

## 5B.1 Power: reconsider/reject budget or strategy/operating plans

Final Draft: 28 July 2015

- 01 The right to set budgets and strategic direction is a critical governance power for an organization. By allocating resources and defining the goals to which they are directed, strategic/operating plans and budgets have a material impact on what ICANN does and how effectively it fulfills its role. Financial commitments are made on behalf of the organization that are difficult to unwind after the fact.
- 02 Today, ICANN's Board makes final decisions on strategic and operating plans and on budgets. While ICANN consults the community in developing strategic/business plans, often these budgets and strategic plans are put to the community without sufficient detail to facilitate thoughtful consideration. For example, the CWG-Stewardship proposal has expressed a requirement for the budget to be transparent with respect to the IANA function's costs and clear itemization of such costs. Furthermore, there is no mechanism defined in the Bylaws that requires ICANN to develop such plans in a way that includes a community feedback process. Even if feedback was unanimous, the Board could still opt to ignore it.
- 03 The IANA Budget<sup>1</sup>, in particular, requires protection as recommended by the CWG-Stewardship's final proposal. The IANA functions budget must be managed carefully and not decreased (without public input) regardless of the status of the other portions of the budget. As such, use of this power to veto the ICANN Budget has no impact on the IANA Budget, and a veto of the IANA Budget has no impact on the ICANN Budget.
- 04 The process by which budgets, operating plans and strategic plans are developed must be enhanced to include greater transparency and community involvement earlier such that community buy-in must be an integral part of the process. Improved interaction between the staff, board and community is essential for strategic planning within a multi-stakeholder organization. The CCWG-Accountability proposes that Work Stream 2 develop improvements along these lines.
- 05 Accordingly, this new power would give the community the ability to consider strategic & operating plans and budgets (both ICANN general and for IANA) after they are approved by the Board (but before they come into effect) and reject them. The rejection would be of the whole proposed budget or plan.
- 06 If the exercise of this power leads to no budget being in place at the start of a new financial year, a caretaker budget struck at the same level as the previous year's budget will apply, to allow for continued operation of ICANN or of the IANA functions while the budget disagreement is resolved.

1.

1.

---

<sup>1</sup> The CWG-Stewardship set out its requirements for IANA Budget transparency in Appendix P of its final report (11 June 2015). The CCWG-Accountability requires ICANN to produce at least that amount of detail regarding the IANA Budget. This will be set out in the Bylaws in the appropriate place.

- 07 A community decision to reject the budget or a plan will be based on perceived inconsistency with the purpose, Mission and role set out in ICANN's Articles and Bylaws, the global public interest, the needs of ICANN stakeholders, financial stability or other matters of concern to the community. The rationale for any community veto would be consensus based and could only concern issues raised in the consultations conducted before the Board approved the budget or plan. New issues could not be raised for a second veto – all issues must be raised in the first veto process.
- 08 The petitioning, discussion and decision timelines for this power are the defaults set out in the previous subsection.
- 09 To account for this timeline, 40 days minimum should be added to the budget / operating planning process. If this time cannot be added for practical reasons due to the nature of the budget approval process, the consequence as noted above is that a rejection would see ICANN operating on the previous year's budget until the disagreement was resolved.
- 10 Because time pressures are less acute for strategic plans, a period of 30 days can be allowed for each stage when the veto relates to a strategic plan. On the same basis, 60 days should be added to the strategic planning process.
- 11 If the community exercised this power, the Board would have to absorb the feedback that came with the decision, make adjustments and propose an amended budget or plan. If the community does not accept the revised proposal is suitable, it can exercise a second veto (at the higher threshold noted below).
- 12 No limit is proposed to the number of times the community can veto a strategic plan, but the CCWG-Accountability recommends that the Board and the community enter into dialogue above and beyond established processes should a strategic plan be vetoed more than once.
- 13 Where a budget or operating plan has been rejected for a second time, ICANN will operate on the previous year's budget for the new fiscal year. The Board will propose a new budget for the subsequent financial year in the usual way. The Board will continue to have the ability to make out-of-budget funding decisions on the same basis as it does today.
- 14 If the community regards the Board's response to a second veto as unacceptable, the other Community Powers (as set out in this section) are available for use.
- 15 A **2/3** level of support in the mechanism would be required in the mechanism to reject the ICANN or IANA budget or an operating/strategic plan the first time: a **3/4** level of support for a second rejection.