

## **Private Registrations & Registrar Data Escrow Requirements**

### **Issue:**

Amend the Registrar Accreditation Agreement (RAA) to require registrars to escrow contact information for customers who register domain names using Whois privacy and Whois proxy services.

### **Background:**

Many registrars, resellers, and unofficial resellers (such as attorneys, hosting companies, and others who have no relationship with a registrar, but who register domain names on behalf of their clients) offer some form of Whois privacy or proxy service to prevent the display of the contact information of the beneficial user of the name.

Whois privacy services generally display some registrant information, such as registrant name, but they conceal other identifying information, such as address, telephone number, and email address, by providing alternate contact information, often that of the registrar or privacy service provider.

Whois proxy services generally do not allow the display of any of the beneficial user's registration information via Whois. Instead, the proxy acts as the customer's agent and registers the domain name, naming the proxy as registrant, administrative, technical, and billing contacts. Under such arrangements, the proxy then licenses use of the domain name to the beneficial user.

Pursuant to the "data escrow" provision of the RAA, registrars are obligated to submit registrant, administrative, technical, and billing contact information for each gTLD name to ICANN or an approved escrow agent. The RAA does not require registrars to escrow additional information, such as that of the beneficial user of a name when the beneficial user uses a Whois privacy or proxy service. In the case of these "private" registrations, the contact information of the beneficial user is not escrowed and is unavailable in the event the registrar's accreditation is terminated with its registrations transferred to another registrar.

### **Statement of Problem:**

Given the widespread use of Whois privacy and proxy services, some form of protection should be afforded to the beneficial users of names registered through privacy and proxy services in the event their registrar's accreditation is terminated. Although the planned implementation of the Registrar Data Escrow (RDE) program permits registrars to optionally escrow beneficial user data, the escrow of beneficial user data cannot be made mandatory absent modification of the RAA or consensus policy.

### **Potential Outcomes:**

- Customers who used registrar-provided Whois privacy or proxy services would be protected in the event their registrar's accreditation agreement is terminated

- Customers may unintentionally share “private” information with ICANN or a registrar other than the registrar of their choosing in the event data is retrieved from escrow
- Customers who register domain names using the Whois privacy or proxy service of an entity other than an ICANN-accredited registrar would not be protected
- Some customers may elect to utilize registrar-provided privacy/proxy services instead of third party services to ensure protection in the event of termination of their registrar's accreditation
- Some customers may elect not to utilize registrar-provided privacy/proxy services in order to prevent sharing of their contact information