



August 29, 2002

M. Stuart Lynn  
President and CEO  
ICANN  
4676 Admiralty Way, Suite 330  
Marina del Rey, CA 90292-6601

Dear Mr. Lynn:

RegisterOrg respectfully submits the following comments in response to the Preliminary Staff Report on Evaluation of the Proposals Reassignment of the .Org Registry released on August 19, 2002 ("Staff Report") and the various reports that underlie it. We appreciate the work of the evaluation teams and of the ICANN staff and we are most gratified that Gartner, Inc. gave RegisterOrg its highest rating, "above average," for the technical strength and overall competence of the bid, stating that "RegisterOrg has proposed a technical design containing the highest Service Level commitments of all of the proposals." In reaching its conclusions, Gartner analyzed each bid based on five of the eleven criteria set forth by ICANN in the request for proposals, including: 1) the need to preserve a stable, well-functioning .org registry; 2) the type, quality, and cost of the registry services proposed; 3) the ability and commitment to support, function in, and adapt protocol changes in the shared registry system; 4) transition considerations; and 5) the completeness of the proposals submitted and the extent to which they demonstrate realistic plans and sound analysis.

Nevertheless, RegisterOrg believes that there are significant material errors and omissions of fact, uneven and contradictory applications of scoring criteria and, in some instances, unsupported and unsupportable conclusions throughout the remaining committee reports that impacted the scoring and thus the ultimate conclusions and recommendations of the Staff Report. We urge that these supporting reports be reviewed and rescored to reflect the information and analysis provided below and in our comment to the Gartner technical evaluation report (sent under separate cover). Furthermore, we believe that the facts plainly establish RegisterOrg as the best candidate to transition and manage the .org TLD and that the Staff Report should support that conclusion.

**A. Both the Gartner Report and the Academic CIO Report Should Consider the Financial Stability of the Bidders.**

Both Gartner and the Academic CIOs were tasked with the responsibility of assessing the ability of the bidders to satisfy Criteria 1, 7, 8, and 9. Criterion 1 relates to the need to preserve a stable, well-functioning .org registry. It is indisputable that preservation of stability depends, in part, on the financial stability of the registry operator. Over the past few months, numerous questions have been raised about the financial viability of several bidders that are restructuring operations,

closing offices, downsizing staff, and/or increasing debt loads. While bidders were required to submit recent annual financial reports and other financial data with their proposals, it appears that neither Gartner nor the Academic CIOs examined that data or considered financial stability to be relevant in its review. Indeed, Criteria One of the RFP specifically requires that the “proposals should include specific plans, backed by ample, firmly available resources.” Had either Gartner or the Academic CIOs reviewed that data, we believe that RegisterOrg would have received a higher overall ranking.

Unlike many of the bidders, RegisterOrg is stable and financially secure. Following capitalization from its parent company, Register.com, RegisterOrg has \$10 million in cash currently in the bank, and can therefore finance the transition without reliance on third party partners or money from capital markets. Consequently, RegisterOrg is uniquely situated in that it has the funding to work continuously towards transitioning the registry on January 1, 2003.

There will be little time for the successful bidder to “ramp up” prior to the December 31<sup>st</sup> transfer from VeriSign. RegisterOrg has the financial resources as well as the experience and the technology to meet that challenge. Moreover, with the current uncertainties in the economy, RegisterOrg has the financial stability to make a firm and lasting commitment beyond the transition to assure the growth and vitality of the .org domain in the long run. Many bidders have, in our estimation, been overly optimistic with respect to time lines for generating revenue and forecasting expenditures for implementing the transition. While we have significant plans to expand and revitalize the .org registry, we are also mindful that there is no guarantee in registrant numbers, either at handover or thereafter. Beyond anything else, the new operator must be able to prove financial stability regardless of the scenario. Accordingly, RegisterOrg constructed its bid under the assumption that the operation of the .org domain would generate ***NO CASH REVENUE FOR SIX MONTHS*** and that the number of Registrants would continue to decline in the first year of operation. Additionally, our parent company, Register.com, has approximately \$200 million in cash and cash equivalents and is fully committed to supporting RegisterOrg as necessary to successfully transition the registry and grow the .org domain.

RegisterOrg strongly urges that the ICANN staff and its technical consultants review the financial stability of the bidders, and exclude those that are not financially secure.

**B. The Academic CIO Team Evaluation Is Highly Subjective, Provides No Analysis And Relies On Inappropriate Criteria. It Therefore Must Be Disregarded In The Staff Report.**

In addition to the carefully considered review by Gartner of the technical capability of the bidder to transition and maintain a stable .org registry, ICANN sought the views of an Academic CIO Team (“the CIO Report”), comprised of CIOs (or individuals with relevant ICT administration experience) from major academic institutions in the U.S., Mexico, and Australia with considerable experience in procurements and information and communication technologies, on Criteria 1, 7, 8 and 9. On its face, that evaluation appears to be the result of individual team members giving their “best judgment” as to how to rank the proposals (highest, acceptable, and marginal), followed by negotiations among the team members to reach a consensus for each ranking. This subjective process, which provides *no* analysis or basis for its conclusion,

produced, not surprisingly, a markedly different result than Gartner’s well developed methodology. Significantly, while RegisterOrg was rated as one of five “above average” bidders in the Gartner Report (“clearly demonstrated an above average capability to meet the needs of the .org registry,” Gartner, page 17), it was rated only acceptable in the CIO Report, a group that included at least one bidder who scored near the bottom in the Gartner Report.

The CIO Report sought to distinguish its “High Ranking” proposals from the merely “Acceptable” ones by suggesting that those in the “Acceptable” group were judged to have one or more “shortcomings” set out on page three of the CIO Report. A review of those shortcomings is striking. Indeed, three of the six “shortcomings”– including a new or complicated (likely to fail) organizational or technical plan, a weak technology plan and a weak or lengthy transition plan – are unabashedly based on judgment alone. The term “judged to be” used in each of these “shortcomings” includes no reference to any criteria or comparative analysis among these bidders. We are deeply troubled that the fate of otherwise highly qualified bids could be significantly altered by such an arbitrary decision making process.

Surprisingly, the list of potential bidder “shortcomings” does not include any consideration of a bidder’s financial stability. As we discuss more fully in Section A above, the financial viability of a bidder, its ability to finance the transition and function as a stable ongoing registry without possible interruptions related to cash flow, ought to be a central inquiry.

Far more troubling, the CIO Report appears to be highly biased in favor of existing global registry operators. While the team appropriately weighted the first criterion – preserving a stable well functioning .org registry – as the most important (CIO Report at 2), it then places its thumb squarely on the scale by giving “extra credit” to those bidders who already operate a large global registry. (CIO Report at 3). Nowhere in either the RFP or any subsequent documentation does ICANN state a preference for current global registry operators, and indeed to do so would be contrary to ICANN’s charge to expand competition in the registry space. From the outset, it was well understood that bidders would be judged by strong technical and operational capabilities and a demonstrated ability “to preserve a stable well-functioning registry.”

Consideration of this highly inappropriate factor appears to be all that distinguishes the so-called “High Ranking” Neustar and ISOC/Afilias bids from RegisterOrg. The CIO Report quite specifically relies on the “fact” that both the Neustar and ISOC/Afilias have a demonstrated ability to operate a large global registry, and cites “less or no experience operating a registry” as a factor that would result “in a lower ranking than applied to the group above.” The CIO Report, by inappropriately favoring global registry operators, turns this requirement into an incumbent’s preference. For this reason and all those stated above, the ICANN staff should give no weight to the CIO Report. To the extent that the conclusions of the Staff Report are tainted by this document, as we believe it is in the case of RegisterOrg, those conclusions must be reconsidered.

### **C. The Noncommercial Domain Name Holders Constituency Should Reconsider Its Ranking of RegisterOrg**

We appreciate the time and effort that went into the Noncommercial Domain Name Holders Constituency’s (NCDNHC) detailed report and recommendation to ICANN regarding the

pending .org divestiture. Although RegisterOrg was rated extremely well by the NCDNHC on a variety of criteria, the NCDNHC, in some instances, appears to have misunderstood RegisterOrg’s proposal and relied on some inaccurate data that we believe adversely impacted the weighted ranking of the bidders. Our response to the NCDNHC Report is intended to clarify and correct this misinformation in order to ensure a fair and complete evaluation of our bid.

## **1. The Roles of OSI and Benton as Community Organization Grant Partners**

For reasons that are not clear to us, the NCDNHC report does not reflect an accurate understanding of the important value that Community Organization Grant Partners will bring to the noncommercial .org community.

The basis of RegisterOrg’s entire nonprofit strategy is the partnerships with the Open Society Institute (OSI) and the Benton Foundation. As set forth in great detail in C.35 of our application, RegisterOrg will distribute \$2.5 million “to seed the growth of a robust .org community through technology capacity building, bridging the digital divide, policy education and advocacy, and technology innovation.” Our commitment to fund these two organizations is more than “just a grant” – it reflects a desire to form a true partnership with two organizations that have a proven ability to reach out and serve the needs of the .org community.

As will be set forth in our Memoranda of Understanding with OSI and Benton, the Community Organization Grant money will be designated for particular programs within each organization. The funded programs, described in the following paragraphs, will fall within several broad categories: 1) technology capacity building, 2) bridging the digital divide; 3) policy education and advocacy; and 4) technology innovation. These programs currently provide direct services and tools to non-profit organizations and share RegisterOrg’s goal of bringing non-profits online, maximizing non-profits’ ability to provide services, increasing knowledge regarding Internet policy and digital divide issues, and encouraging greater participation in .org and ICANN governance. Moreover, through this partnership, RegisterOrg will leverage OSI’s and Benton’s services, technologies, channels of communication, and relationships with the noncommercial community to involve the .org community in registry and ICANN policy matters and provide an array of services to the .org constituency.

### **a. The Open Society Institute Information Program**

RegisterOrg has selected OSI’s Information Program to administer and distribute the Community Organization Grant money. (See C.35). The mandate of the OSI Information Program is to assist with the more equitable deployment of knowledge and communications resources — providing access to content, tools and networks — for civic empowerment and more effective democratic governance. A secondary mission of the program is to enhance the effectiveness of other OSI/Soros foundations programs through the use of knowledge media and ICTs (Information and Communications Technologies). (See OSI Strategic Plan, annexed to RegisterOrg Proposal). OSI believes that access to knowledge in all its forms is possibly the single most important factor in determining the success or failure of an open society. Thus far, the Information Program has helped to introduce Internet connectivity in more than 35 countries,

and has been at the forefront of funding for Internet policy for human rights and independent voices online.

The OSI Information Program has funded numerous projects worldwide, including: Global Internet Policy Initiative (GIPI), ASpiration, Global Internet Liberty Campaign (GILC), European Internet Policy Organization, Internet Society Training Workshop for Developing Countries, Compumentor, and Npower. Additionally, OSI's Information Program has developed long-standing partnerships with numerous international organizations, including Association for Progressive Communications, OneWorld, Consumer's Unions, the Center for Democracy and Technology, and iTrain Online. GIPI, for example, has policy coordinators in 14 countries, and has been working closely with the USAID's dot-GOV program that focuses on aid to governments for policy reform. GIPI also recently entered into a Memorandum of Understanding with the UNDP to support the open and democratic access to the Internet in developing countries. GILC is an international coalition of organizations that have joined together to protect and promote fundamental human rights on the Internet. The European Internet Policy Organization is an offshoot of GILC, and focuses on Internet policy issues as they relate to the European Union countries. Through projects such as GIPI, GILC, and the European Internet Policy Organization, OSI has become the preeminent funder of organizations engaged in advocacy and education of Internet policy issues and ICANN governance. Similarly, by funding projects such as Compumentor/TechSoup and Npower that help nonprofits bridge the digital divide and by creating strategic partnerships with organizations such as iTrain Online, an international project to bridge the digital divide and train nonprofits to utilize technology, OSI is taking the lead in the campaign to bring nonprofit organizations online, and provide these organizations with the necessary tools, applications and models that can provide increasing functionality to nonprofits as they enter the digital age.

As a Community Organization Grant partner, OSI has committed to sharing its information resources, educational materials, tools, and applications with RegisterOrg for distribution to the noncommercial community through the Community Portal on the .org web site. Additionally, OSI will assist RegisterOrg in conducting outreach to the noncommercial community and disseminating information regarding ICANN governance through its existing channels of communication, and those of the organizations it funds.

#### **b. The Benton Foundation**

Benton plays a unique role in the nonprofit community; an operating foundation dedicated to improving the work of fellow .orgs through the use of ICTs, Benton creates diverse online demonstration projects that highlight the noncommercial potential of the Internet. The foundation uses its numerous online services to communicate directly with .org entities, and provides them with a forum to discuss important ICT trends.

The Benton Foundation currently reaches tens of thousands of activists and organizations around the world. Benton's Connect for Kids newsletters, which target non-profit advocates for youth, reach over 35,000 subscribers, making them one of the largest non-profit Internet newsletter services in the world. Benton's Communications-Related Headlines service, one of the most popular email newsletters in the nonprofit community, is a daily digest of the latest policy

developments in ICT, journalism, public media, regulation and philanthropy. Over 6,000 activists and policymakers directly subscribe to the headlines service, and tens of thousands more receive it via other nonprofit news services on the Internet. Benton's DIGITALDIVIDE list, the interactive discussion forum of its Digital Divide Network, serves as the premiere community forum for discussing the digital divide. With over 3,200 members from 60 nations, DIGITALDIVIDE is *the* place where .orgs come together to tackle the digital divide. As a Community Organization Grant partner, Benton has committed to opening its networks of communication to RegisterOrg in order to conduct outreach to the noncommercial community and distribute information regarding ICANN governance.

With proceeds from the Community Organization Grant, the Benton Foundation would expand its successful ICT programs currently utilized by .orgs from around the world, as well as create new programs that would reach an even broader audience. For example:

Launch of the 21st Century Literacy Campaign. In order for nonprofits, communities and citizens to use ICT effectively, they must first master a broad set of skills. These skills, from the most basic reading and writing abilities to more complex technical, analytical and critical thinking skills, can be labeled broadly as *21st century literacy skills*. Without mastering these skills, even organizations with the most sophisticated digital technologies would be unable to take full advantage of them. To combat this dilemma, the Benton Foundation will launch a 21st Century Literacy Campaign. The campaign will be a multi-year strategy that will utilize both digital media and traditional mass media for teaching the importance of 21st century literacy skills, as well as provide real-life opportunities for nonprofit organizations and individuals to gain these skills. Grounding its work in the latest research of ICT literacy experts from around the world, the campaign will partner with leading educational institutions, mass media outlets, fellow nonprofits and communities, all in the hopes of expanding 21st century literacy skills among the organizations and citizens who would benefit from them most. All of Benton's various initiatives would work to support and augment this campaign, benefiting .orgs working in economic development, health, human rights, education, the arts and other sectors of civil society.

Expansion of the Digital Divide Network and the Digital Opportunity Channel. DDN and DOC, the Internet's premiere sources for information about the digital divide in the U.S. and abroad, would bring in a diverse range of international partners to craft online tools and resources that would be of direct benefit to the .org community. Benton and its partners would develop multi-lingual ICT tutorials, advocacy toolkits, as well as interactive collaborative tools that would allow nonprofits to work with each other more easily, leveraging each other's skills and strengths. DDN and DOC would serve as online workspaces for the nonprofit community, where they could build new skills, form new partnerships and further advance their missions. Both Web sites would also serve as vibrant policy forums, giving nonprofits a space to learn about and debate Internet policies that affect them most. Benton expects to bring in no less than half a dozen international organizations that will contribute important resources and tools to its portals by the end of 2002, and will use these partners as the basis for further expansion in the coming years. Additionally, Benton will make these tools available through the Community Portal for all .org constituents.

Capacity Building for Nonprofits. Benton's capacity building initiative, Strategic Communications in the Digital Age (formerly known as the Best Practices Toolkit) is an Internet mainstay of the dot-org community. Through this initiative, the Benton Foundation seeks to help nonprofits enhance the impact of their work through more effective use of ICTs. Nonprofit leaders need credible, succinct information to meet the challenges of the digital age. Benton will identify issues and inform the field of current trends, policies and practices, translating them into language that helps leaders advance organizational mission more effectively. Thus, with the assistance of the Community Organization Grant, Benton will drive more nonprofit organizations online, generate information and best practices for nonprofits, and educate nonprofits on important policy issues, including ICANN and the NCDNHC.

## **2. The Community Portal**

As envisioned by RegisterOrg, the Community Portal is “a .org ‘commons’ where registrants may find a wide range of support and resources, as well as news about policy development at the Registry and ICANN levels.” (See C.35). The Community Portal is a unique and innovative grouping of free services, described in detail in question C.35 of the RegisterOrg bid, including: 1) a discussion forum that will enable any number of users to comment on issues, be they large institutions or individual site owners, as well as increasing participation in relevant discussions by non-U.S. organizations; 2) an online community of resources for the development and growth of non-profit organizations; 3) links to important resources that relate to the goals of the Registry (.org Registry grantees with description of their projects and the relationship of those projects to .org, .org-sponsoring registrars); 4) content regarding best practices, policy issues, Internet governances, and creating an online presence; 5) innovative technology tools and programs developed to aide nonprofits; 6) centralized location for noncommercial users to post relevant papers and research re: .org and the noncommercial Internet; 6) a secure Web-based portal for registrars (and users, where appropriate) to communicate with the Registry for technical support and pertinent Registry news (e.g. Registry downtime and maintenance). Ultimately, the Community Portal would also contribute to the development of a .org brand by providing support to the .org community, and serving as a gateway to resources critical for developing a robust noncommercial Internet community.

## **3. Criterion 4: Differentiation**

With respect to criterion 4 (differentiation), the NCDNHC ranked RegisterOrg’s bid second out of the eleven bids and commended RegisterOrg for articulating “one of the most appealing identities for the [.org] domain” and demonstrating “a thorough understanding of the marketing problem and how to leverage the relationship with registrars.” In keeping with this assessment, the NCDNHC awarded RegisterOrg a 4/5 for market research, a 5/5 for market positioning, a 5/5 for an unrestricted policy, and a 4/5 for relationships with registrars.

While RegisterOrg is pleased with these assessments, the NCDNHC’s questioning of RegisterOrg’s “clear commitment to market exclusively to noncommercial” and scoring of RegisterOrg’s strategies and methods for minimizing defensive registrations as “0” baffle us. As set forth in detail in question C.38 of the application, “RegisterOrg believes that the target customer base for .org is comprised of community-minded individuals and organizations,

including, non-profits, civic and religious groups, clubs and other noncommercial entities – in other words .org is best suited for ‘people, causes and ideas.’” Moreover, “by creating a strong, undiluted identity for .org, the TLD will be revitalized and truly recognized as the pre-eminent domain for people, causes and ideas,” which RegisterOrg expects will “obviate defensive and duplicative registrations by entities falling outside of the target market.” (See C.38). Because RegisterOrg will also support an unrestricted registration policy, it has opted to rely on targeted marketing to minimize defensive registrations by differentiating .org from other gTLDs in a manner that will simultaneously attract U.S. and global registrants who can best benefit from using the .org space and discourage commercial users from occupying this space.

RegisterOrg’s commitment to market exclusively to noncommercial is evident throughout its marketing plan. (See C.38). Specifically, RegisterOrg’s commitment is embodied by its plan to: 1) communicate the value of .org as a designation for noncommercial activities, such as information sharing, advocacy, fundraising, networking, or socializing; 2) educate consumers and organizations about the benefits implicit in the .org domain; 3) expand the diversity and depth of .org registrants; and 4) position .org for audiences across a vast lingual, geographic, and political scale. Furthermore, as discussed in question C.35, RegisterOrg’s bid also emphasizes the need to “encourage greater use of .org by civic and community organizations globally” while simultaneously building “the civic capacity and value of the Internet for noncommercial users internationally.”

Additionally, we disagree with the NCDNHC’s contention that RegisterOrg provides no explanation of how the \$2.5 million Community Organization Grants administered through the Benton Foundation and the Open Society Institute “will strengthen the identity of .org or develop the market for .org registration.” As set forth in our application, “Civic and community organizations lag behind in technology adoption, in large part because of a lack of resources, but also because the value of an online presence is not self-evident. In an e-commerce dominated Internet, non-profits do not always understand the empowering potential of the Internet to improve delivery of core services, expand the reach of their message, and build an organization through online fundraising, volunteerism, campaign activities, and data management. In order to harness the potential value of the Internet, funding for technical assistance and education is necessary. Only when non-profits see the value of having an online presence will the .org registry grow and clearly become a recognized, critical resource for civic and community organizations as well as individuals.” (See C.38, Strategy Five). From RegisterOrg’s perspective, in order to market the .org domain to the noncommercial community, we must first increase the number of noncommercial users on the Internet. In order to develop a robust .org, we must equip noncommercial users with access to the Internet before they can begin to comprehend the benefits of technology. As detailed above in Section C.1, by providing OSI and Benton with \$2.5 million, RegisterOrg will be directly funding projects that target technology capacity building and research and development of innovative tools and services for nonprofits. Through these partnerships, RegisterOrg will also cultivate a network of nonprofit organizations and provide a significant and lasting impact on the .org brand and marketplace, thus establishing a stronger and more vital registry. Moreover, OSI and Benton will contribute to the Community Portal content, applications, tools and models that provide increasing functionality and better marketing to non-profit organizations. Thus, our partnership with OSI and Benton will provide a “marketing bridge” for RegisterOrg as the programs we fund bring more nonprofits online and



encourage nonprofits to use the tools and services provided through the Community Portal on the .org web site.

Finally, we are shocked by the NCDNHC's score of "0" to RegisterOrg for Innovation and its utter failure to acknowledge RegisterOrg's proposed Community Portal, detailed above in Section C.2 and in C.35 of our proposal. The Community Portal is precisely the type of innovation that will define the .org space, and create a sense of community among noncommercial Internet users. Ultimately, the Community Portal would also contribute to the development of a .org brand by providing support to the .org community, and serving as a gateway to resources critical for developing a robust noncommercial Internet community.

For these reasons, we dispute the NCDNHC's score of "0" to RegisterOrg for Innovation and Defensive Registrations, and urge the NCDNHC to reconsider its conclusion.

#### **4. Criterion 5: Responsiveness to the Noncommercial User Community**

RegisterOrg is disappointed that the NCDNHC ranked its proposal in the second tier overall for criterion 5 (responsiveness to the noncommercial user community). To assess this criterion, the NCDNHC rated each application on seven specified factors: 1) input/governance; 2) pre-bid survey; 3) post-bid responsiveness; 4) ICANN/NCDNHC; 5) relationship with the noncommercial community; 6) services targeted at the community; and 7) "good works." The NCDNHC awarded RegisterOrg a score of "5" for both our pre-bid survey and post-bid responsiveness, and a score of "3" for relationship with community. While RegisterOrg is appreciative of these high marks, we are astounded by the NCDNHC's decision to rate RegisterOrg's bid as a mere "2" for "good works" and input/governance, and a "0" for services targeted at the community and ICANN/NCDNHC.

First, with respect to our "good works" rating, we question how the NCDNHC can treat RegisterOrg's contribution of \$2.5 million to OSI and Benton so casually. After dismissing our partnership with OSI and Benton as "more of a consulting relationship than a partnership," the report claims that RegisterOrg has proposed "no new services or good works projects, beyond supporting Benton and OSI." In light of the fact that the NCDNHC gave a "5" to Global Name Registry for a mere promise to issue grants of an uncertain and unspecified amount (approximately 5% of revenues received from new registrations) through a Causeway Community Foundation administered by a nonprofit organization that has little involvement in Internet policy issues, it is outrageous that RegisterOrg's firm commitment of \$2.5 million to established Internet policy leaders is not similarly treated in the rankings. OSI and Benton are two prominent organizations with global reach and stellar reputations for Internet policy advocacy and technology innovation. As we set forth above in Section C.1, both of these organizations are committed to capacity building and technology innovation to help noncommercial organizations improve the delivery of core services, expand the reach of their messages, and build their organizations through online fundraising, volunteerism, campaign activities, and data management. RegisterOrg's \$2.5 million contribution to these organizations will directly fund a variety of international projects that deliver these needed services to the underserved nonprofit community.

Second, RegisterOrg is concerned that the NCDNHC Report failed to acknowledge or give any weight to our clear commitment to develop a robust .org Community Portal, “a central place where all users may engage in dialog about registry issues and find information and links to Web sites about global Internet policy development and Internet governance, as well as resources to help .org registrants build their Web presence and better communicate with their target audiences.” (See above at section C.2; and Proposal at C.35). We believe that the Community Portal should be viewed both as a “good work” and a service targeted at the noncommercial community. RegisterOrg’s funding for the development and maintenance of this portal is in addition to the funds committed to OSI and Benton for outreach, education and capacity building. As discussed above in C.2, the Community Portal will provide an online community for noncommercial Internet users to conduct discussions, access and share information, and obtain technological tools to improve their online organizational activities. As RegisterOrg’s partners, OSI and Benton will contribute articles, resources, and actual technology tools that will be made available free of charge to all users through the Community Portal. Additionally, RegisterOrg will provide 24/7 customer service support in multiple languages. While several other bidders received high marks for their proposals to generate and share technology tools or provide customer service, RegisterOrg’s commitment to distribute both existing technology tools and future developments and expand existing customer service centers was completely overlooked.

Moreover, the Community Portal is the foundation for RegisterOrg’s promise to facilitate participation of noncommercial Internet users in ICANN, and as such, should warrant a score higher than “0” for ICANN/NCDNHC. As set forth in C.35, RegisterOrg will utilize the resources of the Community Portal to generate discussion on important ICANN and NCDNHC issues, solicit feedback from the noncommercial community to share with ICANN, and inform the community about upcoming changes and information. The Community Portal also has the potential to increase attendance and participation by noncommercial organizations in ICANN through “virtual meetings.”

In conjunction with the Community Portal, RegisterOrg will leverage its partnership with OSI and Benton to conduct extensive outreach and education concerning both .org and ICANN policy. As we stated in our application, “Just as the lack of technical knowledge is a barrier that prevents non-profit organizations from getting online, the lack of knowledge of Internet policy keeps many non-profit and individual domain holders from participating in key policy debates. To best serve the noncommercial user community, it is imperative to expand the understanding of key Internet policy issues and their significance within the community, and, perhaps more essentially, issues raised by Internet governance of domain-name registration and management. In addition, it is equally important to broaden the involvement of noncommercial Internet users outside of the United States and Europe.” OSI and Benton are exactly the type of organizations to carry out this goal. These organizations have as great or indeed greater capacity to reach the .org community than any of the bidders. Indeed, OSI is perhaps the preeminent funder of nonprofit advocacy and participation in Internet governance in the world. To suggest that these organizations would risk their global reputations and relationships to support an outreach that is mere window dressing is at best bewildering and at worst insulting. These organizations are mission driven and a central part of their mission is to equip and to empower the noncommercial community to participate in Internet policymaking.

We are also deeply disturbed by the NCDNHC’s dismissive characterization of RegisterOrg’s commitment to an open and transparent governance process. Nevertheless, the report concluded that RegisterOrg “may ignore any input generated through its noncommercial partners.” This strained conclusion has no basis in fact. As RegisterOrg explained fully in its response to the NCDNHC questions, it is fully committed to a notice and comment process for any major policy decisions, and should have been awarded a score higher than a “2” for input/governance. That term has a well-understood meaning, at least under United States administrative law. It means that comments must be reviewed and considered, and more importantly, if not adopted, the reasons must be explained and set forth in the final rule. We are concerned that the NCDNHC did not consider the plain meaning of that term, or the weight of RegisterOrg’s public commitment to a notice and comment process.

Specifically, as set forth in our response to the NCDNHC questions, RegisterOrg will provide 60 days notice of any proposed policy that would substantially affect the .org community, and invite a minimum of 30 days for public comment on any such proposed policy. Within five days following a meeting of the RegisterOrg board, all policy decisions will be posted for the public to review. In cases where the registry is required to implement new ICANN related (consensus based) policy, the registry will provide notice of such policy modifications upon approval of any such policy. Furthermore, as stated in C.35 of our application, RegisterOrg will solicit comments from noncommercial registrants on major ICANN policy issues, and keep users informed of policy discussions at the ICANN level through the Community Portal and Community Organization Grant partners’ channels of communication.

Finally, the notion that RegisterOrg would ignore input generated from its noncommercial customers belies any understanding of the importance of those customers to RegisterOrg’s success as a business. Whoever is ultimately tasked with the operation of the .org registry must satisfy its customers if it is to grow the domain. It would be sheer folly for any business, especially a for-profit business such as RegisterOrg, to establish a process for input and then ignore the demands of its customer base – RegisterOrg certainly does not intend to do so.

For the foregoing reasons, we request that the NCDNHC reconsider its scoring of RegisterOrg in the categories of “good works,” input/governance, targeted services, and ICANN/NCDNHC.

## **5. Criterion 6: Summary of Public Support**

We are also amazed that, with four letters of support, the NCDNHC awarded RegisterOrg a “0” for public support. Although we understand the need to weight the types and numbers of letters of support submitted, we question the selected methodology. First, the methodology fails to differentiate between form letters submitted by individual members of an organization and letters of support from noncommercial organizations that are .org domain name holders. Second, the methodology fails to rank applicants with four letters of support any higher than applicants with no letters of support. We therefore ask the NCDNHC to reconsider its decision to award “0” points to bidders who received between 1 and five letters of support from organizations.

Third, we note that in some instances, the NCDNHC inconsistently applied its methodology for calculating the numbers and types of letters of support. For example, two of RegisterOrg’s letters of support were submitted on behalf of noncommercial organizations holding a .org domain name, which were demoted to a Class B category as potential financial beneficiaries of the bid. In contrast, the NCDNHC awarded ISOC full Class A credit for its letters of support from its chapters and members – **all of whom will benefit from the bid since ISOC proposes to use profits generated from running the .org registry to fund its programs**.

Moreover, we object to the NCDNHC’s rating of the geographic diversity of RegisterOrg’s letters of support as “low.” The majority of our supporters are international organizations. It is important to note that RegisterOrg is not predominantly an “American” company. While RegisterOrg is incorporated in the United States, RegisterOrg’s president is located in offices in the United Kingdom. RegisterOrg will be able to leverage Register.com’s extensive experience dealing in international markets and will have the means to support multiple languages immediately. Similarly, although the Open Society Institute is incorporated in the District of Columbia and maintains offices in New York City, OSI is an international organization operating in more than 40 countries, and should not be classified as a predominantly “American” organization. OSI operations are managed out of New York and Budapest. Last year, OSI distributed nearly 85% of its funds internationally. Nor should .AG NIC, located in Anguilla, be treated as an “American” organization. Finally, while the Benton Foundation is based in the United States, the programs that RegisterOrg will be funding through Benton include the Digital Opportunity Channel, an international joint venture with OneWorld SouthAsia.

We respectfully request that the NCDNHC reconsider its scoring of the public support summary, and suggest that RegisterOrg be given credit for both its four letters of support and the geographic diversity of its supporters.

## 6. Normalized Arithmetic Ranking

Additionally, we object to the “normalized” ranking of bidders as set forth on page 27 of the NCDNHC Report. Specifically, RegisterOrg believes that the “normalized” rankings are miscalculated and should be disregarded. As set forth in the NCDNHC Report, the purpose of the normalized ranking is to ensure that each of the three criterion is weighted equally. However, the normalization factors utilized in the calculations are incorrect and therefore fail to accomplish this goal. Moreover, the figures listed in the table on page 27 are inconsistent with the calculations shown on pages 47 and 49, and appear to be incorrect.

Finally, we also urge the NCDNHC to reconsider ranking all three criteria equally in the overall rankings. Criterion 6, support from the community, is largely based on a “beauty contest” – the majority of letters of support that were evaluated are form letters, and were generated through mass mailings and online solicitations. While public support is an important factor, the popularity barometer used in this assessment is by no means indicative of support from the broader noncommercial community. Additionally, RegisterOrg contends that responsiveness to the .org constituency and differentiation of the .org domain are more important than popularity to the noncommercial community.

#### **D. ICANN General Counsel Report Should Consider Factors Beyond Affiliations with VeriSign**

As noted in the ICANN General Counsel's Report, "one of ICANN's core principles is the encouragement of competition in the provision of registration services at both the registry and registrar levels." After finding that, "[w]ith the possible exception of a restrictive arrangement between UIA and VeriSign . . . there appears to be no evidence of lock-ups . . . [or] other circumstances that significantly mitigate the pro-competitive benefits of reassignment of .org," the General Counsel's Report focuses exclusively on the issue of competition at the registry level. Unfortunately, in assessing the issue of competitiveness at the registry level, the General Counsel's Report assesses only one factor – whether the applicant has a relationship with the existing dominant registrar, VeriSign, that would undermine the goal of increased competition. While we agree that this is a significant consideration, we also suggest that the current size and status of the applicant should be assessed.

Specifically, in order to truly enhance competition at the registry level, we recommend that the General Counsel should consider whether awarding the bid to a particular applicant will result in the creation of a new and viable competitor that will diversify the pool of registry operators, or instead grant a new monopoly over registry services thereby merely replacing one monopolistic entity with another. It is important to note that .org is currently the third largest registry. Several of the bidders already manage significantly large global registries. Should any of those bidders be awarded the .org registry, that applicant would control registries large enough to constitute another VeriSign. To that end, RegisterOrg suggests that the goal of increasing competition at the registry level requires the selection of an applicant with the technical capability and experience to operate the .org registry whose selection will further diversify registry management and promote competition.

#### **E. Conclusion**

The recommendation of the Staff Report is based on incomplete and inaccurate information, and should be reconsidered. The Staff Report's current recommendation of ISOC as the new .org registry operator flouts ICANN's mandate to increase competition in the registry market and fails to consider the financial viability of the bidders. We therefore request that the data and rankings in the underlying reports be corrected and recalculated. We further urge that the financial stability of the bidders be appropriately assessed, and suggest that ICANN undertake a business review of the applications as is currently done in the new TLD process. Finally, we request that ICANN reassess its decision to recommend ISOC as the .org registry operator. Rather, we believe that the facts plainly establish RegisterOrg as the best candidate to transition and manage the .org TLD and that the Staff Report should support that conclusion.

Sincerely,

Jonathan Wales  
President

Register Organization Inc.  
575 Eighth Avenue  
15th Floor  
New York, NY 10018  
+44 207 460 4060  
jwales@register.com