New gTLD Auction Proceeds Public Comment

At-Large Auction Proceeds Team

The Three Chosen Mechanisms

- The CCWG identified the following three mechanisms as a viable means to allocate auction proceeds. The following is a summary of main characteristics of the evaluated mechanisms, namely:

- **Mechanism A:** An internal department dedicated to the allocation of auction proceeds is created within the ICANN organization.

- **Mechanism B**: An internal department dedicated to the allocation of auction proceeds is created within the ICANN organization which collaborates with an existing non-profit. (or one that could be created as a stand-alone entity to carry out the independent tasks)

- **Mechanism C**: A new charitable structure (ICANN Foundation) is created which is functionally separate from ICANN org, which would be responsible for the allocation of auction proceeds.

Criteria for Selection established by the CCWG:

evaluated by a selection of experts

- Efficiency and effectiveness
- Cost-effectiveness of setting up the mechanism (most value for money)
- Cost-effectiveness of running the mechanism (e.g. overhead, operating costs)
- Ability to sunset (i.e. terminate / close down)
- Ease of setting up in terms of time and effort
- Ability to meet legal and fiduciary requirements
- Enabling ICANN stakeholder engagement
- Efficient means for fund allocation from selection to fund distribution for projects
- Administrative complexity to run
- Means for oversight
- Providing transparency and accountability
- Equipped to operate and execute globally distributed projects
- Balance of control between ICANN org and independence of fund allocation
- Risk

Responsibilities	Mechanism A: ICANN DEPARTMENT	Mechanism B: ICANN + INDEPENDENT BODY	Mechanism C: FOUNDATION
	MECHANISM OVERSIGHT AND SAFEGUARDS		
Legal and fiduciary oversight responsibility.	ICANN Board	ICANN Board	ICANN Board
Establishment and operation of legal and fiduciary safeguards.	ICANN Org	To Be Determined	ICANN Foundation
	GOVERNANCE		
Internal review at regular intervals to identify areas for improvement, minor adjustments in program management and operations.	ICANN Department	To Be Determined	ICANN Foundation
Broad strategic review of mechanism.	Community Advisory Panel	Community Advisory Panel	To Be Determined
	EVALUATION AND DECISIONS		
Establish strategic goals.	CCWG Recommendation	CCWG Recommendation	CCWG Recommendation
Establish eligibility for evaluation based on criteria.	ICANN Org	ICANN Org	ICANN Foundation
Score successful and unsuccessful applicants.	Independent Panel	Independent Panel	Independent Panel Convened by ICANN Foundation
Overall approval.	ICANN Board	ICANN Board	ICANN Foundation*
Reporting/auditing (project compliance).	To Be Determined	To Be Determined**	To Be Determined*

Common Characteristics

Characteristics	Mechanism A	Mechanism B	Mechanism C
ICANN maintains legal and fiduciary oversight responsibility.	✓	✓	✓
ICANN org conducts legal and fiduciary oversight activities.	✓	✓	✓
Safeguards are in place to ensure legal and fiduciary responsibilities are met.*	✓	✓	✓
ICANN org conducts due diligence to oversee the disbursement of assets.	✓	✓ Oversees or performs	✓
ICANN's mission is observed at all points in the process.	✓	✓	✓
Mechanism operates apart from ICANN's budget and is funded from the auction proceeds.	✓	✓	✓
The directors and officers have an obligation to protect the organization through the use of available resources. In such a case, while ICANN would not be required to apply for the proceeds, the directors and officers would have a fiduciary obligation to use the funds to meet the organization's obligations if it was necessary to do so.	✓	✓	✓ Prior to annual distribution to ICANN Foundation

Survey result

2. Affiliation	3. Member	Mech A Rank	Mech B Rank	Mech C Rank
SSAC	Member	1	2	3
NCSG	Member	3	2	1
At large	Member	3	2	1
Commercial Sta	Member	3	1	2
ccNSO	Member	1	3	2
SSAC	Member	3	1	2
LACRALO-ALAC	member	3	1	2
ALAC	Member	3	2	1
ccNSO	Member	1	2	3
ccNSO	Member	1	2	3
Gac	Member	1	2	3
ASO	Member	3	1	2
Registrars	Member	1	2	3
ASO	Member	1	3	2

Marika's summary of the result

In response to the ranking, seven members recommended mechanism A as their preferred mechanism, four members ranked mechanism B as their preferred mechanism and three members ranked mechanism C first. A majority of all Members (9/14) stated that they wanted the top two mechanisms to go in front of the Board.

After reviewing these results, the leadership team believes that the best path forward is to recommend mechanism A and mechanism B in the proposed Final Report, but the leadership team is not discarding mechanism C (an ICANN Foundation) yet.

MECHANISM A – INTERNAL ICANN DEPARTMENT	MECHANISM B – ICANN WORKS WITH AN EXTERNAL ENTITY
It is harder to ensure division and recognition of <u>responsibilities</u> between an internal department handling funds and the rest of the organization.	While clearly defined roles and responsibilities must be negotiated between ICANN org and the non-profit to ensure how these roles are carried out operationally – it is contractually based and binding
Need to create <u>safeguards</u> to ensure accountability, confidentiality, and independence	A suitable existing non-profit organization would already have applicable safeguards in place
Risk of lack of <u>independence</u> in the management and decisions related to Auction Proceeds. ICANN Org could change its mind about the use of Auction Proceeds	A legally binding contract with a non-profit will ensure that independence of selection and allocation of resources for identified projects is maintained
If there is <u>no satisfaction</u> by the community with how staff are implementing Auction Proceeds difficulty in changing course	If at any time, the community is unhappy with the evaluations of this external group, ICANN can be requested to select another group to take over this role.
ICANN has no experience in <u>grant disbursal</u> and will need time to get up to speed or to hire staff with this experience.	An external organization with experience in selecting select projects, disbursement of funds, control of the progress of each project and could hit the ground running
If ICANN org were to be handling aspects of the granting cycle, <u>Conflict of Interest</u> policies would be required	The non-profit organisation would ensure that they have conflict of interest policies around the sections that they manage
No separate <u>legal</u> agreement or MOU required	An appropriate legal agreement (e.g. contract, MoU) would need to be established between ICANN org and the non-profit
At the <u>end of the project</u>, hired staff will have to be let go which is an expensive and time-consuming prospect	Once the money has been spent, the contract with the external group can be terminated.

Key question for PC submitters

- Do you support the CCWG's recommendation in relation to the preferred mechanism(s)? If no, please provide your rationale for why not.

Conclusions

- Each of the three mechanisms has pluses and minuses but of the three choices, Mechanism B with ICANN working with an independent entity whose role is to evaluate and select the projects, and decide on and coordinate the allocation of funds, is seen to be the most appropriate choice when also considering other CCWG member priorities.

- Independence from ICANN Org was the primary concern of a majority of the CCWG participants

- While both mechanisms will have an independent panel to evaluate proposals, in Mechanism A it will be managed and run by ICANN while in Mechanism B it will be managed and run by the independent Non-Profit

- Under Mechanism A, being a part of ICANN Org might make it easier for ICANN to request additional money from the Fund to cover Operating Expenses or for the reserve fund, while with Mechanism B, ICANN Org has a contract with the Non-Profit so it would be harder to remove money from the different tranches