

G. usTLD Delegated Manager Contracts

The usTLD Administrator must commit to the maintenance and enhancement of the usTLD locality-based space in an orderly transparent manner while at the same time ensuring that all Delegated Managers and Locality Registrants adhere to minimum requirements and standards. NeuStar has a proven record of such a commitment, and we will continue to enhance the experience of the locality-based user through the enforcement of the Delegated Manager Agreement and the Locality Registrant Terms and Conditions.

Background

When NeuStar assumed responsibility for the usTLD space in 2001, we inherited the legacy hierarchical locality space from the previous operator, VeriSign. During the last usTLD procurement, it was estimated that there were approximately 8,000 locality names and 800 Delegated Managers in existence. Over the last five years, NeuStar has identified over 17,000 locality names and 1,500 Delegated Managers and we continue to work diligently to clean up this space.

In 2003, NeuStar conducted an investigation and in April 2004 submitted the required report on the results. From this investigation, NeuStar determined that the absence of a contractual framework among relevant parties (usTLD Administrator, Delegated Managers, Locality Registrants) for the management of locality domains and sub-domains has contributed to confusion, litigation, and a lack of accountability, resulting in a negative impact on users of the locality space.

There are two types of agreements NeuStar uses to govern the end users of the usTLD Locality Space: the Delegated Manager Agreement ("DMA") and the .US Locality Registration Terms and Conditions ("LRTC"). Each of these agreements are critical for the orderly management of the locality space, but serve different functions.

Understanding the complex differences between these agreements is crucial for the proper and efficient administration of the locality space. While the differences may seem subtle to those not experienced in dealing with the unique issues involved in the locality space on a day-to-day basis, it is these same subtle differences that make the space a unique asset of the U.S. Government.

As of June 30, 2007 NeuStar has secured a total of **934** agreements (**605** Delegated Manager agreements and **329** Locality Registrant). We are continuing our efforts to secure agreements covering all other locality domains that are in use, and to re-delegate those names that are not in use.

Highlights

- **Agreements hold Delegated Managers accountable to usTLD Administrator and local community.**
- **Agreements require Delegated Managers and Locality Registrants to follow the policies of the usTLD including Nexus, usDRP and WHOIS.**
- **Template Agreements establish mutual obligations for Delegated Managers, Locality Registrants and the usTLD Administrator.**
- **Administration of Agreements demands extensive knowledge in state and local government law to enable certain Delegated Manager's to execute agreements.**

More information on NeuStar's management of the legacy Locality space can be found in Proposal Section B, C.5.

Delegated Manager Agreement

The DMA is intended for those persons and/or entities that are responsible for the maintenance, support and administration over usTLD locality domain names on behalf of third parties that are not affiliated with the Delegated Manager. All Delegated Managers are required to execute the standard DMA that was drafted by NeuStar's in-house legal department. A copy of the form DMA is attached as Appendix D-1. Unless otherwise set forth in the DMA, each Delegated Manager is required to comply to the extent possible with informational RFC 1480, and any successor document.

In addition, as part of the DMA, Delegated Managers commit to the following:

- Maintaining and recording usTLD Locality space delegation data and ensuring that all contact data is accurate and up-to-date. In addition, the Delegated Manager must follow specific enforcement provisions and provide a third-party complaint process to ensure registrant accurate information.
- Allowing their information (and information related to their locality registrants) to be publicly displayed in the central WHOIS database operated by NeuStar as the usTLD Administrator.
- Delegated Managers are required to comply with the usTLD Nexus Requirements and other usTLD policies, and to comply with all DoC mandated requirements.
- Entering into written agreements with locality registrants for which they manage and ensuring that each of the commitments contained in the DMA are passed through to locality registrants. Delegated Managers must have a "registration agreement" with the localities that require the locality registrants to agree to (a) usTLD Dispute Resolution Policy and Rules, (b) usTLD Nexus Requirements, (c) Nexus Dispute Policy and Rules, and (d) Registration Review Policy (April 22, 2002).
- Ensuring that all registrants of locality names have equal access to all services and support. Provide such services by customer support response times for updates and changes to the domain record in a fair, reasonable and nondiscriminatory process.
- Report every new sub-delegation to the usTLD administrator and added to a master list of all delegations, and that each Delegated Manager maintain accurate and current information in the WHOIS database.
- Delegated Managers must agree to submit to usDRP (dispute resolution process). In addition, in the event of a dispute between the Delegated Manager and the registrant of a locality domain, the Delegated Manager gives the usTLD Administrator permission to take back the delegation until the dispute is resolved.
- Any fees charged by Delegated Managers must be fair and reasonable.

- In the event Delegated Managers elect to transfer delegations to one another, the usTLD Administrator must be notified in advance and must authorize the transfer.

Locality Registrant Terms and Conditions

In addition to the DMA, NeuStar has developed the Locality Registrant Terms and Conditions ("LRTC") for locality registrants. This agreement, attached hereto as Appendix D-2, is intended for locality registrants for whom NeuStar acts as the Delegated Manager. Locality Registrants are those end users of specific locality names that do not intend to further sub-delegate their domain names to third party entities. For this reason, certain requirements that are imposed on Delegated Managers are not imposed on Locality Registrants and vice versa. For example, Locality Registrants are not required to adhere to RFC 1480 (as that is the job of NeuStar, as their Delegated Manager) and a prohibition on transferring or sub-delegating the locality names.

Like the DMA, the LRTC requires Locality Registrants agree to (a) usTLD Dispute Resolution Policy and Rules, (b) usTLD Nexus Requirements, (c) Nexus Dispute Policy and Rules, and (d) Registration Review Policy (April 22, 2002).

Changes in the Form Agreements

At this point in time, given that NeuStar is still in the process of executing agreements with Delegated Managers and Locality Registrants, and foresees this process continuing for the near future, NeuStar is not recommending any changes to either the DMA or the LRTC. In fact, given the above, NeuStar believes that any changes proposed or implemented to either of these agreements at this time would be imprudent and ill-advised in that we believe it would threaten the ability of the usTLD Administrator to sign up Delegated Managers and Locality Registrants that have yet to sign an agreement. From an implementation standpoint, this would require sending the new form agreements not only to those that have yet to sign agreements, but also to existing Delegated Managers and Locality Registrants to get their sign off as well. Although the usTLD Administrator has the right to modify the Agreement at any time (with approval from the Department of Commerce), we believe that adjusting the agreements at this early stage of implementation without the appropriate feedback from the existing signed Delegated Managers and Locality Registrants would cause instability in the relationships the usTLD Administrator has successfully developed over the past several years and could result in a large number of Delegated Managers "walking away" from using the usTLD locality space.

Flexibility in negotiations with Localities

The usTLD Administrator must not only have the operational expertise to manage the usTLD technical registry, but also must have the legal expertise in U.S. Government contract law to effectively and responsibly deal with state and local governments on negotiations related to the DMA and/or the LRTC. It is only through this knowledge and understanding can the usTLD Administrator balance the need of the states and localities to comply with their own local statutes and regulations, while at the same time ensuring the effective administration and operation of the usTLD locality space and the U.S. Government's ability to require the usTLD Administrator to

modify its policies governing the operation of the usTLD. NeuStar is the only registry operator in the world that has such experience.

As the current usTLD Administrator, NeuStar's customer support and legal teams have been involved in literally hundreds of discussions with Delegated Managers and Locality Registrants in order to procure their signatures to the standard DMA and/or LRTCs. Through our experience, we have recognized the need of the usTLD to be flexible in dealing with states and local governments particularly in cases where they assess that their state or local law conflicts with the provisions contained in either the DMA or the LRTC. In such an event, with concurrence from the DoC, we have balanced the needs and requirements of the states/localities with our need to administer the usTLD in a neutral even-handed manner.

Because of our history, we believe that we are the only entity responding to the RFQ that understands the legal complexities involved in such a delicate balance. We understand that certain provisions in the form agreements involve NeuStar equities and therefore can be modified (with DoC concurrence). For example, in order to entice state and local governments into signing the DMA and/or LRTC, NeuStar has been willing to agree to modify provisions in these agreements relating to choice of law or venue, indemnification, limitation of liability and no waiver of sovereign immunity where the Delegated Manager or Locality Registrant can demonstrate to the usTLD Administrator that such requirements are in conflict with applicable state or local law.

However, in other circumstances, NeuStar has been unwilling to change provisions of these agreements where we or the DoC believes doing so would harm the U.S. Government's ability to effectively manage the space and to have the administrator carry out the policies of the U.S. Government. This includes, but is not limited to ensuring that the DoC has the unilateral right to require the usTLD Administrator to modify policies governing the operation of the usTLD.