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Date: Thu, May 20, 2021 at 5:00 PM  
Subject: comments on official website issue (5/26 Meetings subcommittee)  
To: FOIA Council <[foiacouncil@dls.virginia.gov](mailto:foiacouncil@dls.virginia.gov)>

I am the Director of Legal and Legislative Services, and the designated FOIA Officer, at the Virginia Information Technologies Agency (VITA).

I write with comments concerning what constitutes an “official public government website,” a term used multiple times, but not currently defined, in the Virginia Freedom of Information Act.

The assertion by the General District Court for Wise County in *Gent v. Adams* that “[o]nly by applying for a website ending in .gov “can a local municipality have an ‘official government website’” does not stand up to scrutiny. It is not clear from the order how the court reached that conclusion or what evidence and argument it had before it. The only citation is to the <https://home.dotgov.gov> website, which does say on its “About Us” page that “Using a .gov domain shows you’re official.” But that statement is not exclusive, and nowhere does the order address why a statement on a federal government agency webpage would be determinative of what constitutes an official website under state law. Nor would a federal agency webpage seem to override the plain meaning of “official,” which points to the public body itself by looking to authorization, intent, and whether something is held on behalf of the organization. See, e.g., <https://www.dictionary.com/browse/official> (defining “official” as “authorized or issued authoritatively” or “intended for the notice of the public and performed or held on behalf of officials or of an organization”).

It is good for state and local public bodies to use .gov to show that their website is official and trustworthy. And the previous price hurdle has been eliminated, with [the announcement last month](#) that .gov addresses will now be free to qualifying entities. But some state and local public bodies do not currently use .gov, and there are reasons certain public bodies may have chosen a website under a different top-level domain (TLD).

Before I address further what public bodies are currently doing, here is some technical background, quoting from [the website of the Internet Corporation for Assigned Names and Numbers \(ICANN\)](#), which coordinates and administers the unique identifiers that make the Internet usable:

The domain name system, or DNS, is a system designed to make the Internet accessible to human beings. The main way computers that make up the Internet find one another is through a series of numbers, with each number (called an “IP address”) correlating to a different device. However it is difficult for the human mind to remember long lists of numbers so the DNS uses letters rather than numbers, and then links a precise series of letters with a precise series of numbers.

The end result is that ICANN’s website can be found at “[icann.org](http://icann.org)” rather than “192.0.32.7” – which is how computers on the network know it. One advantage to this system – apart from making the network much easier to use for people – is that a particular domain name does not have to be tied to one particular computer because the link between a particular domain and a particular IP address can be changed quickly and easily. This change will then be recognised by the entire Internet within 48 hours thanks to the constantly updating DNS infrastructure. The result is an extremely flexible system.

A domain name itself comprises two elements: before and after “the dot”. The part to the right of the dot, such as “com”, “net”, “org” and so on, is known as a “top-level domain” or TLD. One company in each case (called a registry), is in charge of all domains ending with that particular TLD....

.gov is one of a small number of well-known, “original” TLDs (along with .com, .net, .org, .edu, and .mil). In recent years, many other TLDs have been introduced. There are also country code specific TLDs – such as .de for Germany and .uk for the United Kingdom.

Whether public bodies use a .gov website is not solely a local public bodies issue. A number of state public bodies in Virginia have chosen to use websites ending in TLDs other than .gov. Looking at [the Agencies list on Virginia.gov](#), I found that:

- the Assistance Technology Loan Fund Authority, the Department for the Blind and Vision Impaired, the Department for the Deaf and Hard of Hearing, the Foundation for Healthy Youth, the Science Museum, the Frontier Culture Museum, the Institute for Advanced Learning and Research, the Jamestown-Yorktown Foundation, the Virginia Commercial Space Flight Authority, and the Virginia Economic Development Partnership all use websites ending in the .org TLD;

- the Virginia Museum of Fine Arts uses .museum;
- Virginia Housing and the Virginia Lottery use .com;
- the state court system uses .us; and
- universities and SCHEV use .edu.

Those public bodies likely have various reasons for their choices, such as a different TLD being the standard in a particular field, a different TLD being good for branding, or the fact that [.gov was more expensive than alternatives until last month](#).

It's also notable that public bodies can register multiple domain names that point to the same website and that public bodies can change their choices. For example, the Office of the Attorney General decided a number of years ago to begin using [ag.virginia.gov](#), but if one directs a web browser to [www.ag.virginia.gov](#), the browser is automatically redirected to [www.oag.state.va.us](#).

The FOIA Council could confirm that FOIA does not dictate what domain name a public body uses for its official website by providing interpretive guidance or by recommending adding to Virginia Code § 2.2-3701 a definition of "official public government website" that affirms that public bodies determine and identify their own official websites.

Sincerely,

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