviewing all comments received. Whenever the Board posts a petition or recommendation for a new Constituency for public comment, it shall notify the GNSO Council and shall consider any response to that notification prior to taking action."

2. Review Scope



2.1. The Review is triggered by Article IV, Section 44, Clause 1 of ICANN's By Laws¹ and a Board resolution passed on 15 July 2005².

2.2. As for all reviews of ICANN structures required by Article IV, Section 4, Clause 1 of the By Laws, the GNSO Review is designed to determine:

- whether that organization has a continuing purpose in the ICANN structure,
- and, if so, whether any change in structure or operations is desirable to improve its effectiveness.

2.3. With respect to the Constituencies of the GNSO, the Review shall determine whether each Constituency represents the interests of the stakeholder communities it purports to represent on a global basis and whether each Constituency operates, to the maximum extent feasible, in an open and transparent manner and consistent with procedures designed to ensure fairness in bottom-up policy development.

2.4. The Board is responsible for determining the criteria and standards of the Review³.

3. Terms of Reference

3.1. There are two key elements to the GNSO Review. The first is a review of the GNSO as a whole to determine whether that organization has a continuing purpose in the ICANN structure. The second is a review of each of the Constituencies which constitute the GNSO to determine whether those Constituencies represent the interests of global stakeholders in an open and transparent manner.

¹ *The Board shall cause a periodic review, if feasible no less frequently than every three years, of the performance and operation of each Supporting Organization, each Supporting Organization Council, each Advisory Committee (other than the Governmental Advisory Committee), and the Nominating Committee by an entity or entities independent of the organization under review.*

² *The ICANN Board hereby requests the GNSO Council to prepare with the ICANN staff and Board a "terms of reference" document to guide the independent entity outside consultant in conducting a review of the GNSO, and present the terms of reference to the Board for adoption at the meeting in December 2005 in Vancouver, Canada.*

³ *The ICANN By Laws state that, "The results of such reviews shall be posted on the website for public review and comment, and shall be considered by the Board no later than the second scheduled meeting of the Board after such results have been posted for 30 days. The consideration by the Board includes the ability to revise the structure or operation of the parts of ICANN being reviewed by a two-thirds vote of all members of the Board."*



3.2. The focus areas, outlined below, seek to examine and quantify the extent to which the GNSO as a whole and the Constituencies, as individual entities, reflect global stakeholder interests; whether the operation of each Constituency is open and transparent and whether the procedures used within the Constituencies to develop bottom up policy are designed to achieve fairness.

3.3. The focus areas can be grouped as follows. The questions outlined here are not, in any way, designed to limit the analysis of substantive issues which arise throughout the course of the Review.

Representativeness: Analysis in this part of the Review could include the questions outlined in the box below.

- *whether the Constituencies, on a global basis, represent the stakeholders they claim to represent and whether sufficiently diverse groups are consulted to develop consensus-based policy*
- *whether the Constituencies operate in an open and transparent manner; whether Constituencies are open to individuals or corporations who wish to participate; whether the membership procedures are open and transparent and whether the current Constituencies best reflect global representation of a diversity of stakeholder positions*
- *whether additional Constituencies would capture new contributions and input from other stakeholders in the policy development process*
- *whether there are any barriers to the participation of all who are willing to contribute to the work of the GNSO, for example, technical, financial or geographic limitations*
- *whether the ICANN Board is satisfied with the policy recommendations it receives from the GNSO and if that advice could be improved in any way*
- *whether there is sufficient time and opportunity for advice and information from the GNSO Constituencies and whether amending timeframes would increase the quality of the work output*
- *whether other supporting organisations and advisory committees such as the At Large Advisory Committee and the Government Advisory Committee have effective opportunities to participate in the policy development process*
- *whether the GNSO Council manages the policy development process in a timely and efficient manner looking at the types and kinds of issues under consideration and the resources devoted to that consideration*
- *whether the Council effectively manages open forums, mailing lists and public comment opportunities that enable global participation by any affected stakeholders*
- *whether the individual Constituencies, in contributing to the development of consensus based policies, conduct their operations to the maximum extent possible, to enable broad participation including outreach activities*
- *whether GNSO Council weighted voting patterns are still appropriate in the GNSO's policy development processes*
- *whether the GNSO Council has successfully implemented the recommendations of the 2004 GNSO Council Review*
- *whether the existing constituency structure could be rationalized, changed or improved in any way to increase participation in the policy development processes within the GNSO*
- *whether the GNSO Council By Laws need amending in any way to reflect improved processes for increasing participation, seeking other stakeholder views and deriving consensus based policies that reflect ICANN's public interest principles*

Effectiveness. Analysis in this part of the Review could include the questions outlined in the box below.

- *examination of the time and resources (including staff, financial and outside assistance) used by both Council and the Constituencies to develop policy positions and whether the purpose of GNSO policy development processes is clearly articulated*
- *examination of ICANN's Strategic Plan process and how that relates to the development of GNSO policy development processes; examination of the GNSO Strategic Plan process and opportunities for the policy development process to reflect rapid market changes*

- *examination of the benefit to all affected parties of the use of ICANN time and resources in developing policy positions and particularly whether Constituency expectations are being met*
- *whether the PDP process needs to be amended to reflect new participants, different kinds of issues, more realistic timeframes for workflow and interaction with other ICANN entities and different ways of communicating policy positions, taking into consideration the GNSO Council Review recommendations*
- *whether the ICANN Board is satisfied with the advice it receives from the Constituencies to ensure that advice reflects consideration of all stakeholder interests and the widest possible consultation with affected parties including other ICANN supporting organisations and advisory committees*
- *analysis of whether the work output from the GNSO Council and Constituencies reflects the expertise and market knowledge of constituency members to ensure best practice policy development*
- *whether the GNSO Council recommendations have been implemented successfully and whether further work needs to be done to ensure implementation*

Transparency. Analysis in this part of the Review could include the questions outlined in the box below.

- *whether decisions are made by applying documented policies neutrally and objectively; whether those entities which are affected by decisions have adequate mechanisms for participation through the Constituencies*
- *whether policy decisions are made in a way which demonstrates that participants are accountable to the Internet community and whether statements of interest are explicitly made on each issue under consideration*
- *whether the GNSO's website and the Constituencies' websites operate effectively as tools for transmitting a wide variety of procedural and substantive information on the policy development process*
- *whether new technologies and systems could be used to augment the work of the Constituencies and GNSO Council*
- *analysis of the recording, publishing and notification of significant input and decisions contributing to the policy development process of the GNSO Council, GNSO taskforces, workgroups and Constituencies*
- *analysis of ICANN face to face meetings and their contribution to the work of the GNSO, its taskforces, workgroups and Constituencies in facilitating their contribution to the development of policy advice*

Compliance. Analysis in this part of the Review could include the questions outlined in the box below.

- *whether the GNSO Council and the GNSO Constituencies comply with the ICANN By Laws and with their own rules and procedures*
- *whether there is effective alignment of the GNSO structure and policy development process that delivers practical policies which can be effectively implemented*
- *whether there are sound linkages between the GNSO's policy development processes and ICANN's policy compliance programme*
- *whether there is effective cooperation between the policy development and operational aspects of the ICANN organisation to implement consensus based policy*

4. Analysis and Measures



- 4.1. To effectively manage the resources available for the Review it is intended that on-line surveys as well as face-to-face interviews will be conducted across a range of GNSO participants in addition to including members of the broader Internet community who are interested in ICANN's work.

- 4.2. To inform the work, baseline statistics from each of the GNSO Constituencies and the GNSO Council will be required. Those statistics (based on, for example, facts and figures about voting patterns, membership fees and participation rates) will provide a frame for understanding the component parts of the GNSO and the GNSO Council. Each constituency will be asked to provide this information, in a consistent format, across a range of question areas. This information will be provided to the evaluator, in addition to other materials which may help the evaluation to take place effectively.

5. Quantifying Focus Areas

- 5.1. The focus areas outlined in Section 3 above can be measured objectively and subjectively. A range of tools could be used including one-to-one interviews, literature searches and online analysis. These tools may be selected in consultation with the evaluators. Analysis of groups who are not participating in ICANN meetings and reasons for that is also required. Any barriers to entry need to be identified and addressed. Comparisons may be made with other organisations to measure, for example, timeliness of decision making and use of resources; use of technology and possible models for improving GNSO participation and effectiveness.

6. Mapping Relationships and Interactions

- 6.1. It is expected that a wide range of both Internal relationships – with the ICANN Board, ICANN Staff and other ICANN entities in addition to those within the GNSO itself – will be examined.

- 6.2. There are a variety of external relationships – with the broader Internet using community including the public and private sector – that directly inform the GNSO's work.

- 6.3. In both cases, practical recommendations will be sought about how to improve both internal and external relationships in the context of ICANN's policy development processes and the work of the GNSO.
- 6.4. This work will include capturing and mapping community perceptions about ICANN's work and interpreting concepts used in the ICANN By Laws such as "open and transparent manner", "fairness", "consensus", "bottom-up policy development" is required. Perceptions can be mapped to tangible facts which may stem from answers to the questions in the box below. The evaluators will be expected to map subjective perceptions with objective facts to deliver findings which balance subjectivity and objectivity and which produce practical recommendations for improving the GNSO's operations.

- How many topics has the GNSO been working on?
- How are policy topics initiated?
- How many different people or organisations have been involved in the work?
- How do the Constituencies handle the policy development topic workload?
- How many topics have been resolved and implemented as policy?
- Has the introduction of new topics impeded the work on existing work programs?
- Should new topics be taken on before old topics have been resolved?
- Should topics have clearly defined time constraints?



Annex A – ICANN Non-Disclosure Agreement

