

# WHOIS and Data Protection Policy

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ICANN82

10 March 2025

**I C A N N | G A C**

Governmental Advisory Committee

# Agenda

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- 1. Background on WHOIS and Data Protection**
- 2. Registration Data Request Service (RDRS) Updates**
- 3. Urgent Requests for Disclosure of Registration Data**
- 4. Accuracy of Registration Data**
- 5. Considerations for the ICANN82 Seattle 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:

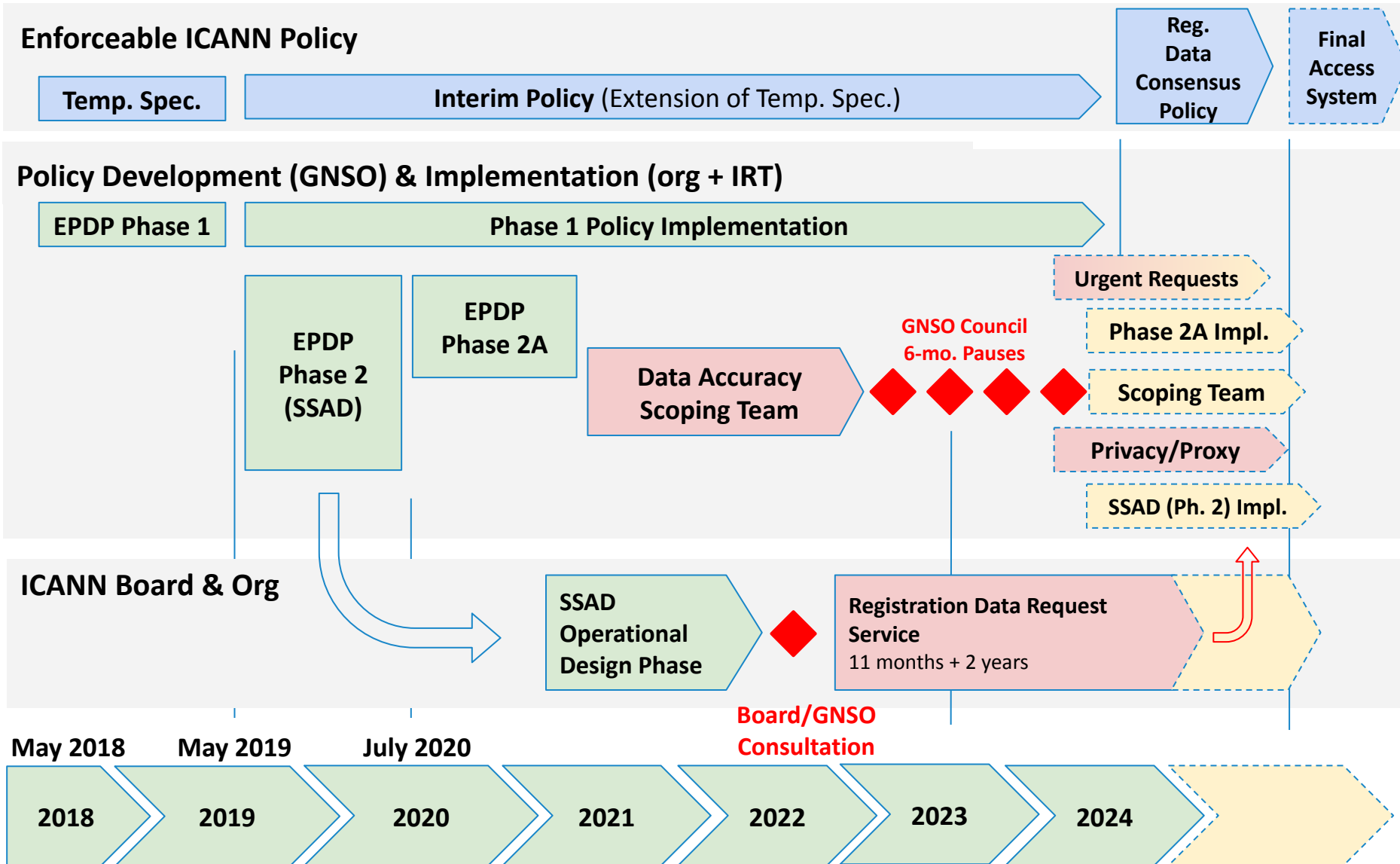
1. *Assisting law enforcement authorities in **investigations and in enforcing national and international laws**, assisting in **combating against abusive use** of internet communication technologies;*
2. *Assisting businesses, other organizations, and users in **combating fraud, complying with relevant 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



# Registration Data Request Service (RDRS)

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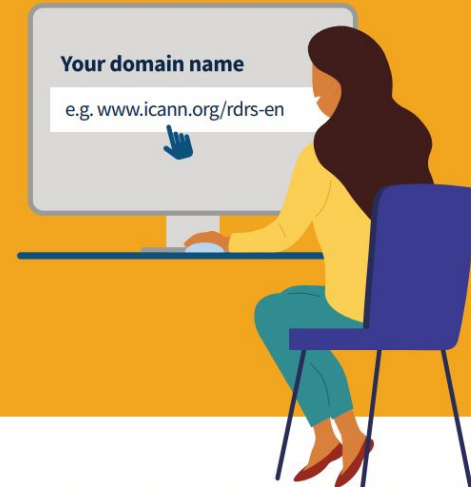
Governmental Advisory Committee

# 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

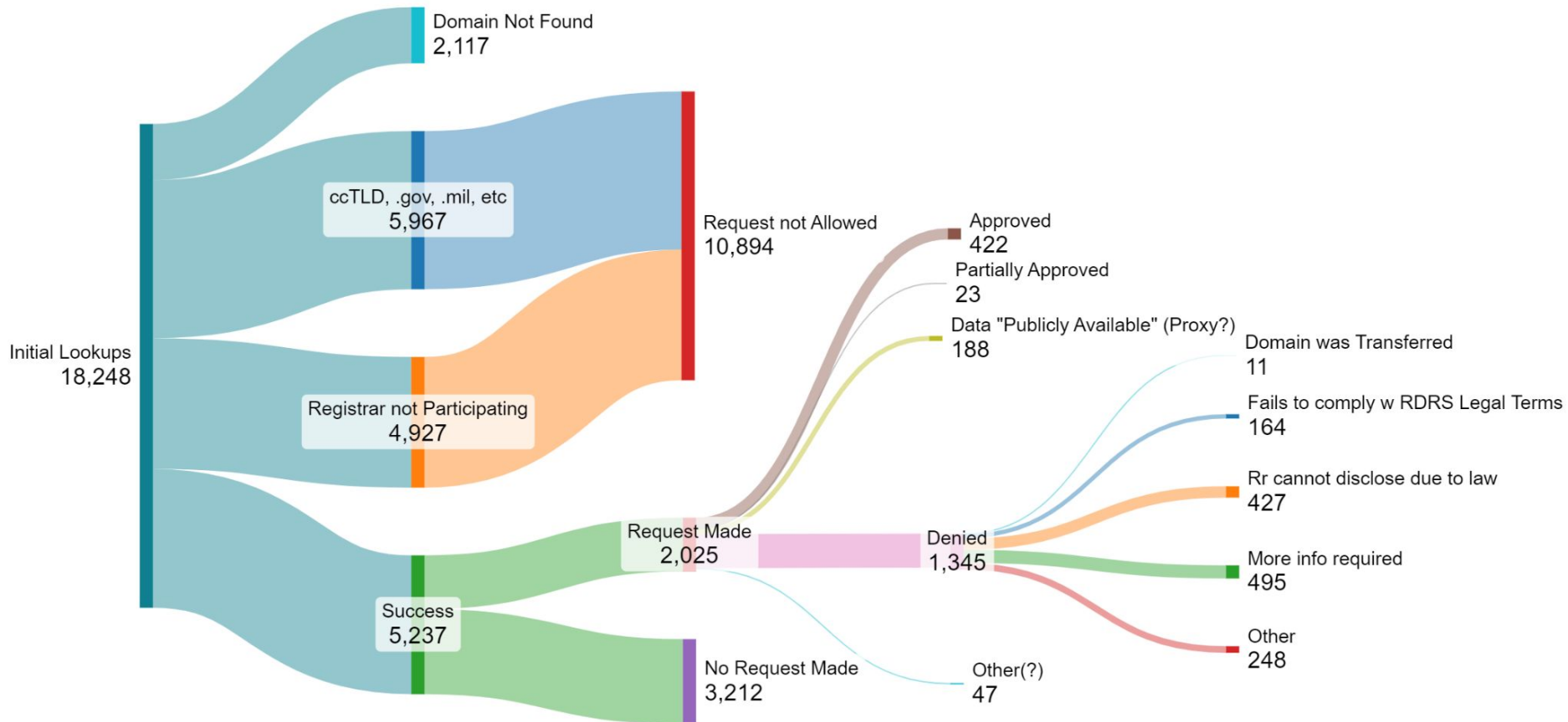
**Phone:** tel:+1.4242171313

**Fax:** tel:+1.3108238649

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

**ISO-3166 Code:** US

# RDRS - Year 1 Usage Metrics (as of Oct 2024)





# Recent Board Comments on RDRS (are appreciated)

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Following discussions in the January 2025 Board Workshop, and awaiting the GNSO Standing Committee's future report on the RDRS Pilot, **views of the ICANN Board on the future of RDRS** were shared in recent meetings with the GAC and the RDRS Standing Committee (10 February 2025):

- A lot has been learned from the RDRS Pilot to date, it is not clear that there is much more to be learned
- The RDRS is a useful tool that should continue to be up and running
- Some changes are needed, such as:
  - Participation by all registrars
  - Integration of (affiliated) privacy/proxy services into the system
  - Development of requestor authentication mechanisms where appropriate (in particular for law enforcement)
  - Allowing voluntary participation by ccTLDs
- These changes could be informed by policy that is either already available (including EPDP Phase 2 SSAD) or that may need to be developed

## **RDRS Standing Committee Work Session @ ICANN 82**

Wednesday 12 March

4:30 pm Seattle time // 23:30 UTC

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# Urgent Requests for Disclosure of Registration Data

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# 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)

## 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].

- **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.
- **The GAC provided input** at several stages of policy development and implementation, 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.
- In its [response 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 [...] to respond to the vital public safety interests related to such requests. [...]***”.

# Urgent Requests for Disclosure of Registration Data

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

- 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.***
- 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”

# Urgent Requests for Disclosure of Registration Data

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## Latest Developments

- [The GAC proposed to the ICANN Board](#) (15 October 2024) that **two tracks of work be conducted in parallel**:
  - **An Authentication Track** to explore possible mechanisms to authenticate law enforcement requestors
  - **A Policy Track** to determine an appropriate response time for authenticated Urgent Requests, assuming a mechanism is in place
- **The GAC's proposal was discussed** before ICANN81, during a first trilateral call between [ICANN Board](#), [GNSO Council and GAC](#) (4 November 2024), in a [GNSO Council letter to the GAC Chair](#) (15 January 2025), and in a [second trilateral call](#) (12 February 2025).

## Next Steps

- **Authentication Track:**
  - The PSWG Co-Chairs have initiated the formation of Practitioners Group with representatives from several “umbrella” law enforcement organizations, and from several stakeholder groups in the GNSO (RrSG, RySG, NCSG, BC).
  - An initial meeting was held before ICANN82. This group is expected to meet every two weeks after ICANN82 and to report on its progress on a regular basis.
- **Policy Track:** the GAC understands there is agreement to resume EPDP Phase 1 IRT discussions to determine an appropriate timeline for response to Urgent Requests and expects the IRT to reconvene shortly.

# Accuracy of Registration Data

# 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, 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)

- During the ICANN81 GAC/GNSO Bilateral Meeting (10 November 2024), the GNSO Council indicated that **existing proposals would not provide enough data to move the accuracy work forward** and it has initiated a consultation of ICANN org and ICANN stakeholder groups on a [set of regulatory and “threshold” questions](#) (12 September 2024), with a view to provide a foundation for the GNSO Council to decide on next steps.
- **In response to the GNSO’s regulatory questions**, ICANN org [discussed](#) (10 December 2024) legislative efforts and their impact on registration data accuracy obligations
- **In response the GNSO’s “threshold” questions** several GNSO stakeholder groups and Advisory Committees provided their [input](#), including the [GAC Input on GNSO Council Questions regarding Domain Registration Data Accuracy](#) (14 February 2025) which stressed (recalling the [ICANN79 San Juan Communiqué](#)):
  - Inaccurate domain registration data can inhibit the activities of stakeholders in areas such as law enforcement, cybersecurity, investigations to enforce intellectual property rights, and domain name registration management.
  - The initial objective of working on this challenge should be to assess whether the current practices are effective to ensure accuracy of registration data.
  - This information can then inform GAC and ICANN community discussions about whether any policy development or other steps should be taken to increase the level of accuracy.
  - The GAC welcomes any ideas that may overcome limitations on data processing to enable an assessment of how much gTLD registration data is operationally and syntactically accurate.

## Questions for GAC Consideration:

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