ICANN | GAC
Governmental Advisory Committee

6 August 2020

Erika Mann, CCWG New gTLD Auction Proceeds Co-Chair
Ching Chiao, CCWG New gTLD Auction Proceeds Co-Chair

Subject: GAC Statement on Final Report of the new gTLD Auction Proceeds Cross Community Working Group

Dear Erika and Ching,

The GAC wishes to express its appreciation for the diligent and productive work performed by the new gTLD Auction Proceeds Cross Community Working Group, its Co-Chairs, its members and all its contributors.

The GAC notes that the CCWG new gTLD Auction Proceeds Cross Community Working Group specifically considered four different mechanisms for the allocation of auction proceeds, and ultimately recommends the ICANN Board to select either Mechanism A or B as set forth below:

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.

The GAC has considered the CCWG's final report and recommendations and supports recommendations with regard to:

1. Recommending that the Board to select either mechanism A or mechanism B for the allocation of auction proceeds, taking into account the preference expressed by CCWG members for mechanism A.
2. That an Independent Project Applications Evaluation Panel will be established, to evaluate and select project applications.
3. Specific objectives of new gTLD Auction Proceeds fund allocation are:
    a. Benefit the development, distribution, evolution and structures/projects that support the Internet's unique identifier systems;
    b. Benefit capacity building and underserved populations; or

    c. Benefit the open and interoperable Internet

New gTLD Auction proceeds are expected to be allocated in a manner consistent with ICANN's mission.

4. The implementation of the selected fund allocation mechanism should include safeguards.

5. Robust conflict of interest provisions must be developed and put in place at every phase of the process, regardless of which mechanism is ultimately selected.

6. Audit requirements as described above do not only apply to the disbursement of auction proceeds on a standalone basis but must be applied to all of ICANN's activities in relation to auction proceeds, including the disbursement of auction proceeds if and when this occurs.

7. Existing ICANN accountability mechanisms such as IRP or other appeal mechanisms cannot be used to challenge a decision from the Independent Project Applications Evaluation Panel to approve or not approve an application[…]as such that the ICANN Bylaws will need to be amended to eliminate the opportunity to use the Request for Reconsideration and Independent Review Panel to challenge grant decisions [...] while not affecting the existing powers of the Empowered Community.

8. The CCWG did not reach consensus to provide any specific recommendation on whether or not ICANN org or its constituent parts could be a beneficiary of auction proceeds, but it does recommend that for all applications the stipulated conditions and requirements, including legal and fiduciary requirements, need to be met.

9. The selected mechanism must be implemented to enable the availability of funds for a specific round as well as the disbursement of the funds for selected projects in an effective and judicious manner without creating a perpetual mechanism (i.e. not being focused on preservation of capital).

10. Funds availability for disbursement should be staged in tranches over a period of years, regardless of the mechanism implemented.

11. During the implementation phase, the objective of New gTLD Auction proceeds fund allocation to contribute to capacity building for underserved populations should be given further consideration.

12. Two types of review are implemented:
    a. an internal review step will be part of the standard operation of the program.
    b. a broader, strategic review may be an appropriate element of program implementation.

The GAC also acknowledges that the CCWG New gTLD Auction Proceeds identified a number of criteria deemed important to evaluate the different mechanisms and supports the criteria, namely:

- Efficiency and effectiveness
- Cost-effectiveness of running 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

If these recommendations are accepted by the Board, the GAC will work with the community in monitoring their implementation, particularly with regard to the allocation of funds for capacity building for underserved populations, that the disbursement of new gTLD Auction Proceeds will remain in keeping with ICANN's mission, transparency and accountability and enabling ICANN stakeholder engagement.

Best Regards,

Manal Ismail
Chair, Governmental Advisory Committee (GAC)