



Change of Control Guide

How to Submit a Request for a Change of Control Assignment
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Introduction

This how-to guide provides guidance for Registry Operators on how to notify ICANN of an assignment, what documentation is required and how such notifications will be processed.

The definition of an Assignment can be found in Section 7.5 of the Registry Agreement and is provided below:

A direct or indirect change of control of Registry Operator or any subcontracting arrangement that relates to any Critical Function (as identified in section 6 of Specification 10) for the TLD (a “Material Subcontracting Arrangement”) shall be deemed as an Assignment.

There are two primary types of Assignment:

1. Change of Control of Registry Operator
2. Any change to a Material Subcontracting Arrangement

This how-to guide is specific to a Change of Control of Registry Operator.

Control is defined in Section 2.9(c)(ii) of the Registry Agreement and is provided below:

“[C]ontrol” (including the terms “controlled by” and “under common control with”) means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a person or entity, whether through the ownership of securities, as trustee or executor, by serving as an employee or a member of a board of directors or equivalent governing body, by contract, by credit arrangement or otherwise.

A high-level graphical representation of the process for Direct Change of Control is provided in [APPENDIX A](#) of this document. A workflow for Indirect Change of Control will be available Fall 2017.

Instructions

Step 1 – Determine the Assignment Type

We recommend that you engage with ICANN early on by submitting a case via the GDD Portal (<https://gddportal.icann.org>) to determine the Assignment type and the procedures that will apply. Please provide staff with as much information as possible about the intended change so we can point you to the appropriate process.

Step 2 – Prepare Your Materials

Prepare documentation for your Change of Control request before submitting your request. Change of Control requests generally require a substantial amount of preparation, and we encourage you to allow yourself as much time as possible to prepare the required documents. Additionally, when preparing your Change of Control request, we ask that you provide sufficient time for ICANN’s review of the materials.

There are 4 different types of Change of Control Assignments:

- 1. Affiliated Assignee** (See [APPENDIX B](#) for documentation requirements) - Assignor and Assignee have an affiliate relationship under which one controls the other, or both entities are under common control
- 2. Existing Registry Operator** (See [APPENDIX C](#) for documentation requirements) - Assignee is an existing Registry Operator contracted with ICANN
- 3. New Registry Operator** (See [APPENDIX C](#) for documentation requirements) - Assignee is not an existing Registry Operator contracted with ICANN
- 4. Indirect Change of Control** (See [APPENDIX D](#) for documentation requirements) - Registry Operator has not changed, but the person or entity controlling the Registry Operator has changed

Step 3 – Submit an Informal Inquiry

We strongly encourage Registry Operators to submit an informal Change of Control inquiry to ICANN early on so additional questions and potential issues may be discussed prior to formal request submission. Early engagement will also allow ICANN to work with you to help ensure that you have the proper documentation prepared and enable you to successfully submit a complete formal Change of Control request package when the time comes. Submission of a formal Change of Control request package without an informal inquiry could result in ICANN withholding consent due to incomplete or incorrect submission.

■ Submit via GDD Portal Case

- ❑ Indicate in the subject line that you are submitting an informal Change of Control inquiry.
- ❑ Include a completed, but unsigned Application for Assignment Form (AAF): Change of Control, which will soon be available for download at: <https://www.icann.org/resources/change-of-control>. (In the meantime, please submit a request for the form via a GDD Portal case.) If you have questions regarding how to complete certain portions of the form, note these questions in the GDD Portal case.
- ❑ Include any other details you think might be important to your Change of Control request. The more information you provide to ICANN at this stage, the more guidance we can provide.
- We strongly encourage you to ask your engagement manager to schedule a call with the appropriate ICANN team members to walk you through the process. If you are unsure who your engagement manager is, please submit a case via the GDD Portal, and your engagement manager will reach out to you.

After ICANN staff confirms receipt of an informal Change of Control inquiry and reviews the documentation, we will verify the type of Assignment, review the documentation you submitted to ensure it is complete and correct, and answer any questions you might have posed. We may also reach out to you for additional information.

Step 4 – Evaluation

During the evaluation process, ICANN reviews the documents provided by both the assignor and the assignee. The Continued Operations Instrument (COI) for the assignee will be sent to ICANN’s advising bank for review. Note that the sufficiency of the COI is determined using calculations based on the Domains Under Management (DUMs) projections provided in the AAF.

For Direct Changes of Control, if the Assignee is not a current Registry Operator:

- The Assignee should have provided responses to the financial questions found in Section III of the AAF; these responses will be subject to evaluation by an external financial evaluation panel.
- The Assignee should have provided the list of directors, officers or key stakeholders as mentioned in the AAF; members of this list will be subject to background screenings.

For Indirect Changes of Control:

- The Assignee should have provided the updated list of directors, officers or key stakeholders as mentioned in the AAF; members of this list may be subject to background screenings.

NOTE: The Assignee is responsible for fees incurred for evaluations, checks or testing conducted by an independent panel or testing provider.

Step 5 – Submit a Formal Request

Once the appropriate evaluations have been completed, ICANN will coordinate with you to submit a formal Change of Control request via the GDD Portal. The formal request must be submitted in accordance with Section 7.9 of the Registry Agreement, meaning that:

- If delivered in paper form, the request must be delivered in person or via courier service with confirmation of receipt.

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- If delivered via facsimile or by email, confirmation of receipt by the recipient's facsimile machine or email server and the facsimile/email should be followed by a hard copy sent by regular postal mail service within three (3) calendar days.

Only a Registry Primary Contact or Legal Notices Contact for a registry may submit a formal Change of Control request. If a Change of Control request is received from the Legal Notices Contact, ICANN will confirm with the Registry Primary Contact via a GDD Portal case to authenticate the request.

Step 6 – Conditional Consent (optional)

If the formal Change of Control request does not meet all of ICANN's evaluation requirements, ICANN may issue a Conditional Consent to the Assignment. ICANN issues a Conditional Consent to provide the Registry Operator notice regarding the outstanding evaluation requirements and to give them an opportunity to resolve these issues while simultaneously negotiating the remainder of their requested assignment. The Registry Operator must satisfy all outstanding conditions in order to receive final consent. NOTE: Conditional consents are only applicable to Direct Changes of Control.

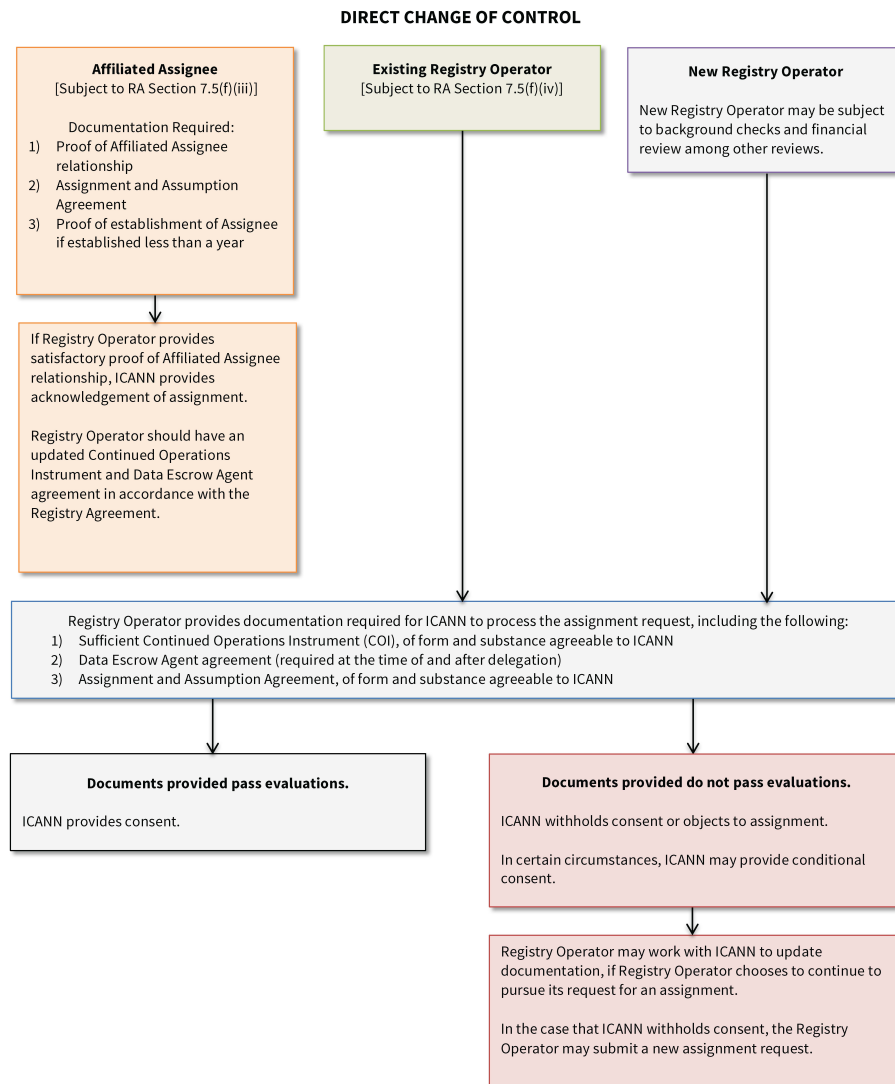
Step 7 – Onboarding

After final consent has been provided, ICANN will work with the relevant parties to onboard the Assignee, as needed. Due to current system limitations, unless the completed transaction is an Affiliated Assignee Assignment, the Assignee will not have access to the GDD Portal for this gTLD. ICANN will engage with the Assignee via the formal Change of Control request case, or via email to the Registry Primary Contact, throughout the duration of the process.

Appendix A

High-Level Workflow

This diagram provides a high-level workflow of the Direct Change of Control process, which can also be found on the ICANN website at <https://icann.org/resources/change-of-control>. A workflow for Indirect Change of Control will be available Fall 2017.



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Appendix B

Required Documents for Direct Change of Control to Affiliated Assignee

The purpose of this Appendix is to provide guidance to assist Registry Operators in providing sufficient information so ICANN may process the Affiliated Assignee Change of Control request.

- A complete and signed Application for Assignment Form (AAF): Change of Control, provided by ICANN upon request via a GDD Portal case. A download link to the form will shortly be available at: <https://icann.org/resources/change-of-control>
- Proof of the relationship between Registry Operator and Assignee and an explanation of how the document demonstrates the relationship, including how it demonstrates the common “control” of the Assignor and Assignee.
 - Documents that a registry may supply include the following:
 - Stock ledger-type documents that show ownership and total outstanding shares
 - Regulatory filings that certify ownership
 - Financial statements.
 - As each company’s documents may vary in appearance, the Registry Operator would mark and label the components in the document that show the relationship.
 - For example, to show an Affiliated-Assignee relationship of a TLD that is being assigned from the current RO to its controlling parent, the RO can provide a stock ledger. The RO would mark and label:
 - Where on the document its name appears as the owner of the stock ledger,
 - The number of stock issued to the parent entity,
 - The total number of stock issued

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- The calculation of percentage of stock the parent entity owns, and
 - If the percentage of stocks the parent entity owns is not reflective of its control, please explain why.
 - Proof of the Establishment of Assignee (if the Assignee has been established for less than a year)
 - Assignment and Assumption Agreement between the current Registry Operator and Assignee, of form and substance agreeable to ICANN
 - Sufficient Continued Operations Instrument (COI) of form and substance agreeable to ICANN
 - Data Escrow Service Provider Agreement with the Assignee stated as the contracting party or a novation of the Data Escrow Agreement
 - Confirmation of current Registry Operator contacts, and if changes are necessary, provide the first name, last name, position/title, address, phone number, mobile number, fax number and email address for each of the updated contacts, including the Public Contact information for the Registry. A template for updating this information will be provided by ICANN upon request via a GDD Portal case

Appendix C

Required Documents for Direct Change of Control to New or Existing Registry Operator

The purpose of this Appendix is to provide guidance to assist Registry Operators in providing sufficient information so ICANN may process the Change of Control request to a new or existing Registry Operator.

- A complete and signed Application for Assignment Form (AAF): Change of Control, provided by ICANN upon request via a GDD Portal case. A download link to the form will shortly be available at: <https://icann.org/resources/change-of-control>
- Proof of the Establishment for a New Registry Operator
- Assignment and Assumption Agreement between the current Registry Operator and Assignee, of form and substance agreeable to ICANN
- Sufficient Continued Operations Instrument (COI) of form and substance agreeable to ICANN
- Data Escrow Service Provider Agreement with the Assignee stated as the contracting party or a novation of the Data Escrow Agreement
- Contact information for the proposed Registry Operator: provide the first name, last name, position/title, address, phone number, mobile number, fax number and email address for each contact, including the Public Contact information for the Registry. A template for updating this information will be provided by ICANN upon request via GDD Portal case
- If this is a new Registry Operator, please provide responses to the Financial Questions in Section III of the AAF

Appendix D

Required Documents for Indirect Change of Control

The purpose of this Appendix is to provide guidance to assist Registry Operators in providing sufficient information so ICANN may process the Change of Control request to a new or existing Registry Operator.

- A complete and signed Application for Assignment Form (AAF): Change of Control, provided by ICANN upon request via a GDD Portal case. A download link to the form will shortly be available at: <https://icann.org/resources/change-of-control>
- Documentation showing the change that occurred such as the company's board resolution, corporate secretary/general counsel certification, regulatory documents or other filings.

 **For more information:** icann.org/resources/change-of-control



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