

A

20 October

ICANN PURPOSE:

As subject to Registry and Registrar terms, conditions and policies, and ICANN Consensus Policies:

- To establish the rights of a Registered Name Holder in a Registered Name; to ensure that a Registered Name Holder may exercise its rights in the use and disposition of the Registered Name; and
- To activate a registered name and allocate it to a Registered Name Holder (~~identifiable to the Registrar and Registry, and, if applicable, ICANN~~).

(Purposes by Actor (A))(TempSpec - 4.4.1)

Purpose Rationale:

1) If the purpose is based on an ICANN contract, is this lawful as tested against GDPR and other laws?

Yes, this purpose is lawful based on ICANN's mission to coordinate the allocation and assignment of names in the root zone of the Domain Name System. Specifically, Section 3.2 of the RAA "Submission of Registered Name Holder Data to Registry" refers to what data elements must be placed in the Registry Database as a part of the domain registration (<https://www.icann.org/resources/pages/approved-with-specs-2013-09-17-en>).

2) Is the purpose in violation with ICANN's bylaws?

No, it is not in violation of ICANN's Bylaws. Specifically, Article 1, Section 1.1 Mission (a)(i) Coordinates the allocation and assignment of names in the root zone of the Domain Name System ("**DNS**") and coordinates the development and implementation of policies concerning the registration of second-level domain names in generic top-level domains ("**gTLDs**"). In this role, ICANN's scope is to coordinate the development and implementation of policies <https://www.icann.org/resources/pages/governance/bylaws-en/#article1>.

Further, Articles G-1 and G-2 stipulate, "issues for which uniform or coordinated resolution is reasonably necessary to facilitate interoperability, security and/or stability of the Internet, registrar services, registry services, or the DNS;" and "Examples of the above include, without limitation: principles for allocation of registered names in a TLD (e.g., first-come/first-served, timely renewal, holding period after expiration);"

3) Are there any "picket fence" considerations related to this purpose?

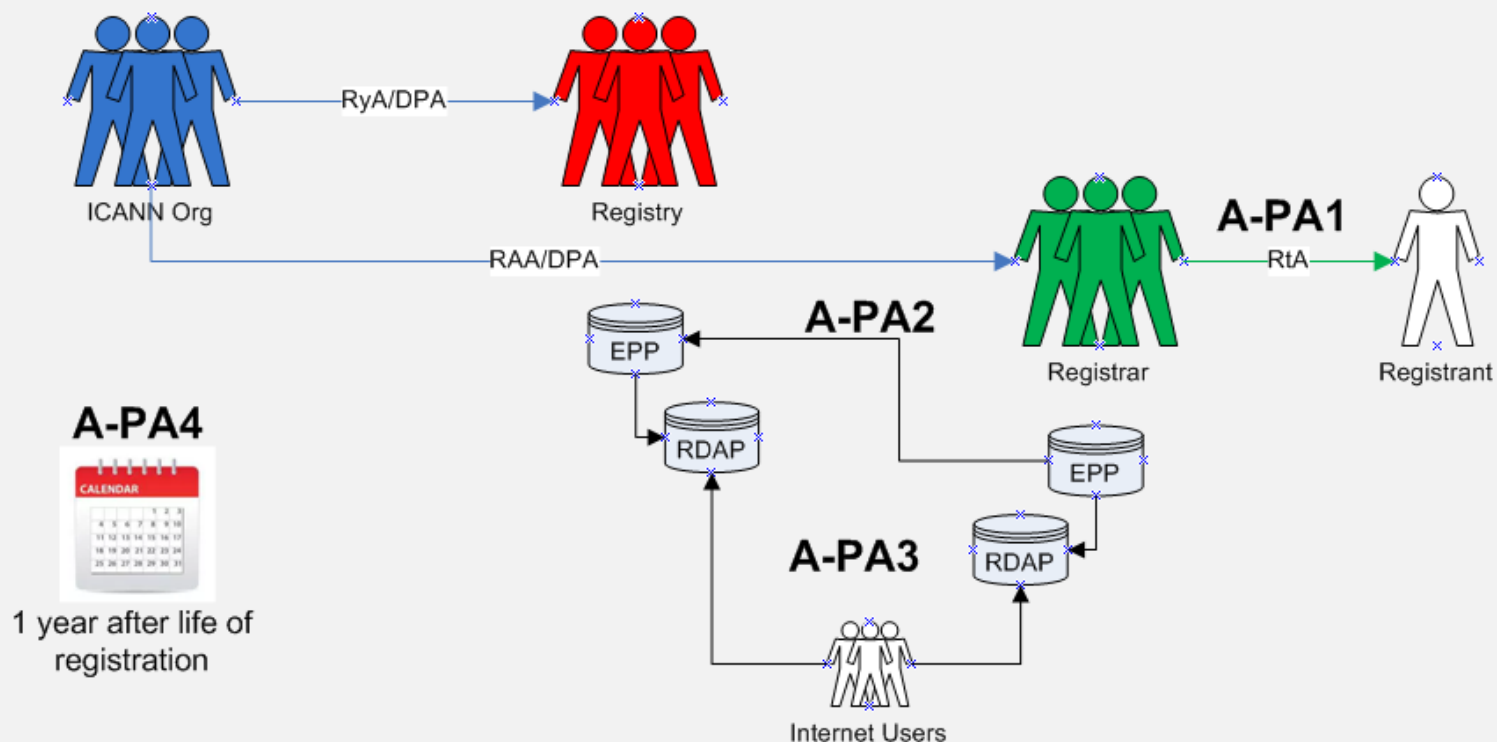
This purpose is related to WHOIS, which is within the Picket Fence. Specifically, Specification 1 of the Registry Agreement and Specification 4 of the Registrar Accreditation Agreement both refer to categories of issues and principles of allocation of registered names in a TLD.

Lawfulness of Processing Test:

Processing Activity:	Responsible Party: <small>(Charter Questions 3k, 3l, 3m)</small>	Lawful Basis: (Is the processing necessary to achieve the purpose?)
<p>A-PA1: Collection of registration data establishing registrant rights and allocating string to registrant (Charter Question 2b)</p>	<p>ICANN – Joint Controller Registrars – Joint Controller Registries – Joint Controllers</p>	<p>6(1)(b) for Registrars</p> <p>This is a 6(1)(b) purpose for Registrars because it is necessary to collect registrant data to allocate a string to a registrant. Without collecting minimal registrant data, the contracted party has no way of tracing the string back to registrant and is not able to deliver its side of the contract.</p> <p>6(1)(f) for Registries*</p> <p>This is a 6(1)(f) purpose for Registries because a Registry does not have a contractual relationship with the Data subject. ICANN and Registry have a contract with the Registrar, however this is not a valid basis for these two parties to process the data subject’s data.</p> <p>Registries, at the behest of ICANN (per the RyAs) must gather data in order to enter a domain name, as per a Registrar request (not a data subject request).</p> <p>*However, members of the BC and IPC expressed the view that Purpose A is 6(1)(b) for all processing activities, including Registries checking on patterns of abuse as protecting against abuse is considered necessary for performance of a contract.</p>
<p>A-PA2: Transmission of registration data from Registrar to Registry (Charter Questions 2c, 2d, 2e, 2i)</p>	<p>ICANN – Joint Controller Registrars – Processor Registries – Joint Controllers</p>	<p>Certain data elements (domain name and nameservers) would be required to be transferred from the Registrar to Registry. The lawful basis would be 6(1)b, should personal data be involved.</p> <p>The transfer of the registration data, apart from the aforementioned data elements, from Registrar to Registry, where the Registry operates a “Thick Whois,” is lawful under Art. 6(1)(f) of the GDPR.</p> <p>Full registrant data CAN be requested by the Registry based on Art. 6(1)(f), for example, for the purpose of administering the application of a Registry Acceptable Use Policy (AUP) (or equivalent); such processing is considered justifiable under the Art. 6(1)(f) balancing test when considering the nature of the data, the envisaged limited use of the data, and the likelihood of the impact on the privacy rights of the Registered Name Holder when weighed against the safety and integrity of the zone.*</p> <p>*However, members of the BC and IPC expressed the view that Purpose A is 6(1)(b) for all processing activities, including Registries checking on patterns of abuse as protecting against</p>

		abuse is considered necessary for performance of a contract.
<p>A-PA3: Disclosure of registration data</p> <p>(Charter Questions 2f (gating questions), 2j)</p>	ICANN - Controller Registrars - Processor	Activation of the domain name registration in the DNS requires disclosure of certain data elements, namely domain name and name servers. The lawful basis would be 6(1)b, should personal data be involved.
<p>A-PA4: Retention of registration data by Registrar</p> <p>(Charter Questions 2g, ??)</p>	ICANN - Controller Registrar - Processor	<p>Yes. 6(1)(f)</p> <p>This is a 6(1)(f) purpose because although there is likely a legitimate interest in providing mechanisms for safeguarding Registered Name Holders' Registration Data in the event of a dispute over ownership or an improper transfer, it is not technically necessary to retain the data in order to allocate a string to a registered name holder, and is therefore not necessary to perform the registration contract.</p> <p>At the F2F, the EPDP Team tentatively agreed to a registration plus one-year retention period in order to conform with the Transfer Dispute Resolution Policy requirements.</p> <p>Note that certain jurisdictions may have requirements in place that have resulted in some Registrars requesting data retention waivers which may result in different retention period requirements.</p>

Data Elements Map:



Data Elements Matrix:

"1" = Required "(1)" = Optional "-" = Not Required or Optional

Data Element	Collection A-PA1	Transmission A-PA2	Disclosure A-PA3	Retention A-PA4	TBD A-PA5	TBD A-PA6
Domain Name	1	1	1	1	-	-
Registry Domain ID	-	-	-	-	-	-
Registrar Whois Server	1	-	-	1	-	-
Registrar URL	1	-	-	1	-	-
Updated Date	1	-	-	1	-	-
Creation Date	1	-	-	1	-	-
Registry Expiry Date	1	-	-	1	-	-
Registrar Registration Expiration Date	1	-	-	1	-	-
Registrar	1	-	-	1	-	-
Registrar IANA ID	1	-	-	1	-	-
Registrar Abuse Contact Email	1	-	-	1	-	-
Registrar Abuse Contact Phone	1	-	-	1	-	-
Reseller	1	-	-	1	-	-
Domain Status	1	-	-	1	-	-
Registry Registrant ID	-	-	-	-	-	-
Registrant Fields						
• Name	1	-	-	1	-	-
• Organization (opt.)	-	-	-	-	-	-
• Street	1	-	-	1	-	-
• City	1	-	-	1	-	-
• State/province	1	-	-	1	-	-

Data Element	Collection A-PA1	Transmission A-PA2	Disclosure A-PA3	Retention A-PA4	TBD A-PA5	TBD A-PA6
• Postal code	1	-	-	1	-	-
• Country	1	-	-	1	-	-
• Phone	1	-	-	1	-	-
• Phone ext (opt.)	-	-	-	-	-	-
• Fax (opt.)	-	-	-	-	-	-
• Fax ext (opt.)	-	-	-	-	-	-
• Email	1	-	-	1	-	-
2nd E-Mail address	-	-	-	-	-	-
Admin ID	-	-	-	-	-	-
Admin Fields						
• Name	-	-	-	-	-	-
• Organization (opt.)	-	-	-	-	-	-
• Street	-	-	-	-	-	-
• City	-	-	-	-	-	-
• State/province	-	-	-	-	-	-
• Postal code	-	-	-	-	-	-
• Country	-	-	-	-	-	-
• Phone	-	-	-	-	-	-
• Phone ext (opt.)	-	-	-	-	-	-
• Fax (opt.)	-	-	-	-	-	-
• Fax ext (opt.)	-	-	-	-	-	-
• Email	-	-	-	-	-	-
Tech ID	-	-	-	-	-	-
Tech Fields						
• Name	-	-	-	-	-	-
• Organization (opt.)	-	-	-	-	-	-
• Street	-	-	-	-	-	-
• City	-	-	-	-	-	-
• State/province	-	-	-	-	-	-
• Postal code	-	-	-	-	-	-
• Country	-	-	-	-	-	-
• Phone	-	-	-	-	-	-
• Phone ext (opt.)	-	-	-	-	-	-
• Fax (opt.)	-	-	-	-	-	-
• Fax ext (opt.)	-	-	-	-	-	-
• Email	-	-	-	-	-	-
NameServer(s)	1	1	1	1	-	-
DNSSEC	1	-	-	1	-	-
Name Server IP Address	1	-	-	1	-	-
Last Update of Whois Database	1	-	-	1	-	-
Other Data:						
• Field 1	-	-	-	-	-	-
• Field 2	-	-	-	-	-	-

Chain of Custody:

- RAA - <https://www.icann.org/resources/pages/approved-with-specs-2013-09-17-en>
- Temp Spec: Section 4.4.1