



NATIONAL CONGRESS OF AMERICAN INDIANS

January 11, 2011

Internet Corporation for Assigned Names and Numbers (ICANN)
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Washington, DC 2005

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RE: Comment on Proposed Final Applicant Guidebook requesting inclusion of federally recognized tribes in the ISO 3166-1 listing, along with other countries and territories granted reservations and protection under Specification 5 of the Guidebook.

Members of the Board for ICANN:

Thank you for the opportunity to provide comments on the New Generic Top-Level Domains (gTLDs) Proposed Final Applicant Guidebook (the Guidebook). The National Congress of American Indians represents over 250 Indian tribal governments. I am writing on behalf of those tribal governments with regard to the proposed changes to allow the creation of many new unspecified generic domain names. We are concerned that American Indian tribal governments and communities may be adversely affected by this policy, unless certain protective measures are included.

Specifically, we urge ICANN to include Indian tribal governments within the ISO 3166-1 listing of country and territory names which are granted special reservations and protection under Specification 5 of the Guidebook. Under federal law, the U.S. Department of Interior publishes a list of federally recognized tribal governments on a regular basis, and this list could serve as a starting point for protection of tribal names. The most recent list of federally recognized tribes is available at: Federal Register: October 1, 2010; Volume 75, No. 190; p. 60810. The inclusion of tribes within the ISO 3166-1 listing of country and territory names is essential to ensure that tribal governments are able to operate without confusion over official governmental websites and the vital information that is provided on issues ranging from tribal elections to emergency services to tribal schools and health facilities.

Indian tribes have a unique status under the U.S. Constitution and numerous federal laws, treaties and federal court decisions. Each federally recognized tribe has a distinct governmental structure, and has the power and responsibility to enact civil and criminal laws regulating the conduct and affairs of their members and reservations. Indian tribes operate and fund courts of law, police forces, and fire departments. They provide a broad range of governmental services to their citizens, including education, transportation, public utilities, health, economic assistance, and domestic and social programs. In addition, tribal governments communicate and coordinate with states and federal agencies on a daily basis to enact policies and services which meet their community needs.

Because of this, tribal names need the same protection and reservations under the Guidebook which are afforded other countries and territories listed within the ISO 3166-1. Allowing the approval of top level tribal domain names (such as .navajo or .seneca) without considering the protection of tribal governments would cause confusion, attributing certain information or views to a tribal government which would lack control while its name is being used. In our view, only tribal government websites should be authorized to use a tribal name gTLD, unless express consent is granted by the tribal government.

In addition, there are strong intellectual/cultural property reasons to protect tribal names. Because of long tribal histories and unique traditions, tribal names have great value as cultural identifiers. Tribes have a strong interest in ensuring that their names are not used for inappropriate or exploitive purposes that would negatively affect the tribal community.

Finally, many tribes have limited resources and might be hard-pressed to find the resources to withstand the stringent appeal process afforded under the proposed Guidebook. Any resources tribes do have is better used to support community programs and economic development. Inclusion of tribal names within the ISO 3166-1 listing would greatly help tribes in allowing them to concentrate their resources on other issues.

In closing, this issue is of significant importance to the protection of tribal self-government and cultural identity. We would be honored to meet with you to discuss these issues further if needed. In particular we may be able to suggest methods of efficient administration for any rules protecting tribal names. Again, we appreciate the opportunity to comment and look forward to ICANN's approval of a final version of the Guidebook which protects the sovereign status of tribal governments, as well as other countries and territories. Thank you for your time and consideration. Please contact John Dossett or Derrick Beetso at 202-466-7767, or jdossett@ncai.org or dbeetso@ncai.org.

Sincerely,

A handwritten signature in cursive script that reads "Jefferson Keel". The signature is written in black ink and is positioned below the word "Sincerely,".

Jefferson Keel
President