



The Internet is for Everyone

July 29, 2011

Fiona M. Alexander
Associate Administrator
Office of International Affairs
National Telecommunications and Information Administration
1401 Constitution Avenue, NW., Room 4701
Washington, DC 20230

By electronic mail: IANAFunctionsFNOI@ntia.doc.gov

Response by the Internet Society to the National Telecommunications and Information Administration [Docket No. 110207099–1319–02] [RIN 0660–XA23] Further Notice of Inquiry (FNOI) on the Internet Assigned Numbers Authority (IANA) Functions

Dear Ms. Alexander,

The Internet Society (ISOC) thanks the United States Department of Commerce National Telecommunications and Information Administration for providing a summary of comments submitted to the Notice of Inquiry on The Internet Assigned Numbers Authority (IANA) Functions along with accompanying responses to the major points identified. We appreciate NTIA's providing an additional opportunity to offer detailed comments on a Draft Statement of Work (SOW) and a related series of questions. In issuing the FNOI, the NTIA is demonstrating an increased commitment to open and transparent process, instituting an interactive dialogue that we believe can only lead to better public policy. The outreach to various stakeholders in the Internet community that the Department has undertaken, and their responsiveness thus far to inputs received will contribute to broadening transparency, predictability and global confidence in the way it deals with the IANA function.

We are pleased to provide the following response, and ask that these remarks be read as supplementary to the Internet Society's contribution to the earlier Notice of Inquiry. We also would like draw readers' attention to the submission to this process by the Internet Architecture Board. The Internet Society provides the organizational home for the groups responsible for Internet infrastructure standards, including the Internet Engineering Task Force (IETF) and the Internet Architecture Board (IAB). We fully support the comments contained in the IAB submission to this inquiry.

In general terms, the Internet Society agrees with many of the points contained in the NTIA comments on the interveners' comments in response to the March 2011 NOI; however, there are some areas where we believe further clarification would contribute to clarity in the Statement of Work.

First, we welcome the NTIA's restatement of support for the multistakeholder process as an essential strategy for dealing with Internet policy issues in general, and with the IANA functions specifically. The Internet Society has long been a proponent of this model. However, we believe that the Contract needs to recognize the respective roles, responsibilities and capabilities of several stakeholders which have a

different level of responsibility and a greater need for involvement than other stakeholders. While all stakeholders share the need for confidence in the IANA contractor, for transparency and accountability, and for engagement in aspects of the policy making process, we agree with the IAB submission that some entities should be singled out as “materially affected parties”¹ to the contract. Making clear this distinction would be consistent with the need to avoid any perception that the Contract is intended to expand the scope of IANA, or to assert authority over those organizations, while allowing for the evolution of the roles and responsibilities of the multistakeholder model.

Second, an examination of the roles and responsibilities of the Internet technical community also will highlight the fact that, although the DNS component of the IANA Functions Contract attracts the bulk of the attention, it is only one of three IANA functions that are of equal importance to the well-functioning Internet. As indicated by the IAB submission, it is important that all three IANA functions are recognized as having equal importance rather than giving the impression that the addressing and protocol functions are subservient to the DNS.

A third area where we believe further clarification would be helpful before settling on the final wording of the SOW pertains to the proposed functional separation between the processing of the IANA functions and the development of associated policies. The Internet Society continues to believe that carrying out tasks associated with the IANA function must be independent of the policy making processes for all aspects of the functions. This requires that policy making processes (whether carried out by individuals or bodies) not interfere with IANA functions operations. However, we believe it is useful that policy making processes be informed by the implementation expertise of IANA functions staff responsible for executing the IANA functions, as well as by advice from technical experts from other materially impacted stakeholders. We believe, therefore, that the requirement for separation is at the level of functional operation specification, and not the staffing level.

Finally, we strongly encourage the NTIA to refine and clarify the requirement for the IANA Contractor to document compliance with relevant policies and procedures or, more critically, with relevant national laws as suggested in the Draft SOW. To be consistent with the requirement for the functional separation between the processing of the IANA functions and the development of associated policies, it is essential that IANA staff not be required to independently assess whether or not requests for processing are compliant with subjective policies or with national laws originating in a number of jurisdictions. The current draft SOW text suggesting IANA staff should ensure that requests comply with “relevant policies and procedures, such as RFC 1591” must be clarified. The policy-making bodies themselves – ICANN, represented through its Board, the IETF and IAB, and the regional address policy groups as represented by the ASO/NRO – should attest that their respective policies and procedures are appropriately addressed. Those bodies are responsible for properly carrying out their duties, including where necessary obtaining expert advice when required, as for example in the case of compliance with national law, and the responsibility must remain there.

The final SOW must make it clear that the IANA Contractor’s staff is responsible only for documenting the relevant organization’s compliance with objective policy requirements, procedures and laws, and not for judging the accuracy of such statements.

Assessing compliance is a key policy function, and must therefore remain separate from the procedural functions of the Contractor. The same applies to certifying community support; the responsible bodies should inform the IANA Contractor that a decision has been determined to have community support; but the Contractor cannot reasonably be expected to judge whether or not that is true.

¹ The materially affected parties include, but are not limited to, the Policy Development Bodies (ICANN, represented through its Board, the IETF and IAB, and the regional address policy groups as represented by the ASO/NRO), regional registries, country code top-level domain (ccTLD), operators/managers, and governments.

Turning to the questions posed in relation to the Draft SOW the Internet Society offers the following comments:

Question 1. Does the language in “Provision C.1.3” capture views on how the relevant stakeholders as sources of the policies and procedures should be referenced in the next IANA functions contract. If not, please propose specific language to capture commenters’ views.

ISOC Response: The language in “Provision C.1.3” is unnecessarily restrictive. Since only some of the data submitted by applicants in connection with the IANA functions is confidential, protection should be limited in scope to apply to only the confidential data. Otherwise, the Contract should presume in favour of transparency. This approach would help to inspire all stakeholders’ confidence that the Government and the Contractor are properly carrying out their functions. Suggested wording (additions are underlined):

C.1.3 The Government acknowledges that some data submitted by applicants in connection with the IANA functions is confidential information. To the extent permitted by law, the Government shall accord any data submitted by applicants in connection with the IANA functions that is justifiably agreed to be confidential with the same degree of care as it uses to protect its own confidential information, but not less than reasonable care, to prevent the unauthorized use, disclosure, or publication of confidential information. In providing data that is subject to such a confidentiality obligation to the Government, the Contractor shall advise the Government of that obligation. The Government shall provide notice that the identified data is being held confidential and explain why such treatment is justified (e.g., “commercial confidential,” “private personal data,” etc.).

Question 2. Does the new “Provision C.2.2.1.1” adequately address concerns that the IANA functions contractor should refrain from developing policies related to the IANA functions? If not, please provide detailed comments and specific suggestions for improving the language.

ISOC Response: As noted above, the new “Provision C.2.2.1.1” seems to go too far in that it could prevent the IANA Functions Contractor staff from providing important technical advice to the policy development process. It would be preferable to clarify that the IANA Functions Contractor staff should remain separate and removed from the decision making process, but not from providing technical input or input based on operational considerations to the discussions leading to a decision. Suggested wording:

C.2.2.1.1 The Contractor shall ensure that any and all staff dedicated to executing the IANA functions remain separate and removed (not involved) from decision making concerning any policy development that occurs related to the performance of the IANA functions. It is expected that such staff may occasionally be requested to provide expert, technical advice and opinion or input based on operational considerations germane to the policy development process.

Question 3. Does the language in “Provisions C.2.2.1.2, C.2.2.1.3, C.2.2.1.4, and C.2.2.1.5” adequately address concerns that the IANA functions contractor should perform these services in a manner that best serves the relevant stakeholders? If not, please propose detailed alternative language.

ISOC Response: With regard to Provision C.2.2.1.2, we recommend that two important changes be included. First, there should be a clarification that the materially concerned parties specifically should be requested to collaborate in developing appropriate standards and metrics. The wording proposed below recognizes the importance of the knowledge and experience resident in the Internet technical community and their distinct status as clients of the IANA Functions. Second, it needs to be made clear that the role of the Contracting Officer’s Technical Representative (COTR) is to certify the compatibility of the proposed standards and metrics with the terms of the contract, and not to judge their relevance or utility for the clients of the Function. Suggested wording:

... Within six (6) months of award, the Contractor shall submit to NTIA performance standards and metrics developed in collaboration with materially concerned parties for approval. The performance standards and metrics will be approved by the Contracting Officer's Technical Representative (COTR) unless they explicitly contradict some aspect of the contract. Upon approval by the COTR the Contractor shall perform this task in compliance with approved performance standards and metrics [...]

Question 5. Does the new “Provision C.2.2.1.3.2 Responsibility and Respect for Stakeholders” adequately address concerns related to the root zone management process in particular how the IANA functions contractor should document its decision making with respect to relevant national laws of the jurisdiction which the TLD registry serves, how the TLD reflects community consensus among relevant stakeholders and/or is supported by the global public interest. If not, please provide detailed suggestions for capturing concerns. Are the timeframes for implementation reasonable?

ISOC Response: Please refer to the comments above regarding the need to avoid putting the Contractor in the position of having to judge the adequacy of the relevant policy development bodies’ performance of their functions. The direction the text in these sections seems to suggest is a significant and major area of concern for the Internet Society. In terms of specific language, ISOC would suggest, for example:

C.2.2.1.3.2 Responsibility and Respect for Stakeholders—The Contractor shall confirm that a request for it to take action refers to the source of the policies and procedures, such as RFC 1591, *that have been followed in taking a decision to request the Contractor* to process requests associated with TLDs. For delegation requests for new generic TLDS (gTLDs), the Contractor shall affirm that the ICANN Board approved policy for new gTLDs has been satisfied.

Question 6. Does the new “Section C.3 Security Requirements” adequately address concerns that the IANA functions contractor has a secure communications system for communicating with service recipients? If not, how can the language be improved? Is the timeframe for implementation reasonable?

ISOC Response: With reference to Section C.3.5. *Director of Security*, the Internet Society agrees that position is of great importance to the community’s confidence in the security and stability of the IANA function; however we note that the requirement for the Contractor to “notify and consult in advance the COTR when there are personnel changes in this position” gives the appearance of creating an additional responsibility and check point for the COTR. We understand that the Director of Security will be responsible for handling sensitive information and tasks. While it is appropriate for the Contractor to ensure that this position is filled by a trusted individual, the Internet Society believes that it would be inappropriate for the COTR to interfere directly in the personnel decisions of the Contractor.

Question 9. Does the new “Section C.4 Performance Standards Metric Requirements” adequately address concerns regarding transparency in root zone management process, and performance standards and metrics? Should the contractor be required to gather and report on statistics regarding global IPv6 and DNSSEC deployment? If so, how should this requirement be reflected in the SOW? What statistics should be gathered and made public?

ISOC Response: With regard to performance standards and reporting, we believe the contract should emphasize openness and transparency to the greatest extent possible. Thus, we believe that the performance progress reports recommended should be posted publicly and not just submitted to the COTR, as suggested in C.4.1. The reporting should be high-level and should respond to the needs of all stakeholders, while being consistent with the recommendations made above with regard to Provision C.2.2.1.2, where the special expert role of the materially affected parties is highlighted. In the same spirit, ISOC recommends that the materially affected parties should be specifically included in the development of the Root Zone Management dashboard to ensure that client needs are met.

The Internet Society does not think it is appropriate for the Contractor to be required to gather and report on statistics regarding global IPv6 and DNSSEC deployment. The Performance Standards Metrics requirements should be limited to the registries IANA operate; for example, concerning DNSSEC, gathering information on the number of DS records in the root zone is appropriate, while monitoring the rate of global DNSSEC deployment is probably outside the scope.

Conclusion

Once again, the Internet Society appreciates the opportunity to comment on the terms of the proposed Contract. We hope that the responses above are helpful to the NTIA, and assure you that ISOC staff remains available for clarification of any points, should you wish to discuss our response further.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Lynn St. Amour", followed by a horizontal line extending to the right.

Lynn St. Amour
President and CEO
Internet Society