

new gTLD Escrow Agent Approval Criteria

Introduction

Specification 2 of the new gTLD base agreement, Part B, 1, states:

" 1. Escrow Agent. Prior to entering into an escrow agreement, the Registry Operator must provide notice to ICANN as to the identity of the Escrow Agent, and provide ICANN with contact information and a copy of the relevant escrow agreement, and all amendment thereto. In addition, prior to entering into an escrow agreement, Registry Operator must obtain the consent of ICANN to (a) use the specified Escrow Agent, and (b) enter into the form of escrow agreement provided. ICANN must be expressly designated a third-party beneficiary of the escrow agreement. ICANN reserves the right to withhold its consent to any Escrow Agent, escrow agreement, or any amendment thereto, all in its sole discretion. "

An ICANN-approved new gTLD Escrow Agent is authorized by ICANN to perform data escrow services for new gTLD registry operators.

In order to operate as a new gTLD Escrow Agent a prospective Escrow Agent must successfully and satisfactorily complete ICANN's application, including the sponsorship of at least one new gTLD applicant.

To sponsor an application, the new gTLD Applicant must affirm via a signed letter addressed to ICANN that the Applicant intends to engage the services of the potential Escrow Agent upon approval of the Applicant's application for a new gTLD and the potential Escrow Agent's approval by ICANN. The prospective Escrow Agent may not control, be controlled by or be under common control with the sponsoring new gTLD Applicant or the new gTLD Applicant's parent, subsidiaries or other affiliates entity. ICANN may perform on-site inspections of the prospective Escrow Agent's facilities to assess suitability as an Escrow Agent.

This draft document defines the approval criteria for potential Escrow Agents of new gTLD registry operators.

In the event this document is modified, any prospective Escrow Agent with a submitted, but pending, application will be permitted to withdraw its application.

Qualification Criteria

ICANN will evaluate potential new gTLD Escrow Agent applications using the following criteria:

1. Experience

- 1.1. Within the past ten years, Escrow Agent Applicant (EA Applicant) must have at least five years experience in providing commercial escrow services (as Escrow Agent).

If EA Applicant can demonstrate at least two years experience as an Escrow Agent but not five years, the remaining required experience may be demonstrated through work in a similar field or capacity, provided that the full five year requirement can be met among all relevant experience and the additional experience reflects substantial suitability as a new gTLD Escrow Agent.

- 1.2. Within the past three years, EA Applicant must have at least two years experience in providing commercial, technology/data escrow services as Escrow Agent.
- 1.3. Within the past ten years, EA Applicant (including its parent or subsidiaries (or other affiliated entities), principals, managers, and significant shareholders/owners) must not have been convicted of or have pled guilty or no-contest (or the substantial equivalent) to any crime involving dishonesty or any felony (or the substantial equivalent of a felony).
- 1.4. Within the past ten years, EA Applicant (including its parent or subsidiaries (or other affiliated entities), principals, managers, and significant shareholders/owners) must have no significant history of litigation or formal enforcement action (including known, pending

investigations) by any administrative, regulatory, judicial, legislative, law enforcement, or other governmental agencies.

To the extent relevant to an EA Applicant's qualification as new gTLD Escrow Agent, ICANN may consider matters settled without admission of wrong-doing or matters that are not yet resolved.

1.5. Within the past ten years, EA Applicant (including its parent or subsidiaries (or other affiliated entities) or predecessor entities) must not have been subject to litigation or arbitration and found liable for damages related to failure to perform its duties as Escrow Agent or for loss or unintentional release of data.

1.6. EA Applicant must be able to provide at least two verifiable and relevant client references.

2. Operational Stability

2.1. EA Applicant must hold at least USD \$1 million in Commercial General Liability (CGL) insurance coverage (or the substantial equivalent where CGL insurance is not available), naming ICANN as an "additional insured."

2.2. EA Applicant must have access to at least USD \$250,000 (or the equivalent in another currency) in liquid capital, as demonstrated through audited financial statements or other readily verifiable documentation.

2.3. EA Applicant must be able to provide at least two verifiable trade references.

2.4. EA Applicant must have a customer support center operating 24x7x365.

2.5. Customer support must be provided at least in English.

2.6. The EA Applicant must comply with one of the following:

- Being an ICANN approved Third-Party Provider of Registrar Data Escrow Services for the last two years.
- Provide an ISO 27001 Certification covering the data escrow services. An accredited third party must award the certification.

3. Infrastructure and Security

3.1.EA Applicant must have access to at least two secure, environmentally sound, geographically diverse locations for storage of new gTLD registry deposits. The two facilities must be at least Tier III as defined by the UptimeInstitute™.

The EA Applicant must comply with one of the following:

- Provide a Tier III certification for each facility.
- Provide evidence for each facility being Tier III equivalent.