

Proposed Final Report of the New gTLD Auction Proceeds Cross Community Working Group - Public Comment Proceeding Input Form

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Important Instructions - PLEASE READ BEFORE PROCEEDING

This Public Comment forum seeks community feedback on the proposed Final Report of the New gTLD Auction Proceeds Cross Community Working Group. The CCWG is seeking input on several specific questions to facilitate its finalization of the report. Please note that this is the second Public Comment held by the CCWG. The CCWG previously held a Public Comment on its Initial Report. All input that has been previously received through Public Comment has been reviewed and considered in the context of the Initial Report (see <https://www.icann.org/public-comments/new-gtld-auction-proceeds-initial-2018-10-08-en>). This is a new format for collecting public comment. It seeks to support commenters in providing structured responses and assist the CCWG in sorting and managing comments. There is no obligation to complete all sections within this form – respond to as many or as few questions as desired. To stop and save your work for later, you MUST (to avoid losing your work): 1. Provide your email address above in order to receive a copy of your submitted responses; 2. Click "Submit" at the end of the Google Form (the last question on every page allows you to quickly jump to the end of the Google Form to submit); 3. After you click "Submit," you will receive an email to the above-provided email address; within the email, click the "Edit Response" button at top of the email; 4. After you click the "Edit Response" button, you will be directed to the Google Form to return and complete; 5. Repeat the above steps 2-4 every time you wish to quit the form and save your progress.

NOTES: --For transparency purposes, all comments submitted to the Public Comment forum will be displayed publicly via an automatically-generated Google Spreadsheet. Email addresses provided by commenters will not be displayed. --Please submit your comments via this form only. If you are unable to use this form, alternative arrangements can be made. --Please note you may encounter a character limit in your responses when editing a previous submission. (There are no character limits when making a first-time submission.) In the event you encounter a character limit, you may send an email to policy-staff@icann.org, and the Support Staff will assist you with your response.

Main Edits Included in the Proposed Final Report

Question #2 below asks for your input on the following changes that have been made to the report since the Public Comment period held on the Initial Report:

- Section 4.1: The descriptions of the mechanisms have been updated to focus on the elements that matter most to the CCWG’s decision-making and to reflect additional input received from the ICANN Board and ICANN org. The proposed Final Report also reflects the CCWG’s expected recommendation in relation to the mechanisms, based on an indicative poll conducted amongst the CCWG members and participants.
- Section 5.1: Response to charter question 1 and corresponding recommendations regarding selection of the mechanism(s) have been updated to reflect further deliberations in the CCWG since publication of the Initial Report.
- Section 5.1: Response to charter question 7 and corresponding recommendations and guidance for the implementation phase have been added regarding the establishment of an Independent Project Applications Evaluation Panel, regardless of the mechanism implemented.
- Section 5.2: Responses to charter questions 3, 5, and 10 now include discussion of considerations specific to mechanism C, in addition to mechanisms A and B. In the Initial Report, only considerations related to mechanisms A and B were provided in these responses, as these were the two most favored mechanisms at the time that the Initial Report was published.
- Section 5.2: Response to charter question 9 and corresponding recommendations have been updated to state that applicants and other parties should not have access to ICANN accountability mechanisms to challenge a decision from the Independent Project Applications Evaluation Panel to not approve an application.
- Section 5.3: Response to charter question 6 and corresponding guidance for the implementation phase has been updated to reflect that the CCWG discussed the possibility of using a “basket” approach to distributing funds and recommended further consideration of this approach during the implementation phase following input from the Board.
- Section 5.4: Response to charter question 11 and corresponding guidance for the implementation phase has been updated to reflect that the CCWG considered recommending the creation of two panels for the purposes of conducting reviews of the mechanism, but based on Board feedback, decided that the details about the review panel(s) should be established in the implementation phase.
- Annex C: Guideline #5 in Annex C has been updated to include input from the Board that auction proceeds should not be used to fund and supplement ICANN’s operations, including existing or terminated programs, and should not be used for any applicant’s ordinary operations.
- Annex D: Clarification has been provided that inclusion in this list not a guarantee of funding for projects that are designed to be identical or similar to examples included in Annex D.
- Annex E: New Annex: Glossary added.

Consent & Authorization

By submitting my personal data, I agree that my personal data will be processed in accordance with the ICANN Privacy Policy (<https://www.icann.org/privacy/policy>), and agree to abide by the website Terms of Service (<https://www.icann.org/privacy/tos>).

Please provide your name: *

Anne Aikman-Scalese

Please provide your affiliation *

Are you providing input on behalf of another group (e.g., organization, company, government)? *

- Yes
- No

If yes, please explain:

Public comment is provided on behalf of the Intellectual Property Constituency. The IPC appreciates the opportunity to comment.

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- Yes
- No, I would like to continue to the next section

Questions for Input

For additional context on the questions below, please see the proposed Final Report [link].

Question #1 for Public Comment: Do you support the CCWG’s recommendation in relation to the preferred mechanism(s)? If no, please provide your rationale for why not.

The Proposed Final Report Recommendation #1 states that the CCWG is expected to recommend that the Board select a mechanism from the two “ultimately” top ranked mechanisms determined by the CCWG. An informal poll of the CCWG resulted in the two mechanisms being Mechanism A (An internal department within ICANN that disburses funds in accordance with the CCWG recommendations regarding an Independent Evaluation Panel) and Mechanism B (An internal department within ICANN contracting with an existing non-profit organization administering the grant-making as determined by the recommended Independent Evaluation Panel.) As between these two mechanisms, the IPC favors Mechanism B in that this structure will provide easier start-up costs, more expertise in grant-making (expert non-profit organization), ease of “sunsetting” the grant-making process when the capital in the Auction Proceeds Fund is depleted, and far less need to hire additional staff for grant-making purposes, which is likely the single largest expense associated with this effort. Mechanism B provides the opportunity for competitive bidding to supply the grant-making administration services and does not require ICANN to develop this expertise in-house.

Question #2 for Public Comment: Do you have any concerns about the updates the CCWG has made, as listed in Section 1 above, in response to the public comment forum? If yes, please specify what changes concern you and why?

The IPC notes that the community has been extremely busy with other matters during the period between the last public comment on the CCWG Auction Proceeds work and this proposed Final Report. The IPC would encourage the CCWG to review the Proposed Final Report with the public at ICANN67 in Cancun in order to obtain further public input from members of the community and the public generally before finalizing the Report.

Question #3 for Public Comment: Is there any further information you think the CCWG should consider, that it hasn't considered previously, in order to finalize its report for submission to the Chartering Organizations?

The IPC notes that on page 12 of the Proposed Final Report, the CCWG has referred to an expectation that the ICANN Board may conduct a feasibility study which will provide further detail comparing the Mechanisms. In this regard, the IPC believes that the CCWG Auction Proceeds should either (a) obtain authorization to conduct the feasibility study itself with active participation from CCWG members or (b) elevate this idea to the level of Implementation Guidance since the feasibility study would provide cost information regarding each of the Mechanisms, and especially the projected cost and availability of administrative services from Mechanism B expert non-profit organizations. The IPC understands that this information was not developed by the CCWG during its deliberations. The IPC also notes from page 17 of the report, third paragraph of Section 4.7, that only 14 of the 23 members appointed by the Chartering Organizations participated in the poll designed to express a preference for one of the Mechanisms. If more cost and feasibility information were available, voting members would be in a better position to indicate a preference before the Report is finalized. In this regard, the IPC recommends that the feasibility study be conducted with deliverables that take specific note of industry best practices in grant-making. This general principle is contemplated by the "Guidance for the Implementation Phase" on page 7 of the Proposed Final Report and should be a specific deliverable in connection with the recommended feasibility study.

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- Yes
- No, I wish to continue to the next section

Other Comments & Submission

Are there any other comments or issues you would like to raise pertaining to the proposed Final Report? If yes, please enter your comments here. If applicable, please specify the section or page number in the proposed Final Report to which your comments refer.

Regarding CCWG Recommendation #7 on page 5 of the proposed Final Report, the IPC agrees that grants should be final and should not be subject to being overturned via appeals mechanisms. Understanding that this will require a change to ICANN's Fundamental ByLaws,

the IPC recommends that the language of Recommendation 7 be revised to clarify that the appeal mechanisms should not apply to applications for grants which are “approved” in addition to stating that they will not apply to a grant application that is “not approved”. The concern is that persons other than grant applicants may have standing to object to making a particular grant, e.g. on Human Rights or other grounds contained in ICANN’s ByLaws or Core Values. This risk may be higher where grant-making administration is maintained inside the ICANN organization as contemplated by Mechanism A. Finally, the IPC believes this Recommendation should be express in stating that nothing in the Recommendation is intended to modify the rights of the Empowered Community in relation to the overall Budget with respect to the proposed line item for Auction Proceeds grants. Separately, many thanks for all the hard work by this CCWG to date and especially to Leadership and ICANN staff. Respectfully submitted, Anne Aikman-Scalse on behalf of the Intellectual Property Constituency. /Anne Aikman-Scalse/