

In alignment with the Board approved policy recommendations, this paper sets out ICANN’s plan for “managing any excess fees collected or budget shortfalls experienced”¹ in managing funds for the New gTLD Program.

This paper has been reviewed by the New gTLD Program: Next Round Board Caucus.

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¹ See [Final Report on the new gTLD Subsequent Procedures](#) Affirmation with Modification 15.4.

1. Background

As set out in the 2012 Applicant Guidebook and affirmed by the Board-adopted recommendations of the new gTLD Subsequent Procedures Policy Development Process (PDP):

The gTLD evaluation fee is set to recover costs associated with the new gTLD program. The fee is set to ensure that the program is fully funded and revenue neutral and is not subsidized by existing contributions from ICANN funding sources, including generic TLD registries and registrars, ccTLD contributions and RIR contributions.

For the program to be fully funded and cost neutral, ICANN has taken the approach that the rounds in themselves (the “2012 Round” and the “2026 Round”) are implemented with the cost recovery principle as their basis. This approach is also supported by SubPro’s Affirmation with Modification 15.4, which notes that “For the next application round and each subsequent round, an assessment must take place prior to each round to estimate the application fee that would be necessary to achieve cost recovery”. As this fee is developed prior to knowing the application volume and/or the mix of application types, unforeseen circumstances, such as the exercise of accountability mechanisms, may require a round to remain open for longer than originally planned, which means that costs continue to be incurred. Therefore, it is not possible to assess the full costs of a round, and whether there is an excess or deficit, until all or nearly all processing activities, including any applicable accountability mechanisms and/or litigation, have been completed.

2. Surplus / Deficit for 2026 Round

Before any gTLD evaluation fees are received, up to US\$85.6M is estimated to have been spent. That includes the \$70M implementation costs and up to \$15.6M of processing costs. There will be commitments that ICANN will have made to contractors that may be fixed as well as a base level of staff that will need to be in place to manage processing activities before the round opens. These represent so-called “stranded costs”, as no matter the volume of applications, these expenses are expected to be incurred as a minimum. To minimize these stranded costs, ICANN has deferred commitments as far as possible until after the number of applications is known and fees collected. ICANN is also putting plans in place that will focus on variable cost contracts that are volume dependent as well as processes that will allow for a quick ramp up of resources once the application volume is known.

The extent of any excess or deficit can only be determined once the processing of applications is complete. The processing budget has been built on several assumptions (resources needed, vendor costs, and number of applications) that may or may not hold up once the round is underway. The impact in relation to accountability mechanisms and/or litigation, in particular, is difficult to assess at the outset.

In the case of a deficit, there are various approaches that could be pursued, such as using the recuperated implementation costs of the 2026 Round to fund the deficit, or other funds, as the Board deems appropriate. If the program receives 500 applications or less, a deficit will be incurred as the implementation costs will not be fully recovered.

At 1,000 applications, ICANN is expected to recover all implementation and stranded costs. If there is any excess at the end of the 2026 Round opening in April 2026, with processing currently expected to complete by June 2030, the funds would be held in the New gTLD Program Fund, to be managed by the program for future rounds or steady state application processing implementation.

3. Funding of Implementation Costs – Now and Future

In preparation for the New gTLD Program: 2026 Round, the ICANN Board agreed to use application fee funds from the 2012 Round and from the Supplemental Fund for Implementation of Community Recommendations (SFICR) to fund the costs of implementation for the 2026 Round. ICANN continues to use these funds while also ensuring that 2012 Round activities still have adequate funding.

A total of \$34M is expected to have been used from the 2012 Round remaining fees to support the implementation of the 2026 Round. When these costs have been recuperated from the 2026 Round application fees, consistent with the approach outlined here, the remaining will be moved to a segregated fund managed by the New gTLD Program to “help alleviate the potential burden of an overall budget shortfall” (SubPro Implementation Guidance 15.8) as well as “apply towards covering the costs of maintaining the capability to assemble future subsequent rounds of new gTLDs with minimum delay and to ensure that the New gTLD Program is able to continue into the future” (SubPro Implementation Guidance 15.5).

A total of \$36M is expected to have been used from the SFICR. ICANN plans on replenishing the SFICR for future needs, as the purpose of that fund is for implementing community recommendations.

This approach is consistent with the concept that is outlined in SubPro implementation guidance 15.5: “ICANN org may set aside a certain small percentage of excess fees (to the extent there are excess fees) to apply towards covering the costs of maintaining the capability to assemble future subsequent rounds of new gTLDs with minimum delay and to ensure that the new gTLD Program is able to continue into the future”. It may be worth noting that in the case of the 2012 Round, these cannot be considered excess fees while there are still remaining applications and processing of these continues.

Implementation Budget - \$70M		
Approved Tranches - \$45M	Future Tranches - \$25M	Total - \$70M
<u>2012 Round Application Fees - \$32M</u> Tranche #1: \$9M - Apr 2023 - Oct 2024 Tranche #3: \$23M - Jul 2024 - Mar 2025 (extended through May 2025)	<u>2012 Round Application Fees - \$2M</u>	<u>2012 Round Application Fees - \$34M</u>
<u>SFICR Fund - \$13M</u> Tranche #2: \$23M - Nov 2024 - Jun 2024	<u>SFICR Fund - \$23M</u> Tranche #4: \$23M - Jun 2025 - Apr 2026	<u>SFICR Fund - \$36M</u>

4. Funding of Processing Costs Prior to Receiving Fees

Although the processing costs are covered by the new gTLD application evaluation fee, some of these costs are incurred prior to fees being received. The New gTLD Program segregated fund (“New gTLD Program Fund”) can provide the cash flow to fund these activities, such as identifying and onboarding of vendors, training of staff and vendors, and planning for activities that happen early in the processing phase. The funds for these activities would then be repaid to the New gTLD Program Fund to allow funding of other activities that are essential either for a round or the overall program such as implementation activities for a subsequent round.

5. Implementation Guidance 15.6 – Excess Refunds to Applicants

Implementation Guidance 15.6 states, amongst others: “If excess fees are collected in subsequent procedures and the cost recovery model is followed (...) any excess fees should be returned to applicants where possible in the form of a refund or a credit towards future fees, where applicable. (...)” and “ICANN may establish a schedule for the disbursement of refunds upon the achievement of specified milestones”.

ICANN expects to provide an application volume refund to applicants if an excess is received in relation to the implementation costs that are expected to be recuperated through the gTLD evaluation fee. This refund is expected to apply if more than 1,000 fully paid applications are received. ICANN will be able to establish whether the criteria for an application volume refund have been met after the close of the application window and as a result, if the application volume refund is applicable, it will be refunded to applicants soon after Reveal Day.

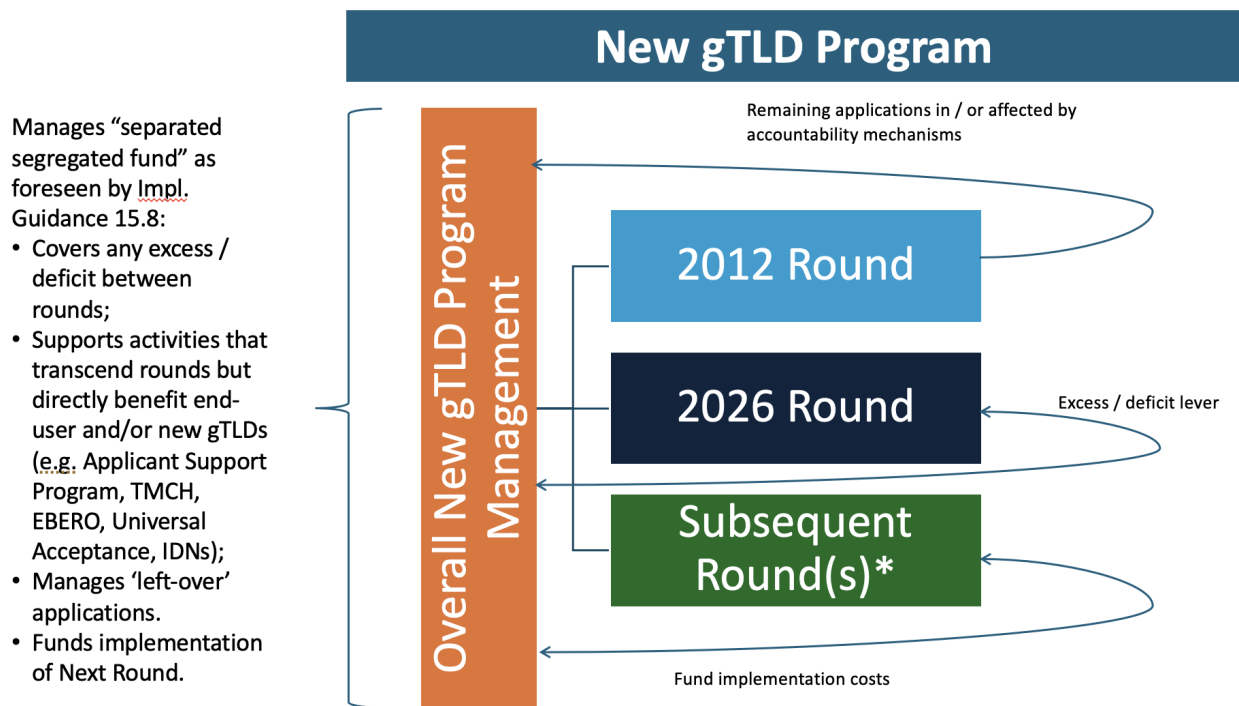
Nevertheless, as outlined previously, ICANN cannot establish whether an excess is applicable in relation to the other costs that the gTLD evaluation fee is expected to recover until all, or nearly all, applications have completed processing. To avoid keeping a round open while processing may be on hold for remaining applications of that round, ICANN plans to move any remaining applications from a round as well as any remaining fees to the New gTLD Program level so that continued support can be provided for these remaining applications when needed. At the same time, this will allow the program to continue supporting other activities that are for the benefit of new gTLDs and/or end-users such as the Applicant Support Program, Trademark

Clearinghouse, Emergency Back-end Registry Operators (EBERO) and Internationalized Domain Names (IDNs)/Universal Acceptance activities which is consistent with SubPro Recommendation 15.7.

As a volume refund is provided, ICANN considers that Implementation Guidance 15.6 has been partially implemented.

As outlined in the graphic below, by using the New gTLD Program Fund to manage any excess or deficit that is the result of the different rounds, it will be possible to build a sustainable and cost-efficient program as it reduces the need to build up and ramp down activities and allows for retention of key resources to support both completing of activities of previous rounds as well as implementing subsequent rounds.

This approach also allows the closing out of a round even if not all applications have been completed as responsibility for the management of such remaining applications can be moved to the program level, which allows closing out of any resources or vendors that would otherwise need to remain on standby and incur costs as a result.



*Note, if at some point in the future there is a shift from a "rounds" approach to a steady state, the overall New gTLD Program Management would manage funds for all activities related to a steady state.

6. 2012 Round Remaining Funds

In line with the approach outlined in the last paragraph of section 5, ICANN is in the process of closing out remaining 2012 applications that were not successful. This will allow reviewing existing 2012 Round vendor commitments by either closing those out, moving these to ICANN

operations, or continuing this under the umbrella of the New gTLD Program. Remaining 2012 funds will be transferred to the New gTLD Program Fund to allow for continued support for the remaining applications that are currently impacted/involved in ongoing accountability mechanisms.

7. Auction Proceeds

It is important to note that the new gTLD Auction Proceeds Cross-Community Working Group recommendations and the ICANN Board decision on the 2012 auction proceeds only applies to such proceeds and should not be presumed to also apply to future auction proceeds. From the [CCWG Final Report](#): “The role of this CCWG is to identify and to evaluate possible mechanisms to disburse proceeds received through auctions from the 2012 gTLD application round.” Further, the Board [scorecard](#) states that “The task of the CCWG-AP was to develop a set of recommendations for the distribution of funds collected from auctions of last resort within the 2012 New gTLD round”.

The Board [scorecard](#) also noted that the Board has “Direct[ed] the ICANN President and CEO, or his designees, to provide a recommendation to the Board, when appropriate, regarding the potential of using the ICANN Grant Giving Program for proceeds stemming from future auctions of last resort if such auctions are utilized for future gTLD application processes such as the ones contemplated within the policy recommendations on New gTLD subsequent procedures”. As a result, upon the recommendation from ICANN org, the Board will need to determine what happens to any proceeds that may be the result of the New gTLD Program: 2026 Round auctions. At any point before such a decision, the Board retains the ability to make decisions on the use of these proceeds in line with its fiduciary responsibility, for example, if there would be a deficit as the result of a limited number of applications received causing funding issues for either the processing or implementation of a future round. Following the completion of the New gTLD Program: 2026 Round contention resolution, ICANN org, in consultation with the Board, will assess the available funds as well as the financial state of the round and the New gTLD Program Fund to determine the timeline for a recommendation to the Board.

8. Conclusion

The approach outlined in this paper is expected to create a sustainable and cost-efficient environment for the New gTLD Program as it embarks on the 2026 Round and beyond.

Annex - SubPro Final Report Recommendations

See

<https://gnso.icann.org/sites/default/files/file/field-file-attach/final-report-newgtld-subsequent-procedures-pdp-02feb21-en.pdf>

Affirmation with Modification 15.4: The Working Group affirms the principle of cost recovery reflected in the 2012 Applicant Guidebook: “The gTLD evaluation fee is set to recover costs associated with the new gTLD program. The fee is set to ensure that the program is fully funded and revenue neutral and is not subsidized by existing contributions from ICANN funding sources, including generic TLD registries and registrars, ccTLD contributions and RIR contributions.”

For the next application round and each subsequent round, an assessment must take place prior to each round to estimate the application fee that would be necessary to achieve cost recovery. In the event that the estimated application fee, based on the revenue neutral principle, falls below a predetermined threshold amount (i.e., the application fee floor), the actual application fee should be set at that higher application fee floor instead. The development of the application fee must be fully transparent with all cost assumptions explained and documented.

In managing funds for the New gTLD Program, ICANN must have a plan in place for managing any excess fees collected or budget shortfalls experienced. The plan for the management and disbursement of excess fees, if applicable, must be communicated in advance of accepting applications and collecting fees for subsequent procedures. The implementation guidance below describes in more detail how this should be accomplished.

Implementation Guidance 15.5: Although ICANN must operate the new gTLD Program on a cost recovery basis (subject to any floors as set forth in this report) ICANN org may set aside a certain small percentage of excess fees (to the extent there are excess fees) to apply towards covering the costs of maintaining the capability to assemble future subsequent rounds of new gTLDs with minimum delay and to ensure that the new gTLD Program is able to continue into the future. Examples of such costs include retaining staff with program expertise and maintaining requisite systems. Any excess fees set aside by ICANN for this purpose should be explicitly recorded and justified.

Implementation Guidance 15.6: If excess fees are collected in subsequent procedures and the cost recovery model is followed (i.e., the application fee floor is not implemented) any excess fees should be returned to applicants where possible in the form of a refund or a credit towards future fees, where applicable. ICANN may establish a schedule for the disbursement of refunds upon the achievement of specified milestones. For illustrative purposes only, such a schedule could establish that once 50% of the applications have been fully processed (eg., delegated, withdrawn, or not approved), ICANN would issue a payment of 25% of the excess fees back to the applicants. The disbursement mechanism must be communicated before applicants submit applications and fees to ICANN. If ICANN is unable to locate the applicant for the return of excess

fees, the amount of the excess for that applicant should be used for the purposes described in Recommendation 15.7. Further, to the extent that excess fees per applicant are lower than a predetermined amount, for example \$US1,000, the funds should not be refunded to the applicant, but rather should be used for the purposes described in Recommendation 15.7. ICANN org should further explore the issues related to the management of excess fees with the Implementation Review Team and ensure that the resulting implementation is clearly documented in the Applicant Guidebook.

Recommendation 15.7: In the event that an application fee floor is used to determine the application fee, excess fees received by ICANN must be used to benefit the New gTLD Program and not any other ICANN program or purpose; that includes one or more of the following elements of the New gTLD Program:

- (a) a global communication and awareness campaign about the introduction and availability of new gTLDs;*
- (b) long-term program needs such as system upgrades, fixed assets, etc.;*
- (c) Applicant Support Program;*
- (d) top-up of any shortfall in the segregated fund as described below; or*
- (e) other purpose(s) that benefits the New gTLD Program.*

Implementation Guidance 15.8: To help alleviate the potential burden of an overall budget shortfall, a separate segregated fund should be set up that can be used to absorb any shortfalls and topped-up in a later round. The amount of the contingency should be a predetermined value that is reviewed periodically to ensure its adequacy.