

Internet Corporation for Assigned Names and Numbers

2007 Staff Proposals Document Series

AT-LARGE ADVISORY COMMITTEE

PROPOSED GUIDELINES TO AT LARGE STRUCTURES (ALS) APPLICATION EVALUATION

prepared by the Staff

Introductory Note

This document was presented to the At-Large Advisory Committee by the Staff in February 2007 for evaluation by the At-Large community. After extensive consultations, the ALAC voted to accept the version in Revision 5 on 29th June 2007, subject to a *toilette finale* by the staff; the result of that effort is Revision 6.

After and subject to the results of a review by the Office of the General Counsel, and any changes or amendments that may be required, this document will be disseminated to the RALOs for use by the worldwide At-Large community to evaluate ALS applications. It provides a written understanding of what kinds of applicants should be recommended to the ALAC for certification by them.

Having this guidance in written form, (based in part upon the analysis by ALAC of nearly 100 applications) should lead to greater consistency in the decisions reached on ALS applicants especially as the process of handling of applications is being decentralized, both to accommodate increased application volumes and to accommodate the increased role that the regional At-Large communities are undertaking in their Memoranda of Understanding with ICANN.

[End of introduction]

PART I

Criteria Used for ALS Accreditation

There are two sources that contain the criteria for accrediting ALS applications:

1. The Bylaws of ICANN, in Article XI, Section 2, Part 4(i)¹, and;
2. The “Minimum Criteria for an At-Large Structure”² (in this document simply the “Minimum Criteria”) as proposed by the Interim At-Large Advisory Committee and accepted by the Board of ICANN on 23rd June 2003³ in Resolution 03.102

Bylaws of ICANN

The relevant provision is as follows:

“...The criteria and standards for the certification of At-Large Structures shall be established in such a way that participation by individual Internet users who are citizens or residents of countries within the Geographic Region (as defined in Section 5 of Article VI) of the RALO will predominate in the operation of each At-Large Structure while not necessarily excluding additional participation, compatible with the interests of the individual Internet users within the region, by others”

Minimum Criteria

The Minimum Criteria elaborate upon the Bylaw provision and state the following five criteria.

Any change to the Minimum Criteria would require ICANN Board assent before the modifications can be brought into force, which would itself also require a public comment period:

- “1. Commit to supporting individual Internet users' informed participation in ICANN by distributing to individual constituents/members information on relevant ICANN activities and issues, offering Internet-based mechanisms that enable discussions of one or more of these activities and issues among individual constituents/members, and involving individual constituents/members in relevant ICANN policy development, discussions and decisions.
2. Be constituted so that participation by individual Internet users who are citizens or residents of countries within the Geographic Region in which the ALS is based will predominate in the ALS' operation. The ALS may permit additional participation by others that is compatible with the interests of the individual Internet users within the region.
3. Be self-supporting (not rely on ICANN for funding).
4. Post on the Internet (on the ALAC's website or elsewhere) publicly-accessible, current information about the ALS's goals, structure, description of constituent group(s)/membership, working mechanisms, leadership, and contact(s).
5. Assist the RALO in performing its function.”

¹ <http://www.icann.org/general/bylaws.htm#XI>.

² <http://www.icann.org/montreal/alac-organization-topic.htm#I>

³ <http://www.icann.org/minutes/prelim-report-26jun03.htm>

PART II

Evaluation of Applications

The Minimum Criteria, which incorporate and expand upon the relevant Bylaw provision and which was approved by ICANN's Board in 2003, shall predominate in evaluating ALS applications.

First Criterion

The first criterion, as agreed with the board, is as follows in black text:

“1. Commit to supporting individual Internet users' informed participation in ICANN by distributing to individual constituents/members information on relevant ICANN activities and issues, offering Internet-based mechanisms that enable discussions of one or more of these activities and issues among individual constituents/members, and involving individual constituents/members in relevant ICANN policy development, discussions and decisions.

The requirements for fulfillment of this criterion are as follows:

A declaration of compliance on the application form shall be required. The due diligence undertaken must attempt to verify that the information provided by the applicant is credible and that the applicant is likely to be able to 'live up' its obligations. An ALS has a responsibility to disseminate ICANN information, and to solicit feedback from its individual user participants.

Second Criterion

The second criterion, as agreed with the board, is as follows in black text:

2. Be constituted so that participation by individual Internet users who are citizens or residents of countries within the Geographic Region in which the ALS is based will predominate in the ALS' operation. The ALS may permit additional participation by others that is compatible with the interests of the individual Internet users within the region.

The guidelines for evaluation of whether or not an applicant fulfils this criterion are as follows.

Guidelines Relevant to All Applicants:

1. There is no requirement that an organization be legally constituted, or otherwise, or of any particular structure, excepting as otherwise provided in these Guidelines.
2. If an organisation receives corporate or government funding or has members who are government agencies or for-profit entities such members are allowed, provided such members do not interfere with, direct, or otherwise affect the mission, purpose or operations of the organisation.
3. Where a RALO believes that these Guidelines would have the effect of denying otherwise *bona-fide*⁴ organizations being accredited due to the unique characteristics of the development of that Region's Internet community, the RALO General Assembly shall notify the ALAC in writing of the need to modify these Guidelines and the reasons for doing so. Where the ALAC does not

⁴ bona-fide in this context meaning “legitimate” or “acceptable”.

object, and the ICANN General Counsel does not see the variation as in conflict with the Bylaws of ICANN and the Minimum Criteria as set by the Board, the modification shall prevail over the clause, or clauses, in question in these Guidelines for that RALO.

Additional Guidelines Relevant to Umbrella Organisations Only:

4. An organisation that has a membership composed largely of organizations (“Umbrella Organisations”), shall be eligible, provided that:
 - a. Individual internet users are engaged directly or indirectly in the organisation, and;
 - b. The mission and main purpose of the applicant organisation and/or the membership should directly relate to the interests of individual Internet users, and;
 - c. Neither the applicant, nor a substantial proportion of the applicant’s organizational members, may be controlled or directed by for-profit or governmental entities, save always that the RALOs may avail themselves of the flexibility in point 3.

Additional Guidelines Relevant to Non-Umbrella Organisations Only:

5. A Non-Umbrella Organisation should be:
 - a. Largely, or entirely, composed of individuals and governed entirely by them,
 - b. Focused on the interests of the individual Internet user, and;
 - c. A not-for-profit entity.
6. A Non-Umbrella Organisation should not be a governmental department, agency or affiliate.

For example: an ‘Umbrella NGO’ where the NGO’s organizational members are themselves controlled by and for the benefit of individual Internet users would fulfil the criterion. However, if an Umbrella NGO were to be composed largely of groups with little connection with individual Internet users’ interests, or if an Umbrella NGO has no ability for individual internet users to participate in any way in it’s work, either directly or indirectly, that would be grounds for determining the applicant to be ineligible.

Clearly, it is necessarily easier to determine that an organisation fulfils the requirements of the second criterion if it is composed entirely of voting, individual user members. However, as stated above, the requirement that “... participation by individual internet users ... will predominate in the ALSes operation ...” could be fulfilled by groups composed of organizations to the extent that it is clearly the case that the group members are themselves controlling the organisation for the benefit of individual Internet users.

Third Criterion

The third criterion, as agreed with the board, is as follows in black text:

3. Be self-supporting (not rely on ICANN for funding).

The guidelines for evaluation of whether or not an applicant fulfils this criterion are as follows:

A declaration of compliance on the application form shall be sufficient.⁵ Additional information may be requested by ICANN staff or the ALAC or Regional Secretariats to verify the compliance with the declaration.

Fourth Criterion

The fourth criterion, as agreed with the board, is as follows in black text:

4. Post on the Internet (on the ALAC's website or elsewhere) publicly-accessible, current information about the ALS's goals, structure, description of constituent group(s)/membership, working mechanisms, leadership, and contact(s).

The guidelines for evaluation of whether or not an applicant fulfils this criterion are as follows:

Where an applicant does not itself have a web presence at the time of application, a declaration of an intention to meet this criteria in a timely manner, and to keep the same current (either directly or via the help of the RALO Secretariat or ICANN At-Large staff) shall be sufficient.

Fifth Criterion

The fifth criterion, as agreed with the board, is as follows in black text:

5. Assist the RALO in performing its function.

The guidelines for evaluation of whether or not an applicant fulfils this criterion are as follows:

A declaration of compliance on the application form shall be sufficient.

General Obligation of Applicants

Each ALS must inform the RALO in writing if it is unable or unwilling to continue to comply with any of the obligations or requirements of ALS status, and the RALO shall similarly inform the ALAC.

The General Obligations will be moved to a document for ALS applicants once that document is created.

⁵ The intent of this criterion is to make clear the the applicant will not expect ICANN to provide funding for general operations. It should be noted that ICANN at times subsidises meeting costs and travel and expenses for participation by the ALS community in ICANN and ICANN-related activities.

PART III

Materials and Sources of Information to Use in Evaluating the Application

Those evaluating ALS applications shall rely on the following sources of information when evaluating an application for accreditation:

1. The application form;
2. The Due Diligence Form completed by ICANN Staff;
3. The web presence of the Applicant organisation, if any;
4. Information that can be searched for easily on the public Internet.

An application should rely only secondarily on the perceptions of members of the At-large community. Any evidence provided by independent third-party sources of information (to the extent such sources are available) should be decisive over the perceptions of an individual. Otherwise, an applicant runs the risk of being declared ineligible for accreditation based upon hearsay or an individual person's perceptions, biases, or other non-evidence-based criteria. At the same time, it is understood that evaluation of ALS applications cannot become an exhaustive investigatory process and that those who are evaluating applications are frequently volunteers doing their best in a voluntary capacity.

Where a question about eligibility remains, the At-Large staff or regional Secretariat should be asked to make independent enquiries of the applicant, or those in a position to have objective evidence about the applicant.

In general, an evaluation should rely upon the preponderance of the information available, and upon the total picture presented about an organisation.