
8.3 Financial Management

8.3.1 Introduction

New gTLD Program financial management refers to the management of the USD 357 million Program fund. USD 357 million was the total amount collected from the 1,930 new gTLD applications submitted with an evaluation fee of USD 185,000 per application. This section of the Program Implementation Review Report discusses the following topics:

- Program budgeting and reporting
- Program fund segregation
- Program-related fees

8.3.2 Relevant Guidance

The following guidance is relevant to the topic of Financial Management and will be discussed in further detail in Sections 8.3.3 and 8.3.4 of this report:

- GNSO Implementation Guideline B: “Application fees will be designed to ensure that adequate resources exist to cover the total cost to administer the new gTLD process. Application fees may differ for applicants.”⁴²⁴
- Applicant Guidebook, Section 1.5: Fees and Payments⁴²⁵
- Applicant Guidebook, Section 1.2.7: Notice of Changes to Information
- ICANN Board Resolution 2011.06.20 (20 June 2011): Approval of the New gTLD Program⁴²⁶

8.3.3 Background

Following guidance from the GNSO, the evaluation fee of USD 185,000 was first proposed in version 1 of the AGB, and was “set to recover costs associated with the new gTLD program. The fee [was] set to ensure that the program [was] fully funded, and [didn’t] take resources from other ICANN funding sources.”⁴²⁷ On 31 May 2010, ICANN published a draft New gTLD Budget for public

⁴²⁴ ICANN. (8 August 2007) ICANN Generic Names Supporting Organization Final Report Introduction of New Generic Top-Level Domains, Part A. Retrieved from <http://gnso.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

⁴²⁵ ICANN. (4 June 2012) gTLD Applicant Guidebook Version 2012-06-04. Retrieved from <http://newgtlds.icann.org/en/applicants/agb/guidebook-full-04jun12-en.pdf>

⁴²⁶ ICANN. (20 June 2011) Approved Board Resolutions | Singapore. Retrieved from <https://www.icann.org/resources/board-material/resolutions-2011-06-20-en#1>

⁴²⁷ ICANN. (24 October 2008) New gTLD Program: Draft Applicant Guidebook (Draft RFP), Section 1.5.1. Retrieved from <http://archive.icann.org/en/topics/new-gtlds/draft-rfp-24oct08-en.pdf>

comment.⁴²⁸ The draft New gTLD Budget was an analysis of Program costs, including an assessment of the general risk and timing required to complete certain remaining activities necessary for operational readiness. The draft New gTLD Budget assumed 500 applications would be submitted for new gTLDs. To ensure costs are appropriately managed, tracked, and disclosed, the draft New gTLD Budget included categories of Program costs, which were defined based on information available at that time regarding the Program.

On 22 October 2010, an updated draft New gTLD Budget was published.⁴²⁹ The update included an increase from USD 2.6 million to USD 4.0 million for the development phase, and an increase of USD 205,000 under the application processing phase for customer service and background screening. These updates were made based on updates to the procedures called for in public comments submitted on AGB version 4,⁴³⁰ additional internal development work, and discussions with the ICANN Board.

On 17 May 2011, ICANN published for comment the draft FY12 Operating Plan and Budget, which included the New gTLD Program launch scenario.⁴³¹ The inclusion of the New gTLD Program budget into the FY12 Operating Plan and Budget represented the first time that the New gTLD Program budget formally became part of the ICANN budgeting process. The draft FY12 Operating Plan and Budget continued to assume a volume of 500 applications, and it included a forecast of the cost associated with activities that would be incurred in FY12 if the Program launched within FY12.

On 20 June 2011, the ICANN Board approved the New gTLD Program, and its related income and expenditures as detailed in the Draft FY12 Operating Plan and Budget.⁴³²

8.3.4 Assessment

8.3.4.1 PROGRAM BUDGETING AND REPORTING

The New gTLD Program launched when ICANN opened the application window on 12 January 2012 (see Section 1.1: Application Submission of this report). Application submission activities during the application window gave ICANN additional information that assisted with the development of the FY13 Operating Plan and Budget.

On 1 May 2012, a draft FY13 Operating Plan and Budget was published.⁴³³ For the first time, the New gTLD Program budget forecasted revenues and costs based on three different scenarios of

⁴²⁸ ICANN. (31 May 2010) New gTLD Program Explanatory Memorandum New gTLD Budget. Retrieved from <https://archive.icann.org/en/topics/new-gtlds/new-gtld-budget-28may10-en.pdf>

⁴²⁹ ICANN. (21 October 2010) New gTLD Program Explanatory Memorandum New gTLD Budget. <https://archive.icann.org/en/topics/new-gtlds/explanatory-memo-new-gtld-program-budget-22oct10-en.pdf>

⁴³⁰ ICANN. Draft Applicant Guidebook, Version 4 Public Comment Forum. Retrieved from <https://archive.icann.org/en/topics/new-gtlds/comments-4-en.htm>

⁴³¹ ICANN. (17 May 2011) Draft FY12 Operating Plan and Budget. Retrieved from <https://www.icann.org/en/system/files/files/proposed-opplan-budget-v1-fy12-17may11-en.pdf>

⁴³² ICANN. (20 June 2011) Approved Board Resolutions | Singapore. Retrieved from <https://www.icann.org/resources/board-material/resolutions-2011-06-20-en#1>

application volume: 500 applications; 1,000 applications; and 2,000 applications. As more information about the Program was available by this time, ICANN was able to include a forecast of the life of the Program in the FY13 Operating Plan and Budget. The forecast anticipated that the Program would conclude in FY15 for the 2,000-application scenario, based on information available in the AGB version 9.⁴³⁴

On 24 June 2012, after the close of the application window, ICANN published the adopted FY13 Operating Plan and Budget, which included only the 2,000-application scenario.⁴³⁵ Although there was a difference between the estimated number of applications in the budget and the actual number of applications received, the difference was small and caused no material impact to the budget; therefore no changes were made to the adopted budget.

As the Program progressed and more information about key factors became available (e.g., number of withdrawals, number of staff needed to support of the Program, allocation of indirect cost, and other projects not originally budgeted such as the TMCH and EBERO program), ICANN was able to report more information and make more accurate forecasts.

On 22 August 2013, the adopted FY14 Operating Plan and Budget was published with revised estimates reflecting actual costs incurred to date and updated forecast of Program costs for the entire life of the Program.⁴³⁶ For the first time, the FY14 Operating Plan and Budget included a variance analysis of the actual cost incurred versus the budgeted amount, and it provided explanations for variances in the Program budget.

On 1 December 2014, ICANN published the adopted FY15 Operating Plan and Budget, which changed the anticipated completion date of the Program to FY17 based on information available at the time.⁴³⁷

Budgeting and reporting of the Program budget followed the standard ICANN budgeting and reporting process starting with the FY12 Operating Plan and Budget, and continued for all subsequent fiscal years. The ICANN budgeting and planning process included a formal ICANN public comment period of the draft FY Operating Plan and Budget and ICANN's Board Approval of the FY Operating Plan and Budget.⁴³⁸ In addition, starting with the fiscal quarter ending 30 September 2013, ICANN published on its website quarterly financial statements in which the Program financial position was disclosed. Internally, ICANN revisited forecasts quarterly, reviewing actual spend versus the budgeted amount to identify any significant variances.

⁴³³ ICANN. (1 May 2012) Draft FY13 Operating Plan and Budget. Retrieved from <https://www.icann.org/en/system/files/files/proposed-opplan-budget-v1-fy13-01may12-en.pdf>

⁴³⁴ ICANN. Applicant Guidebook Version 9. Retrieved from <http://newgtlds.icann.org/en/about/historical-documentation/matrix-agb-v9>

⁴³⁵ ICANN. (24 June 2012) FY13 Operating Plan and Budget. Retrieved from <https://www.icann.org/en/system/files/files/adopted-opplan-budget-fy13-24jun12-en.pdf>

⁴³⁶ ICANN. (22 August 2013) FY14 Budget Approval. Retrieved from <https://www.icann.org/en/system/files/files/adopted-opplan-budget-fy14-22aug13-en.pdf>

⁴³⁷ ICANN. (1 December 2014) FY15 Adopted Operating Plan and Budget. Retrieved from <https://www.icann.org/en/system/files/files/adopted-opplan-budget-fy15-01dec14-en.pdf>

⁴³⁸ ICANN. Annual Operating Plan & Budget. Retrieved from <https://www.icann.org/resources/pages/operating-plan-budget-2015-06-12-en>

8.3.4.2 FINANCIAL SEGREGATION

The New gTLD application fee structure was based on the principles of cost recovery. In order to ensure that Program costs were appropriately tracked and disclosed, all Program-related financial matters were segregated from ICANN's operations:

- (i) Operating funds for the Program were segregated in a separate bank account created for the New gTLD Program.
- (ii) A specific and separate investment policy was approved by the Board in December 2012 for the New gTLD Program funds⁴³⁹ and separate investment accounts were created at three different investment management firms⁴⁴⁰ selected via an RFP process.
- (iii) Systems, processes, and policies were developed in order to reinforce the separation of funds. This included an accounting ledger distinct from other ICANN operations activities, a separate procurement process, separate segments in all financial reporting, dedicated resources, and transaction accounting processes specifically developed for the New gTLD Program.

Per Section 4.3 of the AGB, "Any proceeds from auctions [would] be reserved and earmarked until the uses of funds are determined." To comply with this section of the AGB, Auction proceeds (see Section 4.2: Auction of this report) were further segregated into a separate bank account under the Program's bank account until the ICANN Board, through consultation with the community, determined a plan for the appropriate use of the funds.⁴⁴¹

The funds pertaining to the New gTLD program, not including the funds from Auction proceeds, were managed by three investment firms selected via an RFP process. Investments for Program funds follow the New gTLD Funds Investment Policy⁴⁴² adopted by the ICANN Board on December 2011.⁴⁴³ The distinct investment policy was developed because of this specific usage of the Program funds, as well as the specific timeframe associated with such usage.

8.3.4.3 PROGRAM-RELATED FEES

Section 1.5 of the AGB defined various Program-related fees:

- Evaluation fee: USD 185,000 fee associated with the evaluation of each application that had to be paid with a submitted application. Applicants may have qualified for partial refund of the evaluation in accordance with the refund schedule in Section 1.5.1 of the AGB if the application was withdrawn. A non-refundable USD 5,000 registration fee was required to create a TAS user account in order to submit an application (see Section 1.1: Application

⁴³⁹ ICANN. (20 December 2012) Approved Board Resolutions | Special Meeting of the ICANN Board. Retrieved from <https://www.icann.org/resources/board-material/resolutions-2012-12-20-en#2.e>

⁴⁴⁰ Northern Trust Asset Management, U.S. Bank Asset Management, and Deutsche Bank Asset and Wealth Management

⁴⁴¹ ICANN. New gTLD Auction Proceeds. Retrieved from <http://newgtlds.icann.org/en/applicants/auctions/proceeds>

⁴⁴² ICANN. (20 December 2012) Investment Policy - New gTLD. Retrieved from <https://www.icann.org/resources/pages/investment-policy-new-gtld-2013-01-07-en>

⁴⁴³ ICANN. (21 December 2012) Approved Board Resolutions | Special Meeting of the ICANN Board. Retrieved from <https://www.icann.org/resources/board-material/resolutions-2012-12-20-en#2.e>

Submission of this report). This registration fee was applied toward the USD 185,000 evaluation fee if an application was submitted.

- Registry Services Review fee: This fee became applicable if the application was referred to the Registry Services Technical Evaluation Panel by the Registry Services Panel (see Section 2.8: Registry Services Evaluation of this report).
- Dispute Resolution fees: Fees that must be paid in association with any formal objections (see section 3.2: Objections and Dispute Resolution of this report). Fee and refund schedules were set by the DRSPs.
- Community Priority Evaluation fee: The AGB estimated a cost of USD 10,000 for Community Priority Evaluation if a community applicant participated in CPE. This fee was refunded if the applicant prevailed in CPE.

Fees were collected as per the AGB with the exception of the CPE fee. Based on scope of work, the selected service provider for CPE informed ICANN that the evaluation cost for CPE would be USD 22,000 per application. Consistent with Program's principle of cost recovery, ICANN transferred the CPE panel's fee to the applicant even though it was higher than the amount estimated in the AGB.⁴⁴⁴

During the application window, ICANN had a strict requirement that the entire USD 185,000 evaluation fee be submitted with the application. A large number of applicants did not anticipate that their banks would charge a fee to process the wire transfer. The applicants therefore had to make multiple payments to ensure that the full USD 185,000 was received by ICANN. Due to the inefficiencies that this created, all other fees collected by ICANN after the application window allowed for a variance of USD 25 to accommodate potential bank transaction fees being applied during the banking process of the applicants payments.

Section 1.2.7 of the AGB anticipated that certain application change requests (see Section 1.3: Application Change Requests of this report) might require re-evaluation of the application. However, the AGB did not specify the cost for re-evaluation. Consistent with the Program's principle of cost recovery, ICANN passed on the evaluation panel's fee to the applicant.

8.3.5 Conclusion

ICANN's management of the Program funds aligned with GNSO's Implementation Guideline B and Module 1 of the AGB. All financial matters were segregated in a separate bank account so that Program financial information could be appropriately tracked and disclosed. As per the AGB, proceeds from ICANN auctions are further segregated in a separate bank and investment account until the ICANN Board, through consultation with the community, determines a plan for the appropriate use of the funds.

The Program's budget is published with ICANN's annual fiscal year Operating Plan and Budget and follows ICANN's annual budgeting process, which includes a public comment period and approval

⁴⁴⁴ 10 September 2013 CPE Teleconference: <http://audio.icann.org/new-gtlds/cpe-10sep13-en.mp3>.

of the final budget by the ICANN Board. ICANN's financial information, including historical and current financial data for the Program, is available on the ICANN website.⁴⁴⁵

Program-related fees were collected in accordance with the AGB and in-line with the principle of cost recovery. Before fees are defined for the next application round, a review of Program financials should be undertaken.

ICANN implemented one change in this round to the collection of Program-related fees based on lessons from an earlier phase of the Program. During the application window, ICANN's strict requirement that the full USD 185,000 evaluation fee be submitted with the application caused some delays and inefficiencies for applicants as many did not anticipate that a wire transfer fee would be deducted from their USD 185,000 payment by their banks, and they therefore had to make multiple payments. Due to the inefficiencies that this created, all other fees collected by ICANN post application window allowed for a variance of USD 25.

In summary:

8.3.a Perform full review of Program financials and application fee before fees are defined for the next application round

⁴⁴⁵ ICANN. Financial Information for ICANN. Retrieved from <https://www.icann.org/resources/pages/governance/financials-en>