

# WHOIS and Data Protection Policy

Gabriel Andrews (Co-Chair of Public Safety Working Group, US FBI)

Owen Fletcher (US Department of Commerce, NTIA)

Laureen Kapin (US Federal Trade Commission)

Melina Stroungi (European Commission)

ICANN81

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**ICANN | GAC**

Governmental Advisory Committee

# Agenda

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- 1. Background on WHOIS and Data Protection**
- 2. Urgent Requests for Disclosure of Registration Data**
  - Q&A
- 3. Registration Data Request Service (RDRS)**
- 4. Privacy/Proxy Services Accreditation**
  - Q&A
- 5. Accuracy of Registration Data**
  - Q&A
- 6. Considerations for the ICANN81 Istanbul Communiqué and GAC Discussion**

# WHOIS and Data Protection: Importance to the GAC

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## Why this is important for the GAC

Per the [GAC Principles Regarding gTLD WHOIS Services](#) (28 March 2007), recalled in the [GAC Abu Dhabi Communiqué](#) (1 Nov. 2017), the GAC noted they “continue to reflect the important public policy issues associated with WHOIS services” including that “WHOIS data [...] is used for a number of legitimate activities, including:

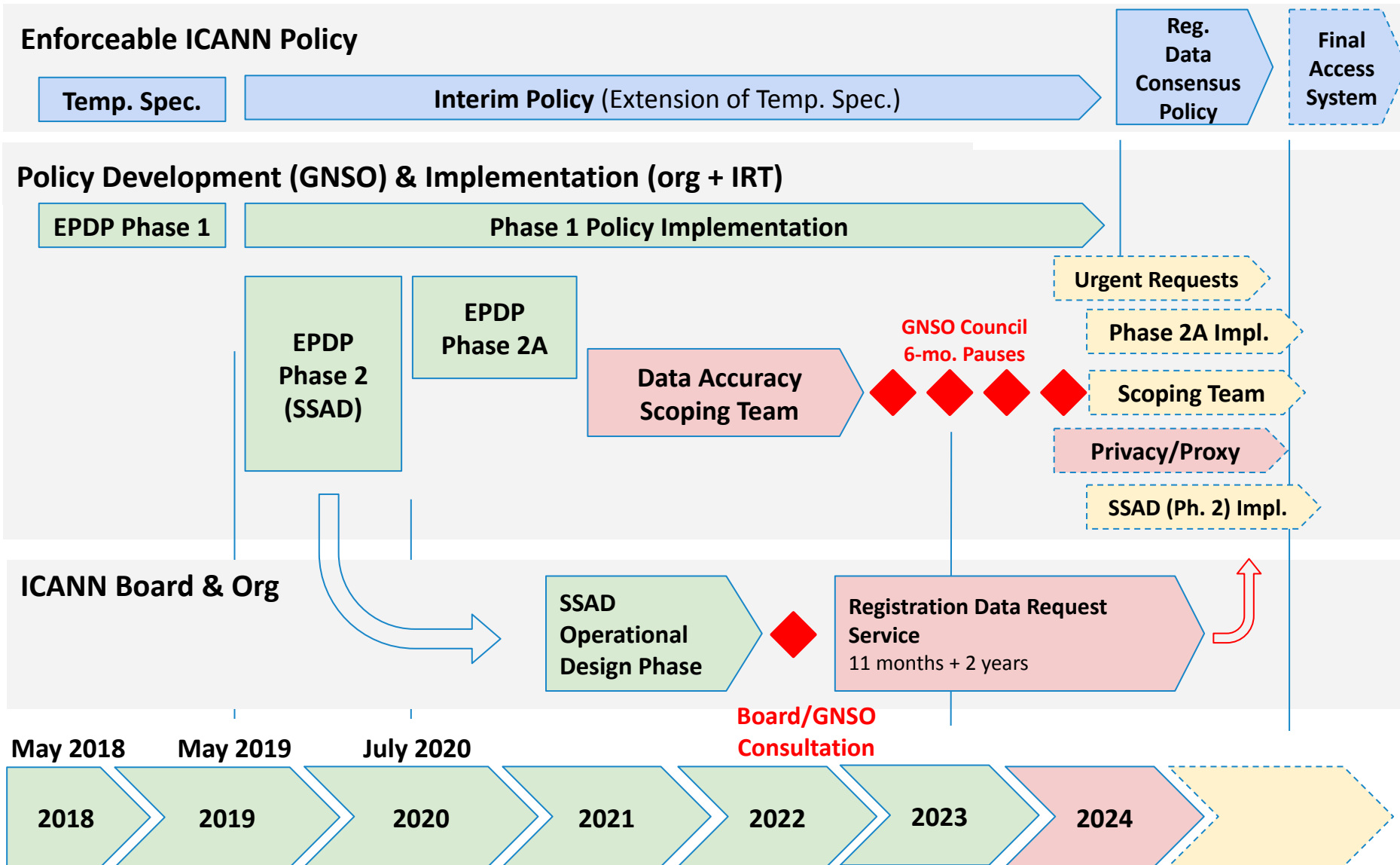
1. *Assisting law enforcement authorities in **investigations and in enforcing national and international laws**, assisting in **combating against abusive use** of internet communication technologies;*
2. *Assisting businesses, other organizations, and users in **combating fraud, complying with relevant laws, and safeguarding the interests of the public**;*
3. *Combatting **infringement and misuse of intellectual property**; and*
4. ***Contributing to user confidence in the Internet** as a reliable and efficient means of information and communication by helping users identify persons or entities responsible for content and services online.”*

## And still relevant when considering compliance with Data Protection Law

The GAC advised the ICANN Board “it should use its best efforts to create a system that continues to facilitate the legitimate activities recognized in the 2007 Principles, including by:

1. ***Keeping WHOIS quickly accessible for security and stability purposes**, for consumer protection and law enforcement investigations, and for crime prevention efforts, through user-friendly and easy access to comprehensive information to facilitate timely action.*
2. ***Keeping WHOIS quickly accessible to the public** (including businesses and other organizations) for legitimate purposes, including to combat fraud and deceptive conduct, to combat infringement and misuse of intellectual property, and to engage in due diligence for online transactions and communications”*

# WHOIS and Data Protection: Timeline to New Framework



Legend:



# Urgent Requests for Disclosure of Registration Data

Part of the Board-approved EPDP Phase 1 Policy Recommendations (Recommendation 18), removed from the resulting Registration Data Consensus Policy (EPDP Phase 1 Implementation)

- **The GAC provided input** at several stages of the developments leading to the adoption of this policy (in particular [GAC public comments](#) in Nov. 2022), and last in a [letter to the ICANN Board](#) (23 Aug. 2023) requesting a careful review of the proposed timeline for response to Urgent Requests.
- The Registration Data Consensus Policy, **is now published (with the exception of provisions related to the timeline for response to Urgent Requests)** and must be implemented by 21 August 2025.

## Timeline for response to Urgent Requests

- **Agreeing on a timeline for response to Urgent Requests for disclosure of registration data** in “*circumstances that pose an imminent threat to life, serious bodily injury, critical infrastructure, or child exploitation*” **proved unattainable** in the policy implementation process.
- In a [letter to the GAC](#) (11 Feb. 2024) the ICANN Board “***concluded that it is necessary to revisit Policy Recommendation 18 concerning urgent requests [...] and the manner in which such emergencies are currently handled***”, indicating that “[f]or this, we believe that consultation with the GNSO Council is required”.
- In the [ICANN79 GAC San Juan Communiqué](#) (11 March 2024), the GAC Advised the ICANN Board “***To act expeditiously to establish a clear process and a timeline for the delivery of a policy on Urgent Requests for domain name registration data, to respond to the vital public safety interests related to such requests. Such a process must ensure appropriate participation of the community, including the GAC.***”

# Urgent Requests for Disclosure of Registration Data

## The ICANN Board sought GNSO Council Input on Next Steps

- In its [response to the GAC San Juan Advice](#) (5 May 2024) the ICANN Board determined to “*defer[s] action on this advice, noting that it plans to discuss the way forward on this issue with the GNSO Council.*”
- In a [letter to the GNSO Council](#) (3 June 2024), the ICANN Board welcomed “*the GNSO Council’s input on next steps*” noting that “*neither the Bylaws nor existing procedures account for the situation in which [...] the Board concludes that a policy recommendation that it has previously approved should be revisited prior to implementation*”. Among its concerns, the ICANN Board noted:
  - *[...] To respond to truly imminent threats, a much shorter response timeline, i.e., minutes or hours rather than days, would seem to be more appropriate.*
  - *Applicable law, regulation, and reasonable registrar policies will often require registrars to authenticate self-identified emergency responders and confirm the purpose(s) for which registrant data is sought prior to disclosing personal data [...]*
  - *[...] an authoritative, legally sufficient cross-border system for authenticating emergency responders/law enforcement globally is not available to ICANN [...]*
  - *[...] such a mechanism cannot be created, operated, and/or maintained without the material, ongoing assistance of law enforcement, first responders, and governments.*

# Urgent Requests for Disclosure of Registration Data

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## Latest Developments

- The [GNSO Council responded to the ICANN Board](#) (29 August 2024) expressing agreement with the concerns raised by the ICANN Board and proposing to schedule “***a meeting between the ICANN Board, interested GAC and PSWG representatives, and the GNSO Council [...] to discuss the concerns in detail, explore the complexities involved, and determine the most effective way to proceed***”
- In its [response to the GAC Kigali Follow-up on Previous Advice](#) (7 September 2024) **the ICANN Board determined to continue defer action on this advice** noting that “*the GNSO discussion is underway and continues*”
- [The GAC proposed to the ICANN Board](#) (15 October 2024) that **two tracks of work be conducted in parallel:**
  - Explore possible mechanisms to authenticate emergency law enforcement requestors (authentication track)
  - Determine an appropriate response time for authenticated Urgent Requests, assuming a mechanism is in place (policy track)
- **The GAC’s proposal was discussed** right before ICANN81, during the [ICANN Board, GNSO Council and GAC conference call](#) (4 November 2024), and during ICANN81 GAC/GNSO Council Bilateral (this Sunday 10 Nov.)
  - The ICANN Board stated its openness to consider the proposal for 2 parallel work streams, and it is expected to further consider the proposal
  - The GNSO Council is expected to discuss the proposal during ICANN81

# Urgent Requests for Disclosure of Registration Data

## Next Steps / Open Questions

- **Regarding the “policy track”** to determine an appropriate response time for authenticated Urgent Requests:
  - Work on the EPDP Phase 1 IRT needs to resume as soon as possible. To be reminded that this is an adopted policy recommendation and work on this topic has been postponed for a significant time already.
  - Defining a timeline for response to Urgent Requests is in the scope of the IRT

### **EPDP Team Recommendation #18.**

- A separate timeline of [less than X business days] will be considered for the response to ‘Urgent’ Reasonable Disclosure Requests, those Requests for which evidence is supplied to show an immediate need for disclosure [time frame to be finalized and criteria set for Urgent requests during implementation].

- Appropriate expertise is assembled in the IRT, it has worked on this issue for several years
- **Regarding the “authentication track”** to explore possible mechanisms to authenticate LEA requestors:
  - Interpol, Europol and US FBI have already committed resources to this effort and are ready to explore how the authentication of LEA requestors could leverage their existing systems and procedures
  - A focused Technical Study Group effort would be a useful mechanism to advance discussion among the appropriate parties

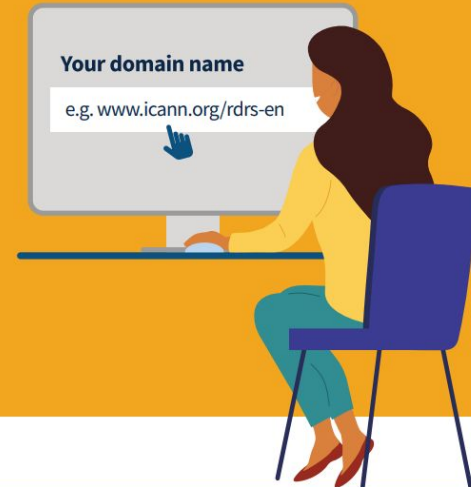


# Registration Data Request System (RDRS)

<< <https://rdrs.icann.org> >>

**NOW AVAILABLE**

## New Service to Request Access to Nonpublic gTLD Registration Data



### About the Registration Data Request Service

The Registration Data Request Service is a free service designed to handle requests for access to nonpublic registration data related to generic top-level domains (gTLDs).

Due to personal data protection laws, many ICANN-accredited registrars are now required to redact personal data from public records. The Registration Data Request Service connects individuals or organizations (requestors) who need access to nonpublic registration data with the relevant ICANN-accredited registrars for gTLD domain names that are participating in the service.

### Making Nonpublic gTLD Registration Data Requests Easier

- ✓ Free, global, one-stop shop to submit registration data requests to participating registrars worldwide.
- ✓ Submit important information, such as evidence of credentials, court orders, legal affidavits, and subpoenas, which a registrar will require in its review, in one central location.
- ✓ Flag requests that need to be prioritized by registrars.

# Why RDRS? To request access to redacted data

## Redacted

### Contact Information

**Administrative:**

*Redacted for privacy:  
some of the data in this object has been removed.*

**Technical:**

*Redacted for privacy:  
some of the data in this object has been removed.*

**Registrant:**

**Organization:** Internet Corporation for Assigned Names and Numbers

**Mailing Address:** CA, US

*Redacted for privacy:  
some of the data in this object has been removed.*

VS

## Unredacted

### Contact Information

**Registrant:**

**Name:** Domain Administrator

**Organization:** Internet Corporation for Assigned Names and Numbers

**Email:** domain-admin@icann.org

**Phone:** tel:+1.4242171313

**Fax:** tel:+1.3108238649

**Mailing Address:** 12025 Waterfront Drive, Los Angeles, CA, 90094-2536

**ISO-3166 Code:** US

# RDRS Standing Committee

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<< <https://rdrs.icann.org> >>

The Standing Committee is tasked to review the data that will be produced by ICANN org on a monthly basis following the launch of the RDRS. The Scoping Team is expected to analyze the data and consider:

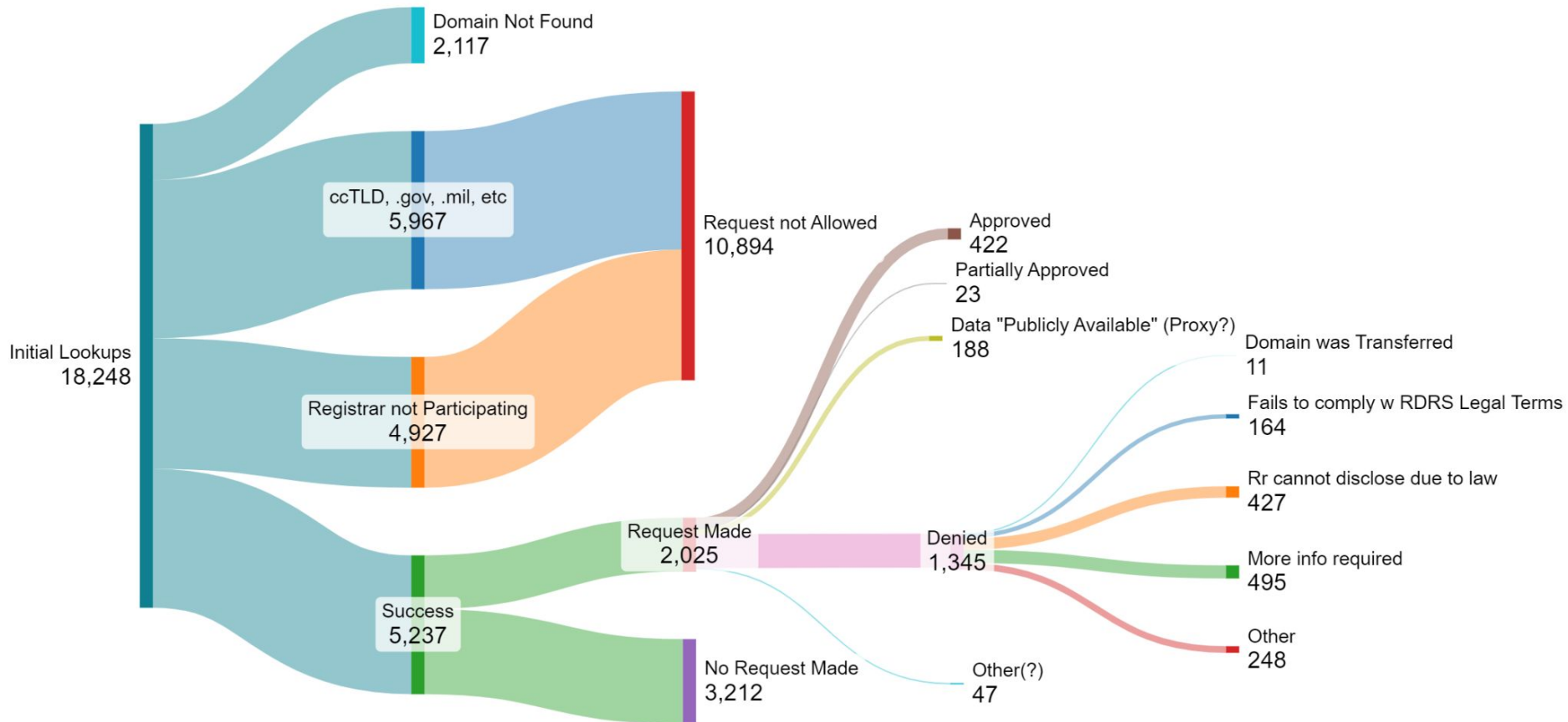
**Assignment #1:** Trends that can be identified over a month-by-month period;

**Assignment #2:** Possible technical updates that should be considered to RDRS and/or related messaging and promotion (recognizing that the RDRS will only be running for a two-year period and limited resources may be available to implement such updates);

**Assignment #3:** Specific lessons learned that should be factored into the consideration of how to proceed with the SSAD recommendations;

**Assignment #4:** Suggestions to the Council for a proposed recommendation(s) to the ICANN Board in relation to the consideration of the SSAD recommendations.

# RDRS - Usage Metrics Since Launch (as of Oct 2024)

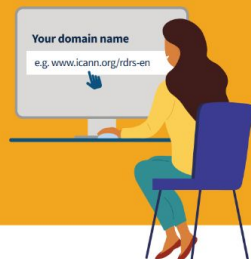


# RDRS - Usage Metrics Since Launch (as of Oct 2024)

<< <https://rdrs.icann.org> >>

**NOW AVAILABLE**

New Service to Request  
Access to Nonpublic gTLD  
Registration Data



## 1 Year of RDRS

All the world



18,248 domain inputs

**2,025** Requests  
Submitted

**302** from Law  
Enforcement

vs

## “Old” WHOIS Tools



in the last 90 days

**One** law enforcement  
agency in **one** country

**35k+** lookups observed  
by 1,000+ users

**Awareness challenge**

# RDRS - Awareness (Messaging & Promotion)

## [ICANN Board comments on Issues of Importance in the GAC Kigali Communiqué](#)

(15 October 2024)

### ICANN Board Comments

- With nearly one year of the RDRS pilot completed, the Board sees value in the continued operation and enhancement of RDRS and is interested in hearing from the community on what enhancements would be beneficial for a long-term solution.
- The Board notes that information on the RDRS has been linked on ICANN's [Registration Data Look Up Tool](#) in the section on non-public registration data to increase visibility. A link to RDRS is also included on the results page for the look up tool as well.
- Information and links to the RDRS can be added in the RDAP output of registries and registrars via the GNSO policy development process. The Board encourages the GAC to discuss this option with the GNSO Council.

# RDRS - Awareness (Messaging & Promotion)

ICANN | LOOKUP

## Registration data lookup tool

Enter a domain name or an Internet number resource (IP, Network or ASN) [Frequently Asked Questions \(FAQ\)](#)

Lookup

By submitting any personal data, I acknowledge and agree that the personal data submitted by me will be processed in accordance with the ICANN [Privacy Policy](#), and agree to abide by the website [Terms of Service](#) and the [registration data lookup tool Terms of Use](#).

For additional information on ICANN Accredited Registrars including website and contact information, please visit <https://www.icann.org/en/accredited-registrars>.

## About ICANN's registration data lookup tool

The ICANN registration data lookup tool gives you the ability to look up the current registration data for domain names and Internet number resources. The tool uses the Registration Data Access Protocol (RDAP) which was created as a replacement of the WHOIS (port 43) protocol. RDAP was developed by the technical community in the [Internet Engineering Task Force](#) (IETF).

RDAP has several advantages over the WHOIS protocol, including more secure access to data, a standardized and user-friendly format, support for internationalization, and the ability to provide differentiated access to registration data. More information can be found [here](#). For additional information on registration data, please visit the [Registration Data at ICANN page](#).

## Nonpublic registration data

To request access to nonpublic registration data, use the [Registration Data Request Service](#) (RDRS). Please make sure you have first checked that the data is unavailable through the lookup tool. The RDRS is intended for use by those with a legitimate interest in nonpublic data like law enforcement, intellectual property professionals, consumer protection advocates, cybersecurity professionals, and government officials. For more information on the RDRS, visit <https://www.icann.org/rdrs-en>.

Initial Reference to RDRS on the landing page of the ICANN Lookup Tool (before the Kigali Communiqué)

## Registration data lookup tool

Enter a domain name or an Internet number resource (IP, Network or ASN) [Frequently Asked Questions \(FAQ\)](#)

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For additional information on ICANN Accredited Registrars including website and contact information, please visit <https://www.icann.org/en/accredited-registrars>.

If the registration data you are seeking is not provided in the lookup results, please use the [Registration Data Request Service \(RDRS\)](#) to submit a request for nonpublic registration data. RDRS is intended for use by requestors with a legitimate interest in accessing nonpublic registration data.

New Reference to RDRS in the output of the ICANN Lookup Tool (after the Kigali Communiqué)

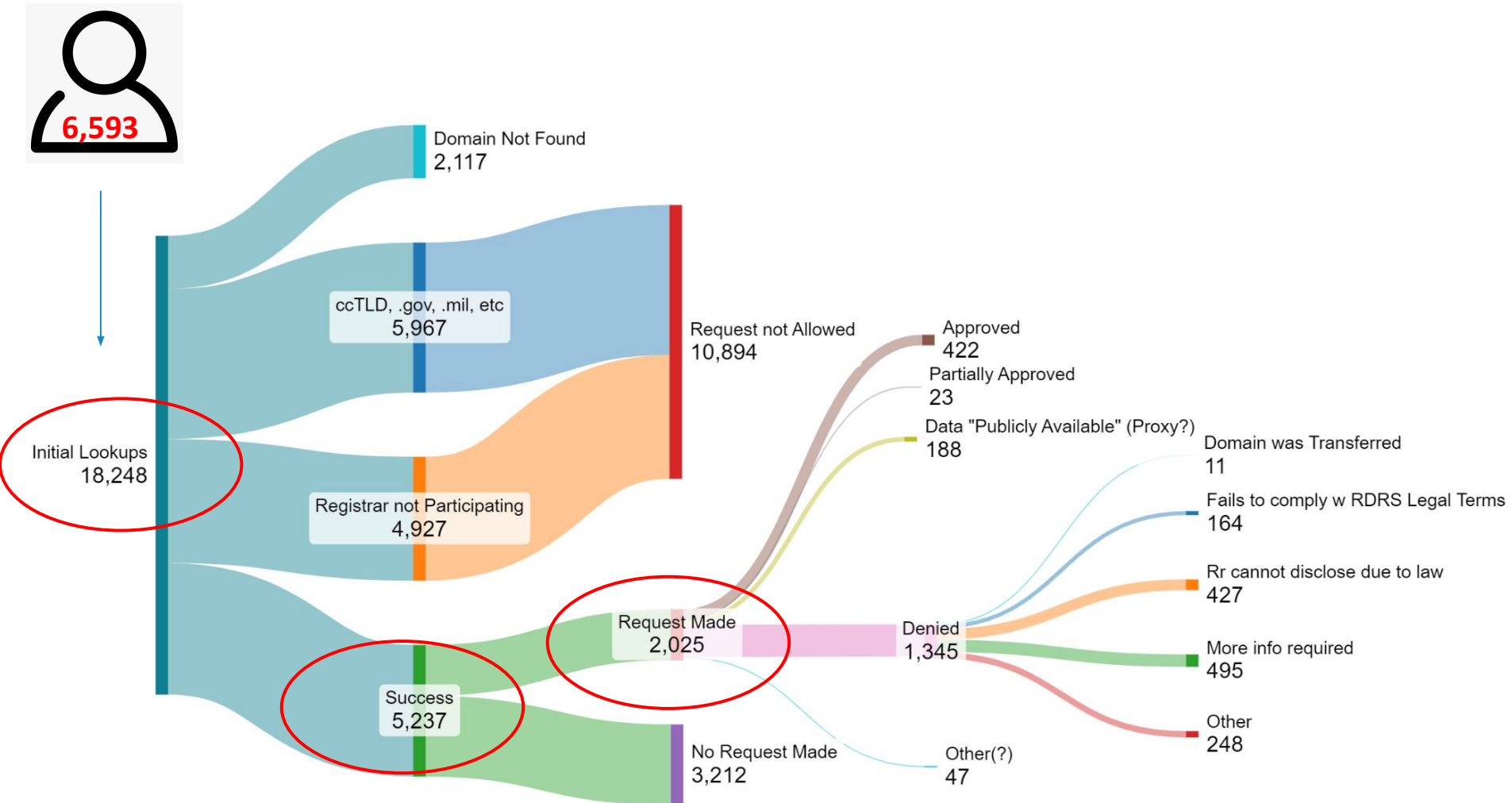
## Domain Information

Name: icann.org

Internationalized Domain Name: icann.org

Registry Domain ID: 628dbbcb4edc464b9401cbadea0a08b2-LROR

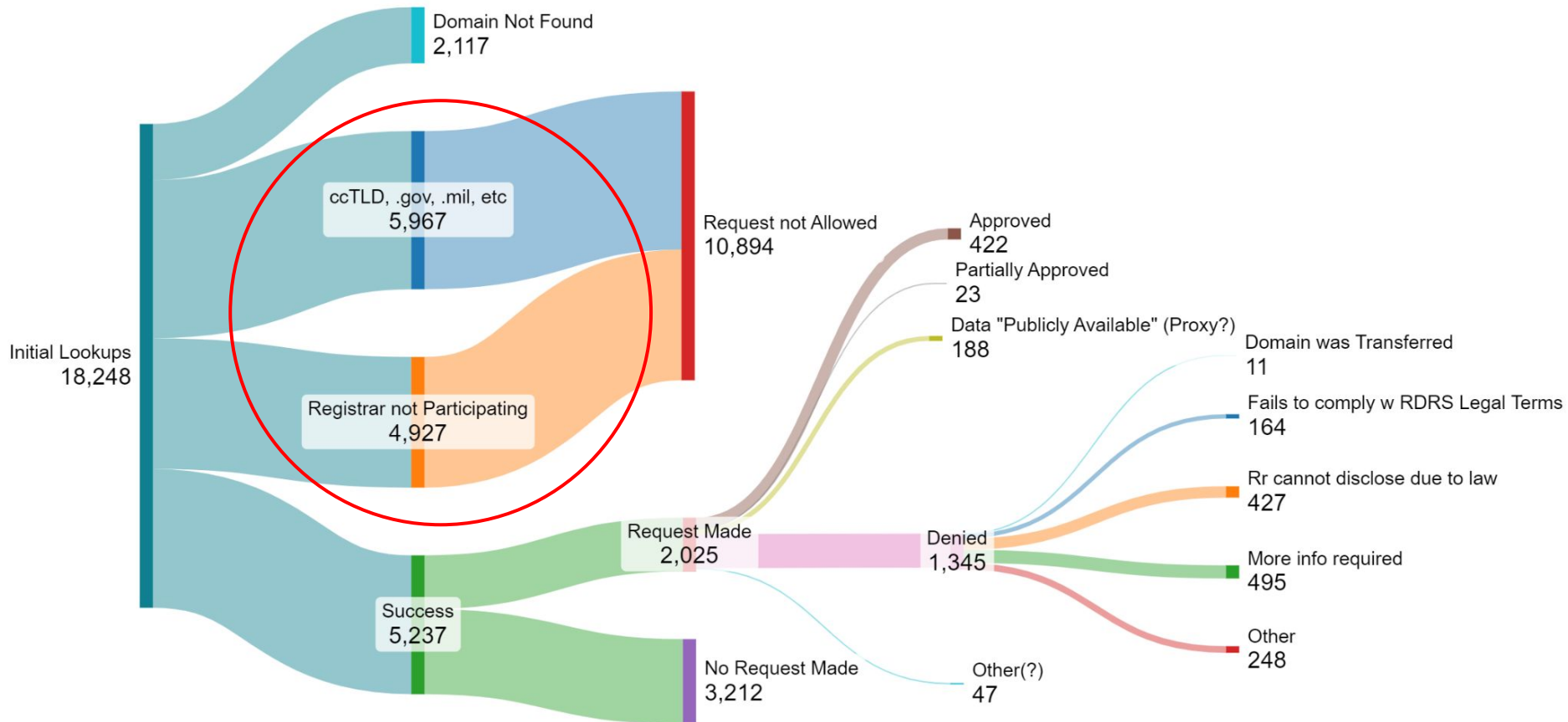
# RDRS - Usage Metrics Since Launch (as of Oct 2024)



**There are now 6,593 requestors registered in RDRS, responsible for 18,248 domain lookups, and 2,025 actual disclosure requests.**

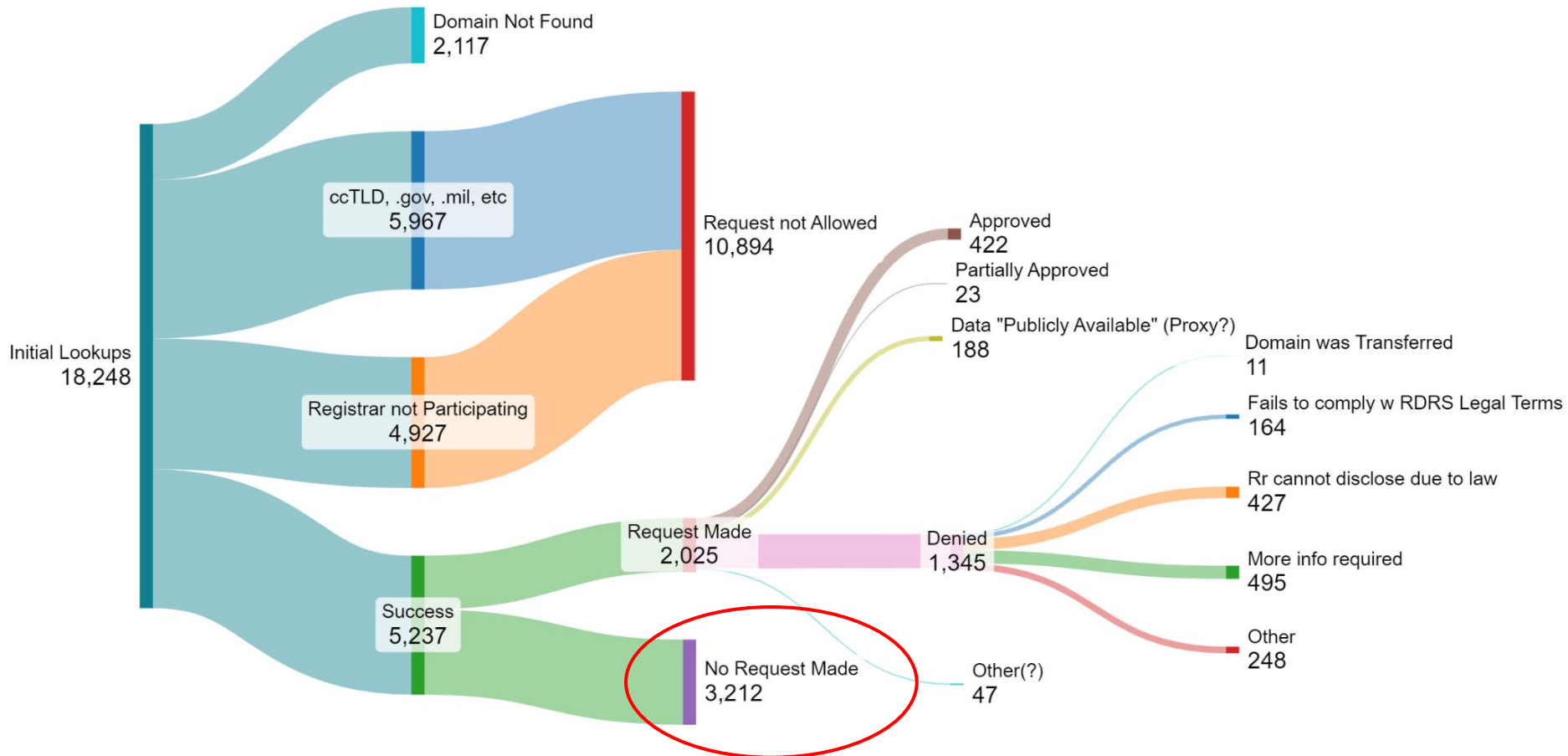


# RDRS - Usage Metrics Since Launch (as of Oct 2024)



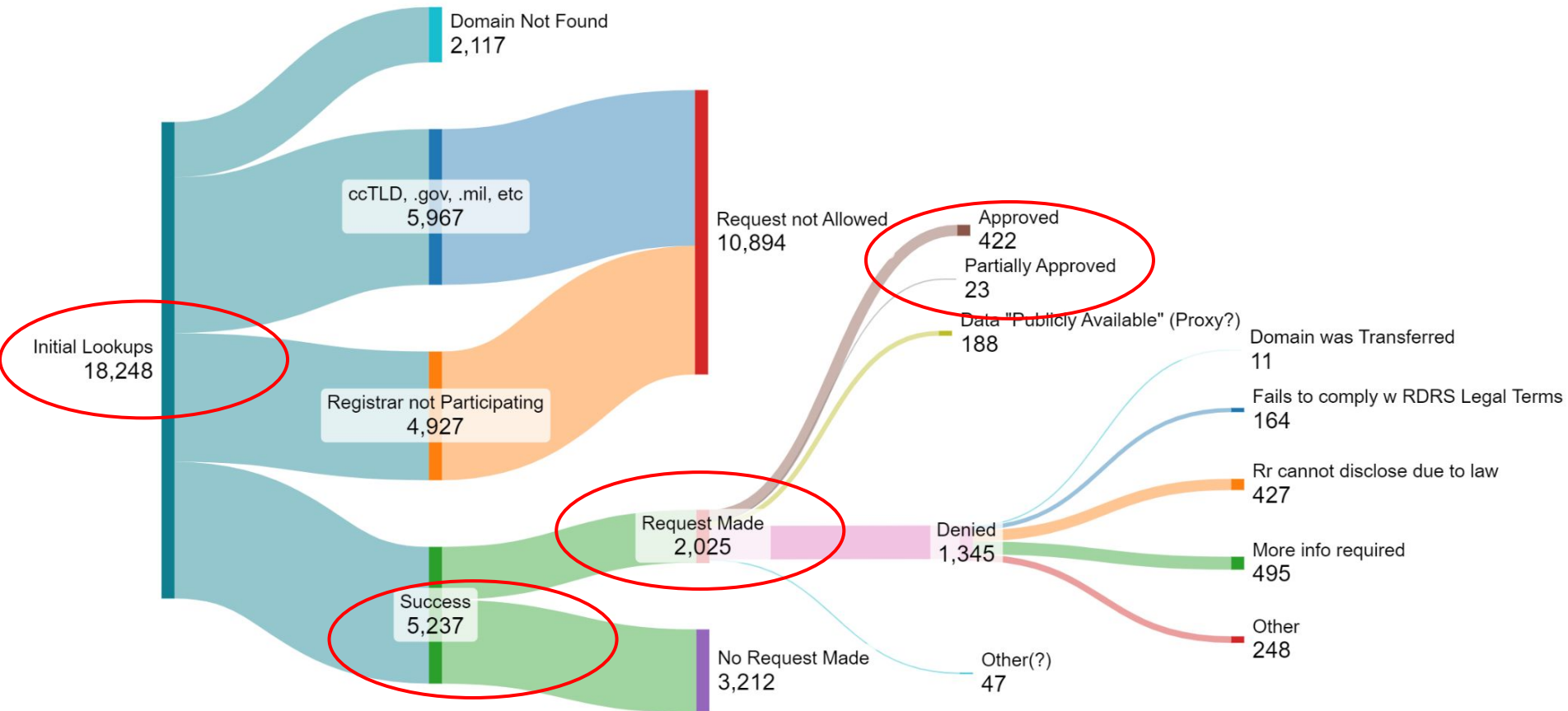
**About 1/3 of lookups are for domains using TLDs not included in RDRS (such as ccTLDs), and another 1/3 of lookups are for domains associated with non-participating registrars).**

# RDRS - Usage Metrics Since Launch (as of Oct 2024)



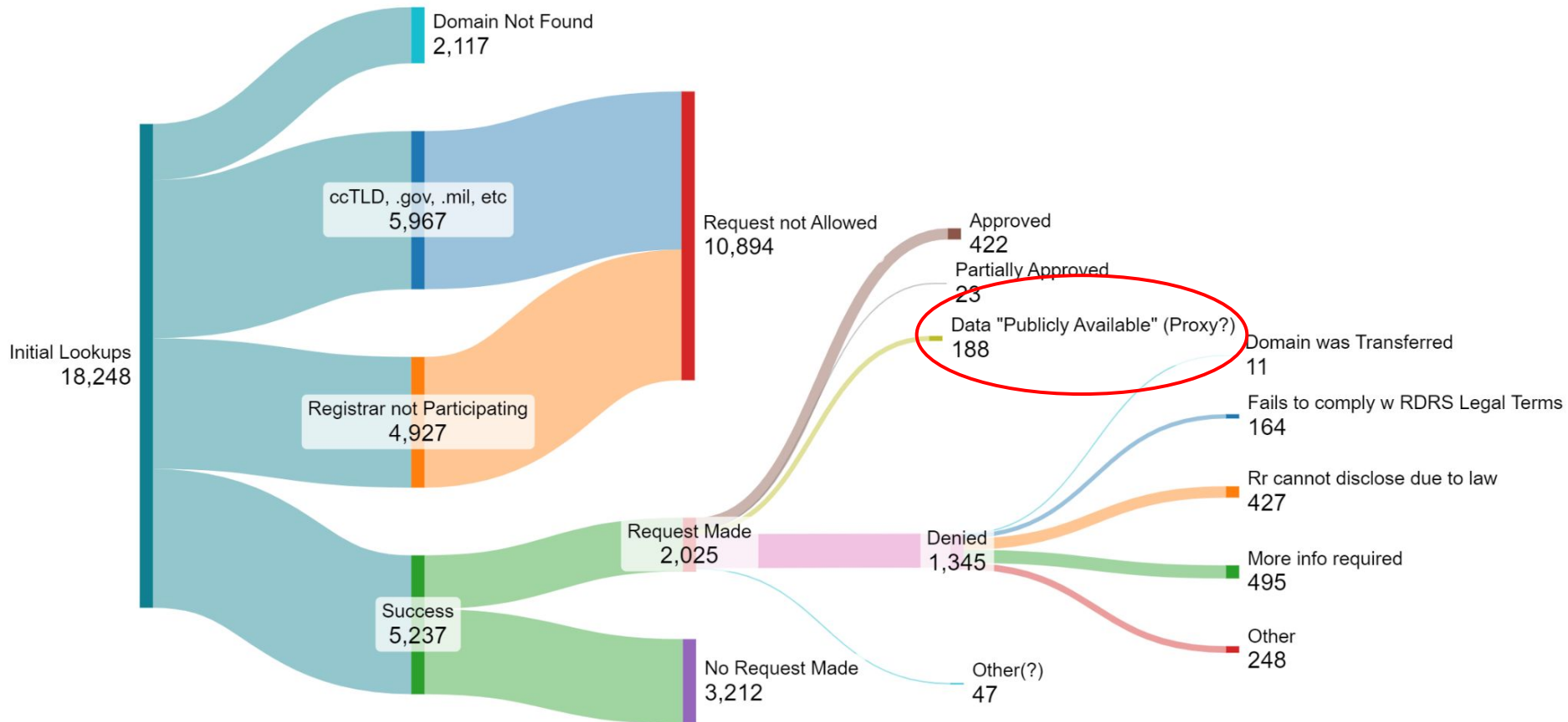
**When requestors were allowed to proceed to submit a disclosure request, ~60% of the time no disclosure request is made**

# RDRS - Usage Metrics Since Launch (as of Oct 2024)



**From start to finish: ~3% return were Approved (422) or Partially Approved (23).**

# RDRS - Usage Metrics Since Launch (as of Oct 2024)



**RDRS would be more useful if Registrars would respond on behalf of their Proxy Services**

# Privacy/Proxy Services Accreditation

ICANN | LOOKUP

## Registration data lookup tool

Enter a domain name or an Internet number resource (IP Network or ASN) [Frequently Asked Questions \(FAQ\)](#)

Lookup

By submitting any personal data, I acknowledge and agree that the personal data submitted by me will be processed in accordance with the ICANN [Privacy Policy](#), and agree to abide by the website [Terms of Service](#) and the [registration data lookup tool Terms of Use](#).

### Registrant:

**Handle:** 1

**Name:** Registration Private

**Organization:** Domains By Proxy, LLC

**Kind:** individual

**Mailing Address:** DomainsByProxy.com 2155 E Warner Rd, Tempe, Arizona, 85284, US

**Contact Uri:** <https://www.godaddy.com/whois/results.aspx?domain=exampleproxy.com>

**When Registrars turn on their affiliated Proxy services, they list themselves as the registrant.**

# Privacy/Proxy Services Accreditation

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## Background

- **ICANN Board approved (9 Aug 2016)** the GNSO Policy Recommendations stemming from the Privacy and Proxy Services Accreditation Issues Policy Development Process (PPSAI PDP).
- **An Implementation Review Team (IRT) was convened in 2016** to assist ICANN org in turning the GNSO Policy Recommendation into enforceable ICANN Consensus Policy. **It was suspended in 2018** in response to the impact of the EU GDPR.
- **ICANN org has since contributed analysis of the impact of the new legal and ICANN policy environment** surrounding registration data:
  - [EPDP Phase 1 Recommendation 27 Registration Data Policy Impacts Wave 1.5 Report](#) (23 February 2021) - An **in-depth analysis of the substantial impact of the Registration Data Policy requirements on the PPSAI recommendations**
  - [Analysis of the policy recommendations in the PPSAI Final Report \(Working Draft\)](#) (2 March 2024) - Assessing levels of efforts in implementing each PPSAI recommendation

# Privacy/Proxy Services Accreditation

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## Latest Developments

- Since ICANN80, the reconvened Implementation Review Team (IRT), has met 7 times and mostly discussed participants' review of PPSAI PDP Final Report. It will meet during ICANN81 on Thursday 14 November at 09:00 local time

## Key Points

- Proxy Services insert an organization (the proxy) between the person/organization registering a domain and the registrar. When a proxy service is used, it changes what information is displayed in (WHOIS) registration data.
  - Registrars will list the proxy as the “registrant”. This means:
  - Proxy identity and contact information will be displayed in the “registrant” lines of (WHOIS) registration data, in place of data about the user of the proxy service
- Proxy services are increasingly common, often turned on by default by registrars.
  - Thus most proxy services encountered are “Affiliated Proxy Services”
- Proxy services have a big impact on other ICANN work, such as the Registration Data Request Service.
  - When Affiliated Proxy service exists, Registrars respond to RDRS requests by pointing to the Affiliated Proxy service as the registrant (rather than disclose data about their customer).
  - PPSAI work is unlikely to change this stance within the 2y RDRS pilot period

# Accuracy of Registration Data

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## Background

- The GAC did not support EPDP Phase 2 conclusions to defer the consideration of data accuracy  
See [GAC Minority Statement on EPDP Phase 2 Final Report](#) (24 August 2020)
  - Accuracy should be ensured regarding the purpose for which the data is processed
  - Inaccurate data disclosure defeats the purpose of SSAD and risks violating data protection rules
- Accuracy of registration data is not fully ensured
  - Data inaccuracy rate was estimated at 30-40% before 2019 ([RDS/WHOIS2 Review report](#), 2019)
- Importance of accuracy for DNS security, stability, and resiliency ([SSR2 Review Final Report](#), 2021)
- [ICANN org briefing](#) (26 Feb. 2021) requested by the GNSO to inform the launch of a policy scoping exercise
  - Overview of accuracy-related requirements in contractual obligations, consensus policy and ICANN org programs
  - Assessment of effects of GDPR, Temporary Specification for gTLD Registration Data and Interim Registration Data Policy for gTLDs on accuracy implementation/enforcement
  - Suggested a study on measuring accuracy - *i.e.*, access to (non)-public registration data



# Accuracy of Registration Data

## Status of the GNSO Accuracy Scoping Team Effort

- [Formed](#) in October 2021 to *'facilitate community understanding of the issue; assist in scoping and defining the issue; gather support for the request of an Issue Report [...]'* (Initial step of a Policy Development Process)
- Informed by further input from ICANN org
  - [ICANN org Memo on the WHOIS Accuracy Reporting System](#) (January 2022)
  - [ICANN org responses](#) to questions by the Scoping Team (Feb-April 2022)
  - [Scenarios for consultation of the European Data Protection Board](#) (May 2022) regarding whether or not ICANN org has a legitimate purpose that is proportionate to request that Contracted Parties provide access to registration data records for purposes of accuracy verification.
- The scoping team recommended, in its [preliminary recommendations for the GNSO Council](#) (2 Sept. 2022):
  1. **A registrar Survey** on the status of accuracy of their domains under management
  2. **A Registrar Audit** regarding Registrars procedures for determining the accuracy of registration data
  3. **A pause of scoping team work in relation to proposals that require access to registration data** until feasibility is clearer
- **The GNSO Council resolved to pause the work of the scoping team** including deferring consideration of the recommendations to conduct a survey (1) and an audit (2) for an initial period of 6 months (GNSO Council [Resolution 20221117-4](#), 17 November 2022)
- **This pause has been extended ever since:** GNSO Council [Resolution 20230720-1](#) (20 July 2023), [Resolution 202402150-3](#) (15 February 2024) and Resolution [20240919-4](#) (19 September 2024)

# Accuracy of Registration Data

## Latest Developments (1/2)

- ICANN org shared with the GNSO Council its [analysis](#) (13 October 2023) of [4 scenarios that were previously identified](#) (9 May 2022) regarding **ICANN’s possibilities for reviewing the accuracy of registration data**. It noted, “*ICANN org does not have a legitimate purpose that is proportionate [...] to request Contracted Parties to provide access to individual records as well as bulk access to registration data in order to review the accuracy of registration data*”. **The analysis proposed two other possible ways forward**: analyzing registrar audit data, or considering ccTLD practices.
- A draft **Data Processing Specifications (DPS)** applicable to the Registrar Accreditation Agreement and Registry Agreement was [published for public comment](#) from 29 July to 9 September 2024. However, the **ICANN Board** has stated **the DPS “will not grant ICANN access to nonpublic registration data... such that it will enable wide-scale accuracy studies previously proposed”** ([ICANN Board Comments on the Issues of Importance in the GAC San Juan Communiqué](#), 9 May 2024).
- Further, the **ICANN Board** stated in its [response to Issues of Importance in the ICANN80 Kigali Communiqué](#) (15 October 2024) that, “**Even when the DPS is in place, ICANN’s access to registration data held by the contracted parties is limited by applicable laws and the applicable ICANN agreements and policies. For example, under the applicable contract provisions, ICANN’s access to registration data held by a registrar must be based on limited transactions or circumstances that are the subject of a compliance-related inquiry**”.

# Accuracy of Registration Data

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## Latest Developments (2/2)

- On 10 November 2024, the GNSO Council said in its ICANN81 bilateral meeting with the GAC that **existing proposals would not provide enough data to move accuracy work forward.**  
In coming weeks, the **GNSO will request feedback** from the GAC and other ICANN community members on a set of questions related to accuracy, to inform possible new ideas for paths forward.
- **The GAC** may wish to review the upcoming GNSO questions and consider providing feedback, while continuing engagement to support restarting the work of the Accuracy Scoping Team.

## Questions for GAC Consideration:

- Is GAC advice needed on any of these topics?
- Which topics should the GAC highlight as Issues of Importance?