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Draft Initial Report of the new gTLD Auction Proceeds Cross Community Working Group

This is the Initial Report by the new gTLD Auction Proceeds CCWG, prepared by ICANN Staff for publication in conjunction with the opening of a public comment forum. Following review of the input received on this Initial Report, the CCWG will finalize its report and recommendations for submission to the CCWG's Chartering Organisations for their consideration.

[Date] October 2018

Commented [MK1]: Marilyn Cade: ***Overall Comments regarding what kinds of events/activities/projects are awarded***. *In general, these should be guided by the principles and the Preamble. Some ideas were discussed and are presented as examples. In the call for public comments, care must be taken not to create miscommunication to the community that selection of grants will be by popular vote. ICANN has a unique legal and tax status, as well as a unique political environment. As the CCWG-AP has discussed examples for grant applications, it has become clear that the broader community will need factual information explaining implications to ICANN's overall standing/status.*

Commented [MK2R1]: Noted. Staff is happy to share the public comment announcement with the CCWG so that it can confirm that appropriate information and clarification is provided.

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1. Executive summary [to be updated/completed pending finalization of Report]

An auction is the mechanism of last resort in ICANN's new gTLD Program for resolving contention when two or more applicants apply for the same string. In the 2012 application round, most string contentions (approximately 90% of sets scheduled for auction) were resolved through other means before reaching an auction conducted using ICANN's authorized auction service provider. To date, 16 of the 218 contentions sets used a last resort auction conducted by ICANN's authorized auction service provider. Proceeds generated from auctions of last resort were separated and reserved until the multistakeholder community develops a plan for their use. This plan must be authorized by the ICANN Board. The new gTLD Auction Proceeds Cross Community Working Group is tasked with providing guidance on a framework to disburse the funds generated from auctions in the new gTLD Program.

This Report sets out the core issues the that the new gTLD Auction Proceeds Cross-Community Working Group (CCWG) addressed in carrying out its Charter[1] since its inception in January 2017. It records the CCWG's discussions regarding options around a mechanism to allocate the new gTLD Auction Proceeds in accordance with ICANNs mission and bylaws.

According to the new gTLD Auction Proceeds CCWG charter, the objective of the CCWG is to develop a proposal(s) for consideration by the Chartering Organizations. The CCWG charter includes a series of guiding principles that the CCWG is expected to take into account and lists 11 charter questions for the CCWG to answer in the course of its work. Responses to these charter questions are included in section 5 of this report.

The charter specifies that as part of this proposal, the CCWG is also expected to consider the scope (see for further details below) of fund allocation, due diligence requirements that preserve ICANN's tax status as well as how to deal with directly related matters such as potential or actual conflicts of interest. This means that the CCWG will not decide, nor provide recommendations on which specific organizations or projects are to be funded or not.

Since the adoption of its Charter, the CWG has met regularly through telephone conferences and at ICANN public meetings. It has provided regular updates to the chartering organisations, and the broader community.

As specified in the CCWG's charter, the CCWG consists of members and participants. Please see Annex B for detailed information about membership and attendance. Each Chartering Organization appointed between no fewer than 2 and no more than 5 members to the CCWG. Members actively participate in calls, meetings and discussions. They also take part in consensus calls and are expected to serve as a liaison between their respective Chartering Organization and the CCWG. In addition, any interested individual was and continues to be permitted to join the CCWG as a participant. These individuals actively participate in and attend all CCWG meetings but do not participate in consensus calls. The CCWG is led by two Co-Chairs, Erika Mann (appointed by the GNSO) and Ching Chiao (appointed by the ccNSO).

Throughout its deliberations to date, the CCWG has noted …..
At the same time, members of the CCWG recognise that ….
The CCWG recommends that ….

Commented [EB3]: Elliot Noss: When would we expect these to be completed? (with all my comments, apologies if I missed something but better safe than sorry)

Commented [MK4R3]: The executive summary will be updated once the rest of the report is considered in a more or less final state so that there is no risk of discrepancies.

[1] https://community.icann.org/display/CWGONGAP/CCWG+Charter

2. Objective and next steps

The new gTLD Auction Proceeds Cross-Community Working Group (CCWG) was chartered at the end of January 2017 by the by the Address Supporting Organization (ASO), the At-Large Advisory Committee (ALAC), the Country Code Names Supporting Organization (ccNSO), the Generic Names Supporting Organization (GNSO), the Governmental Advisory Committee (GAC), the Security and Stability Advisory Committee (SSAC), and the Root Server System Advisory Committee (RSSAC) to propose the mechanism that should be developed in order to allocate the new gTLD Auction Proceeds. The term 'mechanism' in this context refers to a funding structure that will be created to allocate the Auction Proceeds. Following approval of the proposal(s) by the Chartering Organizations, it is to be submitted to the ICANN Board for its consideration.

Per the CCWG's charter, the CCWG is expected, at a minimum, to publish an Initial Report for public comment followed by a Final Report, which will be submitted to the Chartering Organizations for their consideration. The publication of this Initial Report has to meet the expected obligations set out in the CCWG's charter and further described by materials produced by the ICANN organization[2]. Through publication of the Initial Report, the CCWG aims to gather the input from Chartering Organizations as well as others interested in this work on the CCWG's deliberations and recommendations.

The public comment period will remain open for a minimum of 40 days to ensure that all interested individuals and groups have an opportunity to respond.

After review of comments received on this Initial Report, the CCWG will finalize its set of recommendations and submit it in the form of a Final Report to the Chartering Organizations and to the Board of ICANN for their consideration.

For further information and background, please see Annex A.

[2] See for example the memo to the Drafting Team for Auction Funds Proceeds CCWG Charter on Legal and Financial Considerations for Inclusion in Charter, available at https://community.icann.org/display/CWGONGAP/Legal+and+Fiduciary+Constraints+Related+Materials

3. Methodology

As one the of the CCWG's initial tasks, the group developed an approach to completing the work set out in the CCWG's charter. The CCWG decided to take a phased approach with the ultimate objective of responding to a series of 11 questions posed in the CCWG's charter. The methodology also provided an opportunity for the CCWG to consider a series of possible "mechanisms" or funding structures that could be used to allocate funds.

The CCWG initially focused on assessing the expertise available within the CCWG as well as identifying potential external experts that could assist the CCWG in its deliberations. The working group also identified a series of possible questions for external experts (see here) to help inform the CCWG's deliberations. Furthermore, the CCWG deliberated its approach for dealing with the charter questions - as well as the proposed timeline and agreed to the following phases:

- **Phase 1**
  Initial run-through of all charter questions to assess initial responses, identify possible gating questions, and determine potential order in which questions need to be dealt with.

- **Phase 2**
  Address any charter questions that have been identified requiring a further detailed response before commencing the next phase.

- **Phase 3**
  Compile list of possible mechanisms for setting up a future organizational structure that could be considered by CCWG.

- **Phase 4**
  Determine which mechanism(s) demonstrates most potential to meet CCWG expectations as well as conform with legal and fiduciary constraints as defined in ICANNs Bylaws and legal/fiduciary obligations.

- **Phase 5**
  Develop responses to the different charter questions (as organized per phase 1) from the perspective of the mechanism(s) that has been selected in phase 4 as demonstrating the most potential.

- **Phase 6**
  Publish Initial Report for public comment following consensus on mechanism and responses to charter questions that meet legal, fiduciary, and audit constraints.

See Annex C for further details.

To facilitate deliberation on key concepts, the WG has been using surveys to collect input, and this approach was found to be quite successful to review the outcome of the initial run-through of charter questions as well as surveys conducted to date (see https://community.icann.org/x/PNrRAw).

4. Summary of Deliberations

4.1. Mechanisms identified

After the CCWG progressed through the first two phases of work as outlined in the previous section and further detailed in the CCWG newsletters (see https://community.icann.org/x/qyQhB), the CCWG identified four possible mechanisms that could be explored in further detail. The CCWG examined key characteristics of each mechanism to support analysis of the different options. In particular, the CCWG considered the following areas:

- Control:
  - What role will the ICANN Board play in governance?
  - Will there be an opportunity for ICANN stakeholder engagement?
  - Will it be possible to sunset the mechanism?
  - Will it be possible to grant funds to organizations internationally?
- Competence:
  - How complex will the startup process be for the mechanism?
  - Who will be responsible for handling grant requests, implementation, evaluation, oversight? Program communications? Program administration, including audit, legal, investment, and risk management responsibilities?
- Cost:
  - What are the costs associated with starting up the program? Operating the program?

The CCWG recognizes that in-depth examination of each area: control; competence; and cost will require further examination of start up processes and start up costs, as well as exit costs as a part of the implementation

The following is a summary of key characteristics of the evaluated mechanisms:

Mechanism A: Internal ICANN Department
An internal department dedicated to grant solicitation, implementation and evaluation is created within the ICANN organization. All grants are listed in ICANN's annual tax recordings..

Control	
ICANN Board governance	Yes
ICANN stakeholder engagement	Yes
Ability to sunset	Yes
International capabilities	Yes, non-US grants will need to go through due diligence process (equivalency determination and expenditure responsibility) and the Office of Foreign Assets Control (OFAC)[3].

[3] For further details on OFAC, please see https://community.icann.org/pages/viewpage.action?pageId=69272128&preview=%2F69272128%2F69274745%2FOFAC+AND+OTHER+SANCTIONS+QUESTIONS+FOR+ICANN+LEGAL.pdf

Commented [EB5]: Daniel Dardailler: More details needed in relation to scoping of fund allocation, possibly through repositioning the preamble which is currently in the annex (see https://mm.icann.org/pipermail/ccwg-auctionproceeds/2018-September/001041.html for full details)

Commented [EB6]: Judith Hellerstein: I would also propose repositioning the preamble as it is lost in the annex. Think it would be helpful in relation to the scoping of fund allocation

Commented [EB7]: Maureen Hilyard: I also agree with the others about repositioning the preamble as we spent a significant amount of time on this and it needs to be placed at the beginning of section 4 which designates the start of the CCWGs work.

Commented [EB8]: Marilyn Cade: Support for earlier comments regarding repositioning the Preamble

Commented [EB9]: Judith Hellerstein: In Mechanism 1, I have heard that there is also a possibility of outsourcing and I think this needs to be cleared up as itis written this is not clear.

Commented [MK10R9]: This is presumably an implementation question? Not sure if this is something that can be confirmed at this stage as it may depend on what expertise is internally available and what isn't? For example, if a specific type of audit is to be carried out, this may need to be outsourced? Should this be called out to be further addressed during implementation?

Commented [EB11]: Marilyn Cade: Proposed Edit: The CCWG-AP recognized that in-depth examination of each area: Control; Competence; and Cost will require further examination of Start Up Processes and Start Up Costs, as well as exit costs as a part of Implementation.

Commented [EB12]: Marilyn Cade: This needs to be explained – e.g. any staff will have to retained as contractors, and have an exit clause in the agreement, limiting any ongoing financial liability, when their contract is terminated – e.g. the "internal ICANN Department" is closed down.

Commented [MK13R12]: These seem to be considerations to be further addressed as part of implementation? Should these be called out separately as issues to be addressed / considered during implementation?

Commented [EB14]: Marilyn Cade: The explanation provided is so minimal that anyone not familiar with OFAC review and due diligence requirements due to ICANN's unique status will not understand the time commitment, OR what those financial and time requirements may be.

Proposed Edit: Add a footnote.

Competence	
Start up process	Minimal
Team responsible for grant requests, implementation, evaluation, oversight	Grants management professional or related experience required.
Communications	ICANN resources may be allocated for public relations and external content.
Administrative: audit, legal, investment responsibilities, risk management	ICANN Staff manages the audit, legal and investments. Grant activity are listed on the annual tax filings with the US government.
Cost	
Start-up cost	Expected to be minimal compared to the other mechanisms.
General annual expenses	For illustrative purposes, if ICANN had a fund of USD $X Million and wanted to sunset the granting period in 10 years (2028), ICANN would have an annual budget of roughly 1/10th of the total. Depending on costs related to the programs, a portion of the annual budget will cover all program functions, investment fees, administrative expenses including staff, legal/audit, property etc.

Mechanism B: ICANN + External Organization

ICANN Internal Granting Department collaborates with an existing non-profit, such as a donor-advised-fund (DAF). "A donor-advised fund, or DAF, is a philanthropic vehicle established at a public charity. It allows donors to make a charitable contribution, receive an immediate tax benefit and then recommend grants from the fund over time. An easy way to think about a donor-advised fund is like a charitable savings account: a donor contributes to the fund as frequently as they like and then recommends grants to their favorite charity when they are ready"[4]. Internal staff would manage ICANN messaging, communication and oversight and would be able to control grants. Each year the team could grant funds to a DAF to manage, administrate and implement. ICANN directs the distribution but the investment control is managed by the DAF. DAF grants are on the DAF Annual Tax Filing. ICANN could also consider working with an outside organization or consultant to manage specific aspects of the granting process depending on the objectives of the funds.

Control	
ICANN Board governance	Yes, although the DAF is responsible for the grant management and due diligence. Once funds are transferred, it is a legal donation to the DAF.

[4] Source: https://www.nptrust.org/what-is-a-donor-advised-fund.

Commented [EB15]: Marilyn Cade: At present, both Mechanism A and B simply say: Minimal. This does not provide adequate information for the CCWG-AP, OR for the community or Board to make a fact-based assessment of the amount of time, or startup costs for these two mechanisms.

Commented [MK16R15]: How can further information be obtained or are these details that are to be developed as part of the implementation process? Our understanding of the input provided in relation to 'minimal' is that basic support services as HR, IT, infrastructure, would already be in place and as such the costs are minimal compared to for example the creation of an independent foundation?

Commented [EB17]: Elliot Noss: In describing method 1 the term "Grants Management Professional required" feels stronger than what we have agreed to previously. To be clear, I believe (strongly) that the community can provide more than enough expertise and I believe that this has been the ccTLD experience

Commented [EB18]: Judith Hellerstein: In Mechanism 2, it mentioned that some work will be given to the chosen Donor advised fund. Could we mention what this work will be. In the ALAC discussions we had on this issue there was a difference of opinion on what will be outsourced. I think this needs to be clarified.

Commented [MK19R18]: Please indicate what further details are needed at this stage (see further details added in redline).

Commented [EB20]: Ching Chiao: It seems that Mechanism B -- the role of ICANN and the role of DAF(s) needs to be further clarified and defined. Members of CCWG may still have different level of understanding of how this mechanism would work.

Also on Mechanism B -- the fund transferred to DAF will be taken as a legal donation to the DAF. If so how is it different from Mechanism D ?

Commented [MK21R20]: Please indicate what further details are needed at this stage (see further details added in redline).

Commented [EB22]: Marilyn Cade: DAF is a new acronym – a footnote should be added providing a couple of sentences about how a DAF will function and noting that it is a well trusted mechanism in the donor world.

ICANN stakeholder engagement	Yes, the stakeholders can assist in deciding how grants should be allocated.
Ability to sunset	Yes
International capabilities	Private foundations are required to demonstrate foreign compliance with expenditure responsibility including pre-inquiry, grant agreements, reporting, confirmation of separate accounts, and listing on the annual tax filings. OFAC and due diligence functions would be performed by the DAF.
Competence	
Start up process	Minimal, ICANN chooses a DAF partner.
Team responsible for grant requests, implementation, evaluation, oversight	Shared between ICANN and DAF, ICANN determines that partnership.
Communications	ICANN resources may be allocated for public relations and external content.
Administrative: audit, legal, investment responsibilities, risk management	ICANN directed funds are managed by ICANN. The DAF directed funds are managed by the DAF.
Cost	
Start-up cost	Minimal
General annual expenses	Smaller staff to manage ICANN internal responsibilities, note: DAFs often charge a 1-2% annual management fee in addition to investment fees.

Commented [EB23]: Marilyn Cade: This should include a sentence that the OFAC and due diligence functions will be performed by the DAF.

Mechanism C: ICANN Foundation

A new charitable structure is created separate from ICANN which would be responsible for solicitation and evaluation of proposals, and disbursement process.

Commented [EB24]: Judith Hellerstein: Mechanism 3- people have said it will be hard to get a firm to do this and perhaps this could be clarified a bit. I know for me that was weighing on me in my decisions.

Commented [MK25R24]: Please clarify what is meant with 'it will be hard to get a firm to do this' – is this possibly referring to mechanism D?

Control	
ICANN Board governance	A separate, independent entity requires a separate board, but ICANN could suggest or trigger the appointment of board members.
ICANN stakeholder engagement	Yes, the foundation could host an advisory committee comprised of ICANN stakeholders.
Ability to sunset	Yes

International capabilities	Private foundations are required to demonstrate foreign compliance with expenditure responsibility including pre-inquiry, grant agreements, reporting, confirmation of separate accounts, and listing on the annual tax filings.
Competence	
Start up process	Requires a separate entity identification number, approval from the US Internal Revenue Service, ~~(which may take months),~~ legal drafting of bylaw and agreements.
Team responsible for grant requests, implementation, evaluation, oversight	Grants management professional required.
Communications	Communications consultant or resources required.
Administrative: audit, legal, investment responsibilities, risk management	Audit, legal, investment responsibilities, risk management: Must be managed separately, accountings and annual tax documents filed separately from ICANN. It is required that 5% of the principal (account value) is disbursed each year. Investments must be managed well: excise tax on capital gains of 1-2%.
Cost	
Start-up cost	Time for IRS approval, legal fees to draft bylaws and agreements.
General annual expenses	For illustrative purposes, if ICANN had a fund of USD $XM and wanted to sunset the granting period in 10 years (2028), ICANN would have an annual budget of roughly 1/10th of the total. Depending on costs related to the programs, a portion of the annual budget will cover all program functions, investment fees, administrative expenses including staff, legal/audit, property etc.

Commented [EB26]: Marilyn Cade: This is a highly prejudicial way of describing the startup process for a new foundation. Cut the (which may take months) reference, as it is applicable to all of the Mechanisms, or apply it equally to all.

Commented [EB27]: Marilyn Cade: This comment is prejudicial. Legal costs for drafting bylaws and agreements exist, regardless of which Mechanism is selected. More neutral language should be used here.

Commented [MK28R27]: Are bylaws and agreements needed for mechanism A? Are bylaws needed for mechanism B? Is IRS approval needed for mechanism A & B? Clarification on these questions would help to update this language accordingly in the other sections.

Mechanism D: External Entity

According to the CCWG: An established entity (e.g. foundation or fund) is used for the evaluation of projects and for the allocation of the Auction Proceeds. (ICANN would still have to organize the oversight of processes to ensure mission and fiduciary duties are met.)

It was noted that this type of mechanism doesn't necessarily exist. As all entities have their own mission/vision statements, they will not usually give away control and/or oversight to another entity. There are a few examples where it could work, but it would be very similar to Mechanism B:

- ICANN creates an internal committee to partner with grant making consultants to disburse funds.
- ICANN partners with an academic institution such as a university or research center and a partnership is formed based on core objectives.
- ICANN partners with a global banking institution that has a grant making arm.

4.2. Objectives of Fund Allocation

The CCWG agreed early on in its deliberations that the specific objectives of new gTLD Auction Proceeds fund allocation are:

- Benefit the development, distribution, evolution and structures/projects that support the Internet's unique identifier systems;
- Benefit capacity building and underserved populations, and;
- Benefit the open and interoperable Internet.

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

In relation to the latter point, benefit the open and interoperable Internet, the CCWG also developed overarching guidance for proposal review and selection of projects to which auction proceeds may be allocated. This guidance includes the following guidelines for the review and selection of applications seeking auction proceeds funding:

1. The purpose of a grant/application must be in service of ICANN's mission and core principles
2. The objectives and outcomes of the projects funded under this mechanism, should be in agreement with ICANN's efforts for an Internet that is stable, secure, resilient, scalable, and standards-based.
3. Projects advancing work related to any of the following topics open access, future oriented developments, innovation and open standards, for the benefit of the Internet community are encouraged.
4. Projects addressing diversity, participation and inclusion should strive to deepen informed engagement and participation from developing countries, under-represented communities and all stakeholders.
5. Projects supportive of ICANN's communities' activities are encouraged.

For further details, please see Annex D.

~~4.2.~~4.3. Criteria

In addition, the CCWG identified a number of criteria that it deemed important in evaluating these different mechanisms, namely:

- 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 and independence of fund allocation

~~4.3.~~4.4. Input provided by the ICANN Board

Through the Board appointed liaisons - two Board member were appointed to participate formally in the work of the CCWG - as well as formal correspondence (see https://community.icann.org/x/V7XRAw) input was provided by the Board to help inform the CCWG's deliberations with regards to the Board perspectives on some of the questions under discussion.

For example, the Board shared the following principles that it expects to evaluate the CCWG's proposal and recommendations against:

Overarching Fiduciary Obligations and Responsibility for Funds

- The ICANN Board remains responsible for all auction proceeds being appropriately disbursed, even if a third party runs part or all of the process of receiving, evaluating, or disbursing the auction proceeds.

Board Due Diligence

- The Board is responsible for acting as trustees of the organization's assets and
- exercising due diligence to oversee that whatever organization(s) is disbursing assets is well-managed and that its financial situation remains sound. Accordingly:
    - Proceeds should be allocated in tranches over a period of years to ensure the Board is meeting its obligations
    - The Board has not yet come to a position on whether larger amounts would require Board sign off

ICANN's Mission

- The Board is responsible for making sure that ICANN's mission is observed at all points throughout the process, and any disbursement mechanism must have processes and procedures to ensure that auction proceeds are used in a manner that contributes directly to ICANN's mission

Effective and Efficient Process of Selection and Proposed Mechanism

- The CCWG-AP should strive to keep costs associated with establishing or selecting a disbursement mechanism as low as possible. The disbursement mechanism selected should be simple, effective and efficient, with appropriate skills, expertise, and scale to minimize overhead, minimize risks, and maximize the impact of auction proceeds

Preservation of Resources and Use of Existing Expertise

- The CCWG-AP should work to identify models and processes that uphold the preservation of existing resources, either external or internal, and should draw on existing expertise to the extent available

Global and Diversity Values

- The mechanism selected should be able to evaluate proposals and make, administer,
  and monitor awards on a global basis in light of ICANN's global role and diversity values

- As part of ICANN org's implementation, we expect the mechanism should be supported by a communications plan geared to broad dissemination of information on the existence of and parameters of the program

Evidenced-Based Processes and Procedures for Evaluation

- The disbursement mechanism should have processes and procedures in place to evaluate and quantify the impact of awards using fit-to-purpose or evidence-based evaluation methodology

Accountability

- The actors that run the mechanism, whether internal or external, should be accountable, and the proceeds should be disbursed to awardees consistent with a written timeline that establishes clear milestones/deliverables for release of project funding and establishes accountability for use/misuse of resources by grant recipients. This includes the ability to course correct or stop funding where issues arise

ICANN Monitoring and Evaluation

- If part or all of the mechanism is external, ICANN should have an established process for monitoring and evaluating the functioning of the funding mechanism and measuring the effectiveness of funded projects

Transparency

- Ensuring adequate/appropriate transparency to the ICANN community and the public on the process, decisions, and status of usage of the proceeds

~~4.4.~~4.5. Ranking mechanisms

In preparation for drafting the CCWG's Initial Report, the co-chairs conducted a poll of CCWG members and participants in order to assess which mechanisms CCWG members and participants felt were most promising with respect to criteria listed in sub-section 4.2, taking into account expert input received and CCWG deliberations. In the survey, CCWG members and participants were asked to rank the mechanisms in order of preference and were also asked whether they recommended eliminating one or more mechanisms from further consideration. They were invited to explain their responses, including which criteria they considered most important in ranking the mechanisms and why they suggested eliminating one or more mechanisms from future consideration, if applicable.

Numerical scores were assigned for each survey response. If a respondent selected a mechanism as first choice, the mechanism received 4 points. A second choice received 3 points. A third choice received 2 points and a fourth choice received 1 point. If a respondent recommended eliminating a mechanism from further consideration, it received zero points.

The results of the survey are available on the CCWG wiki[5]. Mechanism B came out as a clear frontrunner, with mechanism A also receiving significant support. Some respondents favored continuing to consider mechanism C, although support was more limited. There was strong support among respondents to eliminate mechanism D from further consideration. Respondents considered the following criteria most important in ranking the four mechanisms:

[5] See 6 September 2018 survey results at https://community.icann.org/display/CWGONGAP/Initial+Report+Drafting

- Efficiency and effectiveness[6], including cost-effectiveness of setting up the mechanism and cost-effectiveness of running the mechanism
- Ease of setting up in terms of time and effort
- Ability to leverage existing expertise and resources[7]
- Ability to meet ICANN's legal and fiduciary obligations

While all members and participants were encouraged to respond to the survey, only a subset of all members and observers submitted responses. To validate the results of the survey, the CCWG held additional discussion to ensure that there was a shared understanding of the CCWG's preferences as reflected in the Initial Report.

In the recommendations and responses to charter questions included in section 5 of this report, the CCWG has prioritized mechanisms A and B for further consideration in line with the CCWG's preference for these mechanisms. The recommendations and responses to charter questions reflect that the CCWG is particularly confident that mechanism B would serve the needs of the ICANN organization and community. Mechanism C is addressed in a more limited manner, reflecting that a smaller number of favored this option. While mechanism D is described in this report, the recommendations and responses to charter questions do not address mechanism D, which was least favored by the CCWG and is not being recommended for further consideration at this time.

~~4.5.~~4.6. Conclusion

As a result of the deliberations that commenced at the end of January 2017 as well as the extensive input that has been provided by various external experts (see https://community.icann.org/x/0RS8B) as well as members and participants of the CCWG, the preliminary recommendations outlined in the next section are being put forward for the community's consideration and input.

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[6] This criterion is consistent with following principle identified by the ICANN Board: "Effective and Efficient Process of Selection and Proposed Mechanism: The CCWG-AP should strive to keep costs associated with establishing or selecting a disbursement mechanism as low as possible. The disbursement mechanism selected should be simple, effective and efficient, with appropriate skills, expertise, and scale to minimize overhead, minimize risks, and maximize the impact of auction proceeds."

[7] This criterion is consistent with following principle identified by the ICANN Board: "Preservation of Resources and Use of Existing Expertise: The CCWG-AP should work to identify models and processes that uphold the preservation of existing resources, either external or internal, and should draw on existing expertise to the extent available."

5. Preliminary Recommendations & Responses to the Charter Questions

The CCWG's charter contains a series of 11 questions addressing different areas for which the CCWG is expected to provide guidance. In conducting its work, the CCWG took an iterative approach to developing responses to these questions. The responses draw on input from external experts consulted by the CCWG and the ICANN organization, as well as deliberations of the CCWG.

Note that the responses to the charter questions below represent the best current thinking of the CCWG which may evolve further after a thorough review of the community input received on this Initial Report. Similarly, no formal consensus call has been taken on the preliminary recommendations outlined in the section below. A formal consensus call[8] is expected to take place prior to the finalization of the CCWG's report and recommendations for submission to its Chartering Organizations.

In addition to the preliminary recommendations presented in this report, the CCWG is also providing a set of proposals that may help to guide the implementation phase of work (Implementation Guidance). The implementation phase is the next phase that will translate the current work into a concrete operation. It is the expectation that, similar to how this is done for CCWG-Accountability WS2[9], a small implementation team will be formed to assist ICANN Org and the community to ensure the implementation plan preserves the intent of the recommendations and provide any interpretation advice as required.

The responses from the CCWG AP members and participants to the charter questions have been grouped by topic below.

5.1. SELECTION OF THE MECHANISM

Charter Question #1: What framework (structure, process and/or partnership) should be designed and implemented to allow for the disbursement of new gTLD Auction Proceeds, taking into account the legal and fiduciary constraints outlined above as well as the existing memo on legal and fiduciary principles[10]? As many details as possible should be provided, including any implementation guidance the CCWG may have in relation to the establishment of this framework as well as criteria for the selection / ranking of potential funding requests.

The CCWG initially considered four possible frameworks (see previous section) that could be used to implement the disbursement of new gTLD Auction Proceeds. Although all four mechanisms are probably viable, after analyzing these potential frameworks in light of legal and fiduciary constraints and other criteria (see previous section) identified by the CCWG, the CCWG agreed to focus for this part of the Initial Report on mechanisms A and B, the two models or frameworks that is considers most promising[11] to meet the constraints as well as criteria identified. In addition, the responses touch on mechanism C, which some members supported considering further, which would need to be considered in further detail should this mechanism receive substantial support during the public comment period. This does not

[8] In a formal consensus call, the members of the CCWG will be asked to confirm their support, or lack thereof, for the different recommendations. Based on that input, the chairs will make an assessment of the level of support achieved following the designations and methodology outlined in the CCWG Charter.
[9] See wiki at https://community.icann.org/display/WEIA/WS2+-+Enhancing+ICANN+Accountability+Home
[10] See also Note to Auction Proceeds DT re. legal and fiduciary principles
[11] See https://community.icann.org/download/attachments/93128721/CCWG%20-%20Survey%20on%20Mechanisms%20-%20upd%204%20September%202018.pdf?version=1&modificationDate=1536183750000&api=v2

mean that mechanism D has been completely discarded, but a good rationale would need to be provided in response to the public comment forum for why this mechanism should be further considered.

Mechanism A: A new ICANN Proceeds Allocation Department is created as part of ICANN Org dedicated to grant solicitation, implementation and evaluation (see detailed description in previous section).

- The creation and running of this mechanism would be funded out of the auction proceeds, separate from ICANN's operating budget.
- Budget and staffing models could leverage ICANN's experience with other self-funded programs, such as the New gTLD Program.
- While the members of the department could collaborate as appropriate with other departments to carry out their role, measures will be needed to ensure separation between the department handling funds and the rest of the organization.
- Model of separation between the department and other parts of the organization could draw on ICANN's experience with the new gTLD program, PTI, and the IANA Stewardship Transition.

Mechanism B: A new ICANN Proceeds Allocation Department is created as part of ICANN Org which would work in collaboration with an existing charitable organization(s).

- The elements discussed above for mechanism A would also apply to mechanism B.
- An external entity would support specific aspects of the fund allocation work. Division of labor between ICANN and the external entity will be determined in implementation but could be based on responsibilities. Two examples of how responsibilities could be divided:
    - For example, ICANN could focus on messaging, communication, oversight/audit responsibility and initial compliance checks[12] while the external organization could be responsible for substantive review of the application, disbursement of funds, and other aspects of implementation.
    - Alternately, the external organization could focus solely of grant compliance, including managing contractual agreements and financial payments. ICANN could be responsible for all other elements of the grant cycle.
    - If this mechanism is ultimately selected, the following considerations and principles may guide decisions about the specific division of labor:
        - Obtaining the proper expertise for each stage of work;
        - Making sure the design is simple and cost effective;
        - For those areas that require more significant measures of independence, the need for outsourcing might be stronger;
        - Confirming that there is a clear definition of, as well as documentation of, the roles and responsibilities within the process;
        - Proper controls need to be put in place to ensure that each participating entity can meet its own fiduciary requirements as well as serve the goals of the program.

Within the CCWG, there was a diversity of perspectives on the mechanisms and the relative importance of different criteria used to evaluate these mechanisms. However, there were

[12] Compliance check could focus on whether the proposed use of funds is in mission, whether the applicant can appropriately receive funds from ICANN, and to identify if any particular private benefit or lobbying issues are posed by the proposed uses stated in the application.

several themes that emerged in reviewing the reasons that CCWG members supported mechanisms A and B:

- Efficiency and effectiveness[13], including cost-effectiveness of setting up the mechanism and cost-effectiveness of running the mechanism;
- Ease of setting up in terms of time and effort;
- Ability to leverage existing expertise and resources[14], and;
- Ability to meet ICANN's legal and fiduciary obligations.

The CCWG was particularly confident that mechanism B would meet all of the above criteria.

In addition to options A and B ~~about~~above, the CCWG welcomes community input on mechanism C, under which an ICANN Foundation is established. Mechanism C involves creation of a new charitable structure separate from ICANN which would be responsible for solicitation and evaluation of proposals, and the disbursement of the funds.

Preliminary CCWG Recommendation #1: The CCWG recommends that either mechanism A (A new ICANN Proceeds Allocation Department is created as part of ICANN Org dedicated to grant solicitation, implementation and evaluation) or mechanism B (A new ICANN Proceeds Allocation Department is created as part of ICANN Org which would work in collaboration with an existing charitable organization(s)) is designed and implemented to allow for the disbursement of new gTLD Auction Proceeds. In addition to options A and B above, the CCWG welcomes community input on mechanism C, under which an ICANN Foundation is established. Mechanism C involves creation of a new charitable structure separate from ICANN which would be responsible for solicitation and evaluation of proposals, and the disbursement of the funds.

Based on the input received in response to the public comment period on this report and further deliberations by the CCWG taking into account these public comments, the CCWG may make changes to this recommendation in the Final Report. For example, the CCWG may be a in a position to further narrow down its recommendation and identify a single preferred mechanism. Alternately, if after reviewing and deliberating on input received through public comment, the CCWG does not reach agreement on a single preferred mechanism it could recommend multiple options to the ICANN Board for further consideration. The ICANN Board will make a final decision on the path forward leveraging the CCWG's recommendations and work.

Implementation guidance in relation to charter question #1: The input provided in response to this charter question is expected to help inform the implementation of the mechanism that is ultimately selected.

Charter Question #7: Should ICANN oversee the solicitation and evaluation of proposals, or delegate to or coordinate with another entity, including, for example, a foundation created for this purpose?

Commented [EB29]: Marilyn Cade: Staff needs to add back in a reference to the consideration of Mechanism #3, which did receive some support. This can be accomplished by moving lines 465 – 468 into the body of the paragraph.

[13] This criterion is consistent with following principle identified by the ICANN Board: "Effective and Efficient Process of Selection and Proposed Mechanism: The CCWG-AP should strive to keep costs associated with establishing or selecting a disbursement mechanism as low as possible. The disbursement mechanism selected should be simple, effective and efficient, with appropriate skills, expertise, and scale to minimize overhead, minimize risks, and maximize the impact of auction proceeds."

[14] This criterion is consistent with following principle identified by the ICANN Board: "Preservation of Resources and Use of Existing Expertise: The CCWG-AP should work to identify models and processes that uphold the preservation of existing resources, either external or internal, and should draw on existing expertise to the extent available."

For the purpose of these charter questions, the CCWG has mainly focused on two possible mechanisms for the allocation of funds. In the first mechanism (mechanism A), a new ICANN Proceeds Department is created as part of ICANN Org dedicated to evaluate proposals and to grant applications. Under mechanism A, the new ICANN Proceeds Department would be the entity conducting all work associated with the different phases of the grantmaking cycle.

Mechanism B envisions a new ICANN Proceeds Department within ICANN Org working in collaboration with an existing charitable organization(s). As discussed in the response to charter question 1, there are different possible methods of dividing responsibilities between these two entities under mechanism B, and the CCWG is not recommending one specific implementation at this time. Regardless of the way that tasks are divided, ICANN will maintain an oversight role and ultimate responsibility in all key activities, related to ICANNs obligations stemming from its mission and the bylaw.

5.2. SAFEGUARDS AND GOVERNANCE

Charter Question #2: As part of this framework, what will be the limitations of fund allocation, factoring in that the funds need to be used in line with ICANN's mission while at the same time recognising the diversity of communities that ICANN serves? This should include recommendations on how to assess whether the proposed use is aligned with ICANN's Mission. Furthermore consideration is expected to be given to what safeguards, if any, need to be in place.

The CCWG agreed that specific objectives of new gTLD Auction Proceeds fund allocation are:

- Benefit the development, distribution, evolution and structures/projects that support the Internet's unique identifier systems;
- Benefit capacity building and underserved populations, and;
- Benefit the open and interoperable Internet[15].

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

Limitations of funding allocation stem from legal and fiduciary requirements and concerns for the ICANN Organization:

- Disbursement of funds must be for projects that are in accordance with ICANN's mission as set out in the bylaws.
    - A key element of the implementation of the selected mechanism will be to develop guidance on the limitation inherent in the ICANN mission, which will support development of criteria to evaluate proposals. The CCWG has produced a preamble (see Annex D) and list of example projects (see Annex E) which are expected to be used as guidance during the implementation process.
- Disbursements must be made for lawful purposes.
- There must be protections against self-dealing and measures to ensure that decisions are taken without conflict of interest. The following measures are recommended to be considered as part of the implementation process:
    - Prohibition on auction proceeds being awarded to businesses that are owned in whole or in part by ICANN board members, executives or staff or their

Commented [EB30]: Maureen Hilyard: In 5,.2 where you start :"The CCWG agreed that.." could this be rewritten and replace Preliminary CCWG Recommendation 2. that is written below

[15] See preamble in Annex D for more details

family members and awards that may be used to pay compensation to ICANN board members, executives or staff or their family members.
    - Segregation of duties amongst those who develop the requirements and those who assist in the identification of potential recipients.
    - Prohibition on awards of assistance to businesses owned in whole or in part by the CCWG members (participating in any phase of the CCWG process), their family members, and awards that would be used to pay compensation to CCWG members or their family members.
- Funds may not be provided for the private benefit of individuals. The following measures are recommended:
    - Prohibition on grants to individuals.
    - Processes to evaluate applying organizations for any private benefit concerns.
- Funds may not be used for political activities. The following measure are recommended:
    - Proceeds cannot be provided to organizations that intervene in campaigns for candidates.
- Funds should not be used for lobbying activities. The following measure is recommended:
    - Proceeds cannot be provided in support of lobbying activities, and that requirement be an express commitment as part of a grant process.
- There must be measures in place for proper oversight and management of the funds (Investment policy, compliance, and performance management).

Please see response to charter question 3 for additional responses regarding safeguards.

Preliminary CCWG Recommendation #2: The CCWG agreed that specific objectives of new gTLD Auction Proceeds fund allocation are ~~Funds are to be allocated in line with the following three specific objectives recommended by the CCWG~~:

- Benefit the development, distribution, evolution and structures/projects that support the Internet's unique identifier systems;
- Benefit capacity building and underserved populations, and;
- Benefit the open and interoperable Internet[16]

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

Preliminary CCWG Recommendation #3: The implementation of the selected fund allocation mechanism should include safeguards described in the response to charter question 2.

Implementation guidance in relation to charter question #2: The CCWG recommends that the preamble (see Annex D) and list of example projects (see Annex E) are considered during the implementation process.

Charter Question #3: What safeguards are to be put in place to ensure that the creation of the framework, as well as its execution and operation, respect the legal and fiduciary constraints that have been outlined in this memo[17]?

Commented [EB31]: Maureen Hilyard: In 5,.2 where you start :"The CCWG agreed that.." could this be rewritten and replace Preliminary CCWG Recommendation 2. that is written below

[16] See preamble in Annex D for more details
[17] See also Note to Auction Proceeds DT re. legal and fiduciary principles

ICANN Org will always have the responsibility to make sure that the funds are used in alignment with ICANN's mission. The direct level of safeguards and oversight at the project level will typically always be the same, regardless of who is running the disbursement mechanism. For example, there will have to be reporting from the recipients on the use of funds and general oversight to guard against misuse.

Processes and procedures will need to be put into place to ensure that legal and fiduciary requirements are met. There will need to be processes of controls on conflict of interest, on consistency with mission, on clarity of evaluation results, on decision/approval, on disbursement, and on monitoring after disbursement, including reporting from the recipients on the use of funds and mechanisms to guard against misuse.

For the creation of the framework: For mechanisms A and B, the CCWG discussed whether legal and fiduciary safeguards can ~~it is the expectation that legal and fiduciary requirements will~~ largely be met through existing safeguards that ICANN Org has already in place, such as internal controls, contracting and disbursement guidelines, corporate compliance effort, and review by the Board.

Commented [EB32]: Marilyn Cade: For Mechanisms A and B, ***the CCWG-AP discussed whether legal and fiduciary safeguards can largely be met….***

For mechanism B, it is the assumption that the existing charitable organization would already have applicable safeguards in place, but these would need to be confirmed as part of the selection process to identify a suitable charitable organization(s).

In relation to the execution and operation: For mechanisms A and B, most phases of the process of disbursement will include mechanisms supporting fiduciary and auditing requirements: solicitation (openness), application evaluation (fairness, completeness, and quality), decision/approval (defined delegation of authority), disbursement (documentation, identification), publication (review/approval/accuracy), monitoring (effectiveness evaluation, documentation, reporting). For mechanism B, these safeguards must be in place at ICANN and the chosen charitable organization.

If an ICANN Proceeds Allocation Department is created as part of ICANN Org under mechanism A or B, measures will be needed to ensure separation between the department handling funds and the rest of the organization. This separation will be particularly important under mechanism A, where ICANN is handling all aspects of the granting cycle.

In order to answer this question from the perspective of mechanism C, additional information would need to be gathered and more detailed requirements would need to be established.

Please see responses to charter questions 2 and 9 for additional details and recommendations about specific measures to address ICANN's legal and fiduciary constraints, as well as operational objectives.

Implementation guidance in relation to charter question #3: Due concern needs to be given to ensuring that the required safeguards are in place as outlined in response to this question. Should mechanism B be selected, the additional safeguards outlined in the response to this charter question need to be factored in.

Charter Question #5: What conflict of interest provisions and procedures need to be put in place as part of this framework for fund allocations?

The following conflict of interest provisions should be put into place as part of the framework for fund allocations.

- There must be processes of controls on conflict of interest, which should be viewed in the broader context of safeguards designed to address ICANN's legal and fiduciary obligations and considerations. Each phase of the process of disbursement should include mechanisms supporting fiduciary and auditing requirements.
- A conflicts of interest policy should require those with a conflict to disclose the conflict or potential conflict. The policy should provide clear guidance on what the organization does when a member is in conflict and how conflicts are managed.
- The mechanism must protect against self-dealing and to ensure that decisions are taken without conflict of interest. See the response to charter question 2 for specific restrictions on the use of funds in this regard.
- Individuals and groups supporting fund allocation should commit to transparency and high standards of ethics.
    - Transparency could be supported by making publicly available conflict of interest statements and by making application selection criteria objective and publicly available.

In relation to mechanisms A and B, the ICANN Organization already has a number of measures in place to support controls on conflict of interest:

- ICANN has experience in segregating funds.
- ICANN has the experience and internal controls to maintain appropriate accounting practices as contemplated.
- ICANN also has related practices, such as its procurement policy and disbursement policy, which introduce controls over proper procurement and budgetary commitments.
- ICANN Org is able to capture financial information by project, which is expected to also contribute to transparency and accountability on the program.

In the case of mechanism B, there will need to be clearly defined roles and responsibilities incumbent upon both ICANN and the other organization, and an agreement in place about how these roles are carried out operationally. The external organization would need to have appropriate conflict of interest policies and practices in place for the elements of the program it manages. In addition, ICANN will maintain oversight to ensure that legal and fiduciary obligations are met.

In order to answer this question from the perspective of mechanism C, additional information would need to be gathered and more detailed requirements would need to be established.

Preliminary CCWG Recommendation #4: Robust conflict of interest provisions must be developed and put in place, regardless of which mechanism is ultimately selected.

Implementation guidance in relation to charter question #5: The provisions outlined in response to this charter question should at a minimum be considered for inclusion in the conflict of interest requirements that are expected to be developed during the implementation phase. In the case of mechanism B, there will need to be clearly defined roles and responsibilities incumbent upon both ICANN and the other organization, and an agreement in place about how these roles are carried out operationally. The external organization would need to have appropriate conflict of interest policies and practices in place for the elements of the program it manages. In addition, ICANN will maintain oversight to ensure that legal and fiduciary obligations are met.

Charter Question #9: What is the governance framework that should be followed to guide distribution of the proceeds? The issues addressed by a governance framework could include (but does not have to be limited to):

a. **What are the specific measures of success that should be reported upon?**
b. **What are the criteria and mechanisms for measuring success and performance?**
c. **What level of evaluation and reporting should be implemented to keep the community informed about how the funds are ultimately used?**

Under any mechanism selected, design of the governance framework will be driven by ICANN's obligations to uphold its fiduciary duties and strategic goals for the program. Please see response to charter question 2 for guidance on limitations on the use of funds in relation to fiduciary obligations. In addition, the following elements must be included in the governance framework.

Annual independent audit:

- ICANN is subject to such audit because it is a non-profit organization based in the US (other countries may have different requirements);
- The objective of the audit is "to obtain reasonable assurance about whether the financial statements are free from material misstatement";
- The auditor's opinion, if clean, is: "The financial statements [...] present fairly, in all material respects, the financial position of ICANN [...] in accordance with US accounting principles."
- The audit does not have the objective to verify every transaction, or entry, or detect fraud.
- Note: Audit of ICANN org is separate from audit related to the fund.

Requirements resulting from ICANN's obligations regarding accountability and transparency to the public, as defined in the bylaws:

- Engage with the Community on planning, performance and reporting of activities carried out.
- Be available and ready to respond to inquiries, publish documents and information.

Measures of success should be developed for each of the program's operational requirements:

- ICANN must ensure policies and procedures exist and are effective to manage the applications for funding.
  - Receive applications for funding,
  - Evaluate applications for funding,
  - Organize quality control and/or audit of applications evaluations,
  - Organize and support reconsideration procedures for evaluation decisions, for example an appeals mechanism,

- ICANN must be able to manage and address risks (including possible legal defense).
  - Risk assessment of projects receiving grants ~~may be~~must be conducted.

- ICANN must design and implement verification procedures to ensure compliance of the funds disbursements with the approved objective, irrespective of the mechanism retained to organize the evaluation and disbursement[18].

Commented [EB33]: Judith Hellerstein: I agree with Maureen that Risk Assessments must be conducted for each and every grant.

Commented [EB34]: Maureen Hilyard: (second to last bullet point) Risk assessments must be conducted. Applicants must be explicit about any risks inherent in a project so that it can be assessed accordingly

[18] These processes will ensure that the program implementation meets the following principles identified by the ICANN Board:

- "Evidenced-Based Processes and Procedures for Evaluation: The disbursement mechanism should have processes and procedures in place to evaluate and quantify the impact of awards using fit-to-purpose or evidence-based evaluation methodology."
- "Accountability: The actors that run the mechanism, whether internal or external, should be accountable, and the proceeds should be disbursed to awardees consistent with a written timeline that establishes

- Organize disbursement process and monitor disbursements,
- Monitor the compliance of the recipient's use of the funds with the intended purpose of the grant (which justified approving the application) and establish accountability for use/misuse of resources by grant recipients,
- Evaluate and quantify the result of each grant allocated using fit-to-purpose or evidence-based evaluation methodology,
- Audits of projects receiving grants may be conducted. The due diligence and audit requirements could vary depending on the nature, size and length of projects funded as well as country of origin.

- ICANN must put in place reporting and publication processes to ensure transparency on evaluation procedures, results, and usage of funds[19].
  - Explain/report on/publish evaluation methodology,
  - Explain/report on/publish results of evaluations,
  - Explain/report on/publish analyses of the effective use of the funds.

Clear roles and responsibilities should be established for different parties involved in the process. If ICANN is going to work in partnership with an external entity, the external entity will also need to meet its own fiduciary responsibilities and will have to respect the requirements identified by ICANN. Some form of contract between ICANN and the external entity is appropriate, outlining the respective roles and responsibilities of each entity in operating the program.

The principle of simplicity should be observed in determining whether any new oversight structures are needed, for example a joint advisory committee or task force. The decision should be driven by fiduciary duties of the entities involved and strategic goals of the program. By observing the principle of simplicity, the program reduces potential for conflict of interest, streamlines the path to making distributions, and reduces overhead costs associated with running the program.

Industry best practices should be observed wherever possible and appropriate:
- require measurable uses and outcomes of grants
- transparency on the use of grants
- progressive disbursements

Implementation guidance in relation to charter question #10: The response provided to this charter question should guide the development of the governance framework during the implementation phase.

Charter Question #10: To what extent (and, if so, how) could ICANN, the Organization or a constituent part thereof, be the beneficiary of some of the auction funds?

ICANN, the Organization or a constituent part thereof could potentially be a beneficiary in either of two scenarios:
- Funds are used by the ICANN organization distinct from the granting process, for example to replenish the reserve fund.

Commented [EB35]: Judith Hellerstein: Reserve Funding. I agree with Maureen and thought the document had stated that the use of Auction funds to replenish the reserve fund is a bad idea. I understand that others thing otherwise, but it will not look good and is a poor operation decison. If others insist upon it than we need to institute a required amount of less than 10%.

Commented [EB36]: Maureen Hilyard: (second to last bullet point is still a sore point) Using auction funds to replenish reserve funds and not something specific, makes auction proceeds appear as fundraising for ICANN operations

clear milestones/deliverables for release of project funding and establishes accountability for use/misuse of resources by grant recipients. This includes the ability to course correct or stop funding where issues arise."

[19] These processes will ensure that the program implementation meets the following principle identified by the ICANN Board: "Transparency: Ensuring adequate/appropriate transparency to the ICANN community and the public on the process, decisions, and status of usage of the proceeds."

- Funds are allocated through the granting process. In order for an SO/AC (or subpart thereof) to be able to apply for auction proceeds, it would have to meet all of the application criteria and basic due diligence requirements used in the evaluation of any other applicant. Considerations of self-dealing/private benefit as well as conflict of interest would need to be taken into account in evaluating the application. The applicant would need to demonstrate that the proposed use for funds is separate from work that is already funded as part of ICANN's daily operations. The CCWG anticipates that allocation of funds in this manner would be the exception rather than the rule.

If ICANN were eligible to apply through the granting process under mechanism A or B, particular attention would need to be paid to maintaining separation of staffing, budget, and operations between the Proceeds Allocation Department and other parts of the organization that may apply for funds.

Conflict of interest provisions would also become particularly important. See response to charter question 5 for additional information about conflict of interest provisions.

Preliminary CCWG Recommendation #5: [Is the CCWG ready to make a recommendation here or is this one area where specific input is requested before a decision is made?]

Commented [EB37]: Maureen Hilyard: I agree that "The applicant would need to demonstrate that the proposed use for funds is separate from work that is already funded as part of ICANN's daily operations"

Commented [EB38]: Judith Hellerstein: I also agree with Maureen on her comments on p.22 Recommendation #5-- The applicant would need to demonstrate that the proposed use for funds is separate from work that is already funded as part of ICANN's daily operations"

5.3. OPERATIONS

Charter Question #4: What aspects should be considered to define a timeframe, if any, for the funds allocation mechanism to operate as well as the disbursements of funds? E.g. The timeframe for the operation of this new mechanism may provide the opportunity for long term support, or for funding to be released in tranches linked to milestone achievements, single or multiple disbursements.

The timeframe should be established in line with and guided by strategic objectives for allocation of the fund. Once it is determined how "success" is defined for this fund, the timeframe should be set to support a successful outcome.

The CCWG's focus is on the Auction Proceed funds that are currently available without any assumption that additional funds will become available in the future. The role of this CCWG is to identify and to evaluate possible mechanisms to disburse funds received through auctions from the current gTLD round. Therefore, the CCWG has focused on developing recommendations that will enable the disbursement of the funds in an effective and judicious manner without creating a perpetual mechanism (i.e. not being focused on preservation of capital).

The CCWG agrees with the Board's assessment that proceeds should be allocated in tranches over a period of years. This would help ensure that the Board is meeting its obligations and allow for adjustments to the framework as needed, noting that changes may have legal, operational, and cost impacts. Tranches may be used to fund large grants over a period of years or to support projects that could be funded in a shorter period. Similarly, smaller grants could be distributed in a single fund transfer.

Commented [EB39]: Ching Chiao: We also need to mention how CCWG have addressed small(er) grants, even there's no formal consensus on how to distribute it. Common practices should work i.e. smaller grants can be distributed in a single fund transfer.

Preliminary CCWG Recommendation #6: The mechanism must be implemented to enable the disbursement of the funds in an effective and judicious manner without creating a perpetual mechanism (i.e. not being focused on preservation of capital).

Preliminary CCWG Recommendation #7: Funding should be allocated in tranches over period of years. Tranches may be used to fund large grants over a period of years or to support projects that could be funded in a shorter period.

Charter Question #6: Should any priority or preference be given to organizations from developing economies, projects implemented in such regions and/or under represented groups?

The CCWG has identified three objectives for new gTLD Auction Proceeds fund allocation, one of which focuses on underserved populations:

- Benefit the development, distribution, evolution and structures/projects that support the Internet's unique identifier systems;
- **Benefit capacity building and underserved populations**, and;
- Benefit the open and interoperable Internet.

At this time, the CCWG does not have specific guidance on how these three objectives should be prioritized or translated into specific program elements, such as selection criteria for funding applicants. Depending on the design of the funding allocation mechanism, the objective of benefitting capacity building and underserved populations could be met in different ways. For example, priority could be given to applicants from underserved regions or organizations proposing projects to support underserved populations, as long as such prioritization is consistent with limitations set by ICANNs mission and bylaws. Alternately, a segment of the fund could be devoted to projects that build capacity in underserved regions, for example to explain the proceeds grant application process or the new gTLD application process. Applicants seeking funds in this category would be assessed against evaluation criteria related to this focus. A third possibility is that no preference is given to applicants from specific populations or locations, but measures could be taken to ensure that applicants from developing countries or underserved regions are aware of the opportunity to apply for grants and can participate on equal footing in the application process.

Commented [EB40]: Maureen Hilyard: following this sentence could be a couple of examples such as explaining the Proceeds grant application process, or the new gTLD application process… and would support Rec #8

The CCWG notes that mechanisms A, B, and C allow for allocation of grants internationally, consistent with the following principle provided by the ICANN Board[20]: "Global and Diversity Values: The mechanism selected should be able to evaluate proposals and make, administer, and monitor awards on a global basis in light of ICANN's global role and diversity values."

Preliminary CCWG Recommendation #8: One of the objectives for new gTLD Auction Proceeds fund allocation is that it allows the support of projects that support capacity building and underserved populations.

Implementation guidance in relation to charter question #6: During the implementation phase further consideration needs to be given to how this objective can be achieved, also in conjunction with the other objectives that have been recommended by the CCWG.

Charter Question #8: What aspects should be considered to determine an appropriate level of overhead that supports the principles outlined in this charter?

The appropriate level of overhead will depend on the mechanism chosen, as well as specific strategic goals and programmatic elements that have not yet been established. For example, the following factors may impact the level of expenses incurred:

[20] See Board letter

- Type of structure used to manage the process,
- Number and size of grants,
- Specific pattern of fund disbursement,
- Diversity of applicants and incumbents,
- Complexity of projects funded,
- Frequency and complexity of communication and reporting requirements

The CCWG is not making any specific recommendations about the appropriate level of overhead for the distribution of funds at this time. The CCWG will instead focus its recommendations on high-level principles.

The CCWG notes that any overhead or administrative fees that result from the development or administration of a program through which the auction proceeds are awarded will be disbursed from the auction proceeds, and not from ICANN's general operating fund. While understanding that overhead is an essential part of the running the program, the CCWG encourages ICANN and any partnering organizations to design a cost-effective model that ensures an appropriate proportion of the funds are available for distribution to fund recipients.

The CCWG encourages ICANN and any partnering organizations to follow industry best practices, where appropriate and applicable. To the extent possible in light of program objectives and requirements, the principle of simplicity should apply. By avoiding unnecessary complexity in program design and implementation, associated costs can be kept manageable throughout the life of the project.

Implementation guidance in relation to charter question #8:
ICANN and any partnering organizations are to design a cost-effective model that ensures an appropriate proportion of the funds are available for distribution to fund recipients. ICANN and any partnering organizations are to follow industry best practices, where appropriate and applicable. To the extent possible in light of program objectives and requirements, the principle of simplicity should apply.

5.4. REVIEW

Charter Question #11: Should a review mechanism be put in place to address possible adjustments to the framework following the completion of the CCWGs work and implementation of the framework should changes occur that affect the original recommendations (for example, changes to legal and fiduciary requirements and/or changes to ICANN's mission)?

Reviews are important as mechanisms to improve, be transparent and plan for future development. They offer opportunities to innovate, steer direction, and fine-tune strategy. A combination of internal and external reviews is desirable to capture a multi-faceted process. Review processes should not, however, be used to change purpose without the support of the same community that provided the original mandate.

While the CCWG will leave specific details of the review process to the implementation phase, the CCWG envisions that two types of review may be appropriate. First, an internal review step will be part of the standard operation of the program. This review may take place at the end of each granting cycle or at another logical interval, such as on an annual basis. The purpose of this review is to ensure that the program is operating as expected in terms of processes, procedures, and usage of funds. The review may identify areas for improvement and allow for minor adjustments in program management and operations.

Second, a broader, strategic review may be an appropriate element of program implementation. This broader review could be used to examine whether the mechanism is effectively serving overall goals of the program and whether allocation of funds is having the intended impact. This strategic review is expected to occur less frequently and may involve an external evaluator. In implementation, a role for the ICANN community in the review process should be considered. For example, the report by the external evaluator could serve as a basis for community discussion on whether any changes need to be made to the mechanism.

The recommendation to institute review mechanisms is consistent with the following principle identified by the ICANN Board[21]: "ICANN Monitoring and Evaluation: If part or all of the mechanism is external, ICANN should have an established process for monitoring and evaluating the functioning of the funding mechanism and measuring the effectiveness of funded projects."

Preliminary CCWG Recommendation #9: As a standard element of program operations, an internal review should take place at regular intervals to identify areas for improvement and allow for minor adjustments in program management and operations.

Preliminary CCWG Recommendation #10: There should be a mechanism to evaluate whether the program is effectively serving the identified goals and whether allocation of funds is having the intended impact.

Implementation guidance in relation to charter question #11: The response provided to this charter question should guide the development of the review framework during the implementation phase.

[21] See ICANN Board letter

6. Next Steps

Following the review of public comments received, the CCWG will update this report as needed and finalize it for submission to its Chartering Organizations.

Annex A - Background

Formation

The CCWG commenced its deliberations at the end of January 2017 with 26 members appointed by Chartering Organizations, 49 participants and 28 observers. The CCWG is tasked with developing a proposal(s) for consideration by the Chartering Organizations on the mechanism that should be developed in order to allocate the new gTLD Auction Proceeds. To facilitate its deliberations, the CCWG agreed to divide its work in five different phases (see details below).

The New Generic Top-Level Domain (gTLD) Program established auctions as a mechanism of last resort to resolve the competition sets between identical or similar terms (strings) for new gTLDs – known as string contention. Most string contentions (approximately 90% of sets scheduled for auction) have been resolved through other means before reaching an auction conducted using ICANN's authorized auction service provider, Power Auctions LLC. However, it was recognized from the outset that significant funds could accrue as a result of several successful auctions conducted by ICANN. Following the ICANN Board's commitment to do so, the auction proceeds derived from such auctions have been reserved and earmarked within ICANN until such time as the ICANN Board authorizes a plan for the appropriate use of the funds. These proceeds are to be considered as an exceptional, one-time source of revenue.

Following a number of sessions on this topic during the ICANN53 in Buenos Aires (see https://buenosaires53.icann.org/en/schedule/mon-soac-high-interest and https://buenosaires53.icann.org/en/schedule/wed-cwg-new-gtld-auction), a discussion paper was published in September 2015 to solicit further community input on this topic as well as the proposal to proceed with a CCWG on this topic. As the feedback received on the discussion paper confirmed the support for moving forward with a CCWG, James Bladel, GNSO Chair, reached out to all the ICANN Supporting Organizations (SOs) and Advisory Committees (ACs) to ask for volunteers to participate in a Drafting Team (DT) to develop a charter for a CCWG on this topic. All ICANN SOs/ACs, apart from the ccNSO, responded to this request and have put forward volunteers to participate in the drafting team. The DT commenced its deliberations on Tuesday, 23 February 2016. A draft charter for community discussion was published in advance of ICANN56 and discussed during the cross-community session held at ICANN56. Following ICANN56, the DT reviewed all the input received and updated the proposed charter accordingly. On 13 September 2016, this proposed charter was shared with all ICANN SOs/ACs with the request to review it and identify any pertinent issues that would prevent adoption of the charter, if any. Subsequently, a webinar was held on 13 October 2016 to allow for some additional time and information to undertake this review. The final proposed charter was submitted to all ICANN SOs/ACs on 17 October 2016 following which each ICANN SO/AC confirmed the adoption of the charter. Subsequently, a call for volunteers was launched and the CCWG was chartered by the Address Supporting Organization (ASO), the At-Large Advisory Committee (ALAC), the Country Code Names Supporting Organization (ccNSO), the Generic Names Supporting Organization (GNSO), the Governmental Advisory Committee (GAC), the Security and Stability Advisory Committee (SSAC), and the Root Server System Advisory Committee (RSSAC) to propose the mechanism that should be developed in order to allocate the new gTLD Auction Proceeds. Following approval of the proposal(s) by the Chartering Organizations, it will be submitted to the ICANN Board for its consideration.

About the new gTLD Auction Proceeds

The new gTLD Auction Proceeds, derived from these last resort auctions, are distinct and ring-fenced funds. As such the Auction Proceeds are a single revenue source (derived from all new gTLD Auction Proceeds round 1). The proceeds, net of direct auction costs, are fully segregated in separate bank and investment accounts. The proceeds are invested conservatively and any interest accrues to the proceeds. 17 contention sets have been resolved via ICANN auction since June 2014. The total net proceeds to date are $233.5 million USD. Details of the proceeds can be found here. As of 10 February 2018, 9 contention sets remain to be resolved, but it is important to keep in mind that approximately 90% of contention sets scheduled for auction are resolved prior to the auction. The total amount of funding resulting from auctions, will not be known until all relevant applications have resolved contention.

Scope of the CCWG new gTLD Auction Proceeds

The CCWG is expected to adhere to the following Guiding Principles, both in the context of its deliberations as well as the final recommendations:

- Ensure transparency & openness;
- Provide sufficient accountability;
- Ensure that processes and procedures are lean & effective;
- Take all appropriate measures to deal with conflicts of interest, which includes disclosure as part of CCWG process as well as avoiding conflicts at subsequent stages; and
- Deal with diversity issues by:
- Striving for a fair, just and unbiased distribution of the auction proceeds not inconsistent with ICANN's mission. Further, seek to ensure diversity of members/participants/observers of the CCWG itself, thus ensuring different perspectives and providing for broader discussion and debate and so leading to more informed and inclusive processes to govern the allocation and disbursement of the proceeds.

As part of its deliberations, the CCWG is required to factor in the following legal and fiduciary constraints:

- It is the CCWG's purpose to make recommendations for a mechanism and/or process for allocation of auction funds that takes into account the need for auction funds to be utilised in a manner that is not inconsistent with ICANN's Mission. In addition, the CCWG is expected to make recommendations about how to assess the extent to which the proposed use of auction proceeds by applicants is aligned with ICANN's Mission.
- ICANN will maintain ultimate responsibility for the confirmation of all disbursements, whether upon initial disbursement or subsequent disbursement in which case such subsequent disbursement may be handled by putting in place the appropriate contractual and/or compliance requirements.
- The CCWG must ensure that its proposal(s) for a process and disbursement limitations will not endanger ICANN's tax exempt status and may obtain input from ICANN's legal / finance teams or Expert Advisors as described in Section IV of this charter, should any questions arise in this regard. The preceding should not prejudice the primary principle of equal access to auction funds regardless of the geographic of the prospective recipient organization. See also Note to Auction Proceeds DT re. legal and fiduciary principles.

- To align with requirements imposed to maintain ICANN's U.S. tax exempt status, the CCWG must include a limitation that funds must not be used to support political activity/intervening in a political campaign public office [2] or attempts to influence legislation [3]. The definitions of the limitations that are imposed to meet U.S. tax requirements must be applied across all applicants, and not only those from or intending to use the funds within the U.S. These requirements will apply to comparable activities across any location where applicants are located or intend to use the funds.
- The CCWG must maintain high standards when dealing with issues of conflict of interest. All members and participants must adhere to conflict of interest requirements, including the preparation and ongoing maintenance of an up to date statement of interest, which itself will include certain mandatory disclosures as specified in this charter. The work output CCWG must also include clear and comprehensive conflict of interest requirements to guide the disbursement process in full.
- The CCWG must require that the administration of the disbursement process as well as the necessary oversight will be funded from the auction proceeds. Due consideration should be given to industry best practice (as well as potential requirements that may need to be put into place concerning due diligence review, monitoring, audits, post-project evaluation etc.) as to what an appropriate level of overhead will be.

The CCWG is required to, at minimum, to give appropriate consideration to and provide recommendations on the following questions, taking into account the Guiding Principles as well as the legal and fiduciary constraints outlined above:

1. What framework (structure, process and/or partnership) should be designed and implemented to allow for the disbursement of new gTLD Auction Proceeds, taking into account the legal and fiduciary constraints outlined above as well as the existing memo on legal and fiduciary principles [4]? As many details as possible should be provided, including any implementation guidance the CCWG may have in relation to the establishment of this framework as well as criteria for the selection / ranking of potential funding requests.
2. As part of this framework, what will be the limitations of fund allocation, factoring in that the funds need to be used in line with ICANN's mission while at the same time recognising the diversity of communities that ICANN serves? This should include recommendations on how to assess whether the proposed use is aligned with ICANN's Mission. Furthermore consideration is expected to be given to what safeguards, if any, need to be in place.
3. What safeguards are to be put in place to ensure that the creation of the framework, as well as its execution and operation, respect the legal and fiduciary constraints that have been outlined in this memo[5]?
4. What aspects should be considered to define a timeframe, if any, for the funds allocation mechanism to operate as well as the disbursements of funds? E.g. The timeframe for the operation of this new mechanism may provide the opportunity for long term support, or for funding to be released in tranches linked to milestone achievements, single or multiple disbursements.
5. What conflict of interest provisions and procedures need to be put in place as part of this framework for fund allocations?
6. Should any priority or preference be given to organizations from developing economies, projects implemented in such regions and/or under represented groups?

7. Should ICANN oversee the solicitation and evaluation of proposals, or delegate to or coordinate with another entity, including, for example, a foundation created for this purpose?
8. What aspects should be considered to determine an appropriate level of overhead that supports the principles outlined in this charter?
9. What is the governance framework that should be followed to guide distribution of the proceeds? The issues addressed by a governance framework could include (but does not have to be limited to):
    a. What are the specific measures of success that should be reported upon?
    b. What are the criteria and mechanisms for measuring success and performance?
    c. What level of evaluation and reporting should be implemented to keep the community informed about how the funds are ultimately used?
10. To what extent (and, if so, how) could ICANN, the Organization or a constituent part thereof, be the beneficiary of some of the auction funds?
11. Should a review mechanism be put in place to address possible adjustments to the framework following the completion of the CCWGs work and implementation of the framework should changes occur that affect the original recommendations (for example, changes to legal and fiduciary requirements and/or changes to ICANN's mission)?

Annex B – Membership and Attendance

Member and participant names marked with an (*) refer to those who replied "yes" or "maybe" to question #6 (“Do you and/or through the entity you are representing and/or employed by, intent to apply for funding through the mechanism that is to be determined through the work of this CCWG?”) on the Declaration of Interest (DOI). DOIs can be found here: https://community.icann.org/x/FpjDAw.

Members	Affiliation	Attendance (% of meetings attended)
Jonathan Robinson	GNSO	
Marilyn S Cade *	GNSO (CSG)	
Jon Nevett	GNSO	
Elliot Noss	GNSO	
Stephanie Perrin *	GNSO	
Erika Mann (GNSO Appointed Co-Chair) *	Individual	
Peter Vergote *	ccNSO	
Ching Chiao (ccNSO Appointed Co-Chair) *	ccNSO	
Stephen Deerhake	ccNSO	
Pablo Rodriguez	ccNSO	
Tripti Sinha *	RSSAC	
Brad Verd *	RSSAC	
John Levine	SSAC	
KC Claffy *	SSAC	
Carolina Caeiro - temporary appointment *	ASO	
Douglas Onyango - temporary appointment	ASO	
Sylvia Cadena - temporary appointment *	ASO	
Alice Munyua *	GAC	
T. Santhosh	GAC	
Kavouss Arasteh *	GAC	
Olga Cavalli	GAC	

Sebastien Bachollet *	ALAC	
Alan Greenberg	ALAC	
Maureen Hilyard *	ALAC	
Seun Ojedeji	ALAC	
Vanda Scartezini *	ALAC	

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Participants	Affiliation	Attendance (% of meetings attended)
Abdul Zain Khan *	Individual	
Adetola Sogbesan	GNSO (BC)	
Agnoun Basso	Individual	
Ahmed Bakhat Masood *	Individual	
Alberto Soto	Individual	
Arsène Tungali	GNSO (NCUC)	
Asha Hemrajani *	Board Liaison	
Ayden Férdeline *	GNSO (NCUC)	
Becky Burr *	Board Liaison	
Beran Dondeh Gillen	At-Large	
Brian Scarpelli	GNSO (IPC)	
Carlos Dionisio Aguirre	At-Large	
Daniel Dardailler *	Individual	
Denis Munene *	Individual	
Glenn McKnight	At-Large	
Hadia Elminiawi *	Individual	
Iliya Bazlyankov	Individual	
Jacob Odame-Baiden *	Individual	
James Gannon	GNSO (NCUC)	
Jennifer Chung *	GNSO (RySG)	

Johan (Julf) Helsingius	Individual	
Judith Hellerstein	At-Large	
Maarten Botterman	Board Liaison	
Marie-Noemie Marques *	Individual	
Mary Uduma	Individual	
Matthew Shears	GNSO (NCUC)	
Mei Lin Fung	Individual	
Michael Flemming *	GNSO (IPC)	
Michael Karanicolas	GNSO (NCUC)	
Michelle Scott Tucker	ACIG GAC	
Nadira AL-Araj	Individual	
Narendra Kumar *	Individual	
Nasrat Khalid	Individual	
Norbert Komlan GLKAPE *	Individual	
Pua Hunter *	GAC	
Rafik Dammak	GNSO (NCSG)	
Rajaram Gnanajeyaraman *	Individual	
Rebecca Ryakitimbo *	Individual	
Remmy Nweke *	GNSO (NPOC)	
Sarah Kiden	At-Large	
Sorina Teleanu *	Individual	
Tom Dale	GAC ACIG	
Tony Harris	GNSO	
Victor Zhang *	Individual	
Wale Bakare*	At-Large	
Waudo Siganga	GNSO (BC)	

Yao Amevi Amessinou Sossou *	Individual	
Yeseul Kim	GNSO (NPOC)	
Zakir Syed	GNSO (NCUC)	

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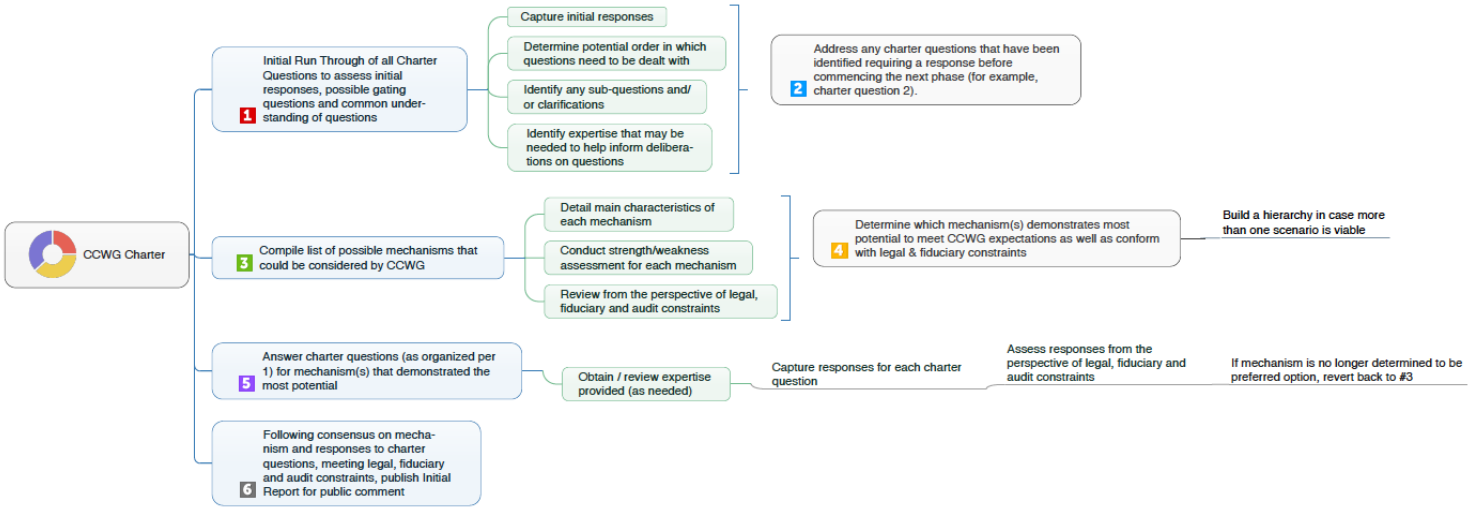
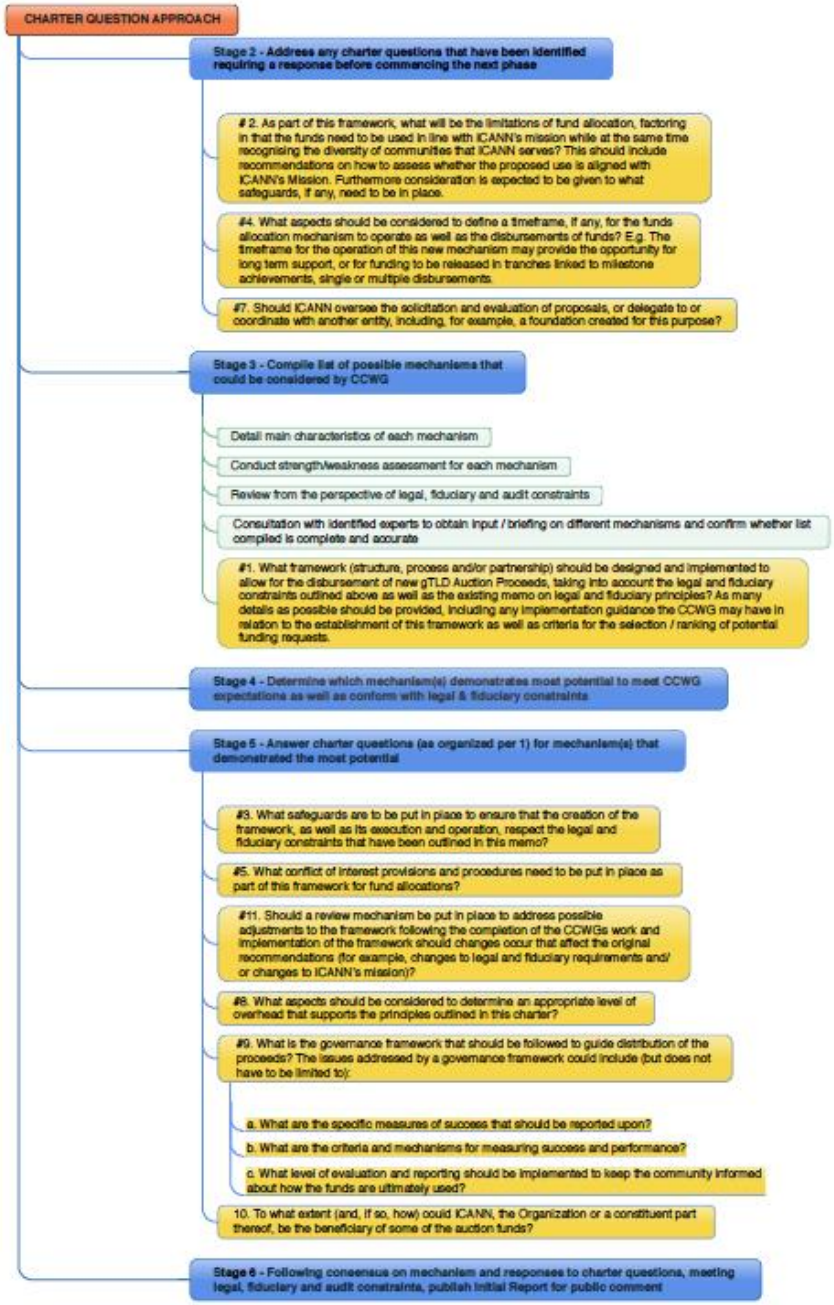
Annex C - Approach for dealing with the Charter Questions





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Annex D – ~~Preamble~~Guidance for proposal review and Selection

The purpose of this ~~preamble~~ document is to offer overarching guidance for the review and selection of projects to which auction proceeds from the ICANN new gTLD program[22] may be allocated.

Funded projects are required to be in service of ICANN's mission statement[23] and core principles, which are the basis for ICANN's U.S. tax-exempt status, and therefore must be in areas that are relevant to and support ICANN's mission statement and core principles. ICANN's Mission Statement will, therefore, set the key parameters for the auction proceeds application and selection process. Members and participants of the Cross Community Working Group Auction Proceeds (CCWG AP) believe nevertheless that it is important to put the broader Internet context into consideration.

In addition to being in service of ICANN's mission, the auction proceeds from the new gTLD program shall be used to support projects that are consistent with an "open and interoperable Internet[24]". The concept of "open and interoperable Internet" can be described from many angles: technological, business, political, social and cultural and may have different meanings in different communities. This preamble does not provide a definitive description, as the Internet continues to evolve at every level.

However, the CCWG believes that, at a technical level, the IP routing and numbering systems, the Domain Name System, the root server system, as well as the development of open standards, have historically served an open and interoperable Internet because they have allowed, supported and maintained the universality and global reach of the Internet.

The objectives and outcomes of the projects funded under this mechanism, should be in agreement with ~~–~~ICANN's efforts for an Internet that is stable, secure, resilient, scalable, and standards-based. Projects are expected to advance work related to open access, future oriented developments, innovation and open standards, for the benefit of the Internet community. Projects addressing diversity, participation and inclusion should strive to deepen informed engagement and participation from developing countries, under-represented communities and all stakeholders.

Therefore, the CCWG considers the following to be important guidelines for the review and selection of applications seeking auction proceeds funding:

- The purpose of a grant/application should be in service of ICANN's mission and core principles. This means that the objective(s) and outcome(s) outlined in the grant applications should clearly demonstrate how they are contributing to the continued growth and development of an "open and interoperable Internet", that will in turn create benefits for the Internet community.
- Supportive of ICANN's communities' activities, and consensus building processes.

Commented [MK41]: This appears to be a duplication of the text below – suggest removing this.

[22] The new generic top level domain (gTLD) Program established auctions as a mechanism of last resort to resolve the competition sets between identical or similar terms (strings) for new gTLDs – known as string contention. Most string contentions (approximately 90% of sets scheduled for auction) have been resolved through other means before reaching an auction conducted using ICANN's authorized auction service provider. Any reference in this document to auction proceeds refers to the proceeds derived from auctions conducted using ICANN's authorized auction service provider.

[23] "The mission of the Internet Corporation for Assigned Names and Numbers ("**ICANN**") is to ensure the stable and secure operation of the Internet's unique identifier systems as described in this Section 1.1(a) (the "**Mission**")." https://www.icann.org/resources/pages/governance/bylaws-en/#article1

[24] The use of this terminology does not imply any support to any other standing use of this terminology.

Therefore, the CCWG considers the following to be important guidelines for the review and selection of applications seeking auction proceeds funding:

~~1.~~6. The purpose of a grant/application must be in service of ICANN's mission and core principles

~~2.~~7. The objectives and outcomes of the projects funded under this mechanism, should be in agreement with ICANN's efforts for an Internet that is stable, secure, resilient, scalable, and standards-based.

~~3.~~8. Projects advancing work related to any of the following topics open access, future oriented developments, innovation and open standards, for the benefit of the Internet community are encouraged.

~~4.~~9. Projects addressing diversity, participation and inclusion should strive to deepen informed engagement and participation from developing countries, under-represented communities and all stakeholders.

~~5.~~10. Projects supportive of ICANN's communities' activities are encouraged.

Annex E – Example Projects

The following list of examples is intended to be illustrative of the types of projects that **MAY** be considered eligible to be funded by new gTLD Auction Proceeds. This list is expected to help inform the subsequent implementation process that will follow the selection of the mechanism for fund allocation. The CCWG is not endorsing any of these examples specifically – these are merely provided for illustrative purposes. Any project funded with new gTLD Auction Proceeds are expected to be in service of ICANN's mission as well as meeting legal and fiduciary requirements that have been established.

Example Project		**Draft CCWG Conclusion**
1	A coalition of organizations working on remote participation tools and content receive a long-term grant to support localization efforts for local languages not covered under the existing ICANN's framework. This encourages local and national conversations that feed into the regional and global processes. (As an example of potential impact/benefit of this project: 45 leaders from more diverse backgrounds and expertise feel empowered to participate.)	The CCWG considers this type of project consistent with ICANN's mission as it enables participation in ICANN's MSM of communities that are not served by existing participation tools.
2	A reputable organization receives a grant to design, implement and cover the cost of business development targeted to ccTLDs and gTLDs administrators in developing countries to improve their management and operations. (As an example of potential impact/benefit of this project: The entity	The CCWG considers this type of project consistent with ICANN's mission as it can be considered in service of the mission, promoting stability and resiliency, but does not consider it a priority for fund allocation. There should not be discrimination of gTLDs over ccTLDs Both should qualify. No single organization should be identified or given preference.

	produces a report and analysis useful for others not directly benefiting from the mentoring / courses).	
3	The development of capacity building, education and qualification-related programmes specifically targeting underserved populations in developing countries, that: * include primary, secondary and higher education school programmes about the internet and internet security issues, as well as about the DNS system and its related functions, that will develop an early understanding of the need for such knowledge * incorporate specific internet and DNS training and development subjects into secondary school qualification programmes to encourage students to enter this area as a career * build business and technical capacity for locally trained and qualified registrars and other appropriate personnel * build general community understanding about the development of the internet and its required security, and the DNS and its related functions, and therefore are in local languages wherever possible * and that these programmes, while requiring the consultation of technical experts, are developed by educational and training specialists from developing countries; and are coordinated within ICANN Learn or within an external organisation set up for this purpose	The CCWG considers this type of project consistent with ICANN's mission as it can be considered in service of the ICANN mission, as long as the focus is on topics that are considered consistent with ICANN's mission.
4	A reputable organization received a large grant to implement a "Leadership and Career Development program" in service of ICANNs mission. Women and men from around the world receive full scholarships at different universities to conduct PhD studies on key technical and related policy issues around	The CCWG considers this type of project consistent with ICANN's mission as it can be considered in service of the ICANN mission, as long as the focus is on topics that are considered consistent with ICANN's mission.

	Internet infrastructure development. They participate at ICANN meetings during the course of their studies and are required to share volunteer to spread their knowledge across the community. Their research is shared with the community. As a result of their successful involvement on this program, the recipients fully support ICANN's growth and development and continue to actively contribute to the community.	
5	Small and medium enterprises owned or led by women and youth, indigenous and other excluded communities can be effectively enabled to participate in the global economic community by "demand aggregators" and "supply aggregators" and other "economic-connectors". Examples are Siam Organic https://www.asiaforgood.com/siam-organic and Cambodian - Color Silk http://colorsilkcommunity.wixsite.com/colorsilk-cambodia/color-silk-enterprise	Although a noble cause, the CCWG does not consider this type of project consistent with ICANN's mission.
7	A global program to support disaster preparedness/management for Internet infrastructure organizations is structured with support from international organizations, following best practices and encouraging collaboration among the community. As an example of potential impact/benefit of this project: A disaster hits 3 African nations. The ccTLD, ISPs, and other technical community organizations in the country have mechanisms in place to manage the disaster. They are well coordinated and able to have the Internet up and running very quickly to support first responders to do their work. The participants of the program are able to coordinate	The CCWG considers this type of project consistent with ICANN's mission as long as support is focused on services directly related to IP/DNS operations.

	that assistance is provided to technical community organizations (not eligible under humanitarian provisions) to access the support they need to keep the Internet in that affected area running on a temporary basis.	
8	A donation is given to a standards development organization to strengthen their work in relation to the Internet's unique identifier systems.	The CCWG considers this type of project consistent with ICANN's mission as it is in direct support of the Internet's unique identifier systems.
9	A donation is given to an organization to support Domain Name System software development and maintenance.	The CCWG considers this type of project consistent with ICANN's mission.
10	Reputable organizations receives 3- 5 year grants that support the development and strengthening of community events/forums that may be national, regional, or global that from a multistakeholder approach, facilitate understanding of issues around the Internet's unique identifier systems and how those are influenced by discussions around Internet governance issues.	The CCWG considers this type of project consistent with ICANN's mission.
11	Projects that can improve ease of registration of generic and country code domain names in developing countries, (registration in their own language, payment in local currency, for example) in view of the scarcity of local ICANN accredited registrars in many of these nations.	The CCWG considers this type of project consistent with ICANN's mission.
12	Internet Exchange Points (IXPs) can make a crucial difference in strengthening a city or country's Internet along with the potential to improve performance and decrease costs while increasing the potential community benefit. In developing countries, IXPs are a critical part of building the region's capacity. Projects that support capacity development and engagement with the IXP community are a key	The CCWG considers this type of project consistent with ICANN's mission.

	element to advance stability and scalability of the Internet as well as its sustainability.	
13	Support work done by Internet and Web ~~open~~ Open S~~s~~tandards D~~d~~eveloping organizations that are of common interest such as: ● enhanced online Internet and Web security and privacy, ● work on handling IDN and Universal acceptance issues in Web browsers and tools, ● more guidelines and tools for Internet and Web users, ● better education programs on Internet and Web Open Standards, ● ~~more~~ open APIs for Web mobile apps and social network platform to ensure a strong hyperlink paradigm, ● more involvement in Internet and Web Open standard advocacy, and in solving IPR issues, ● more resources for testing Internet and Web standards - critical to providing an open environment. (Note, any such work should be in service of ICANN's mission).	The CCWG considers this type of project consistent with ICANN's mission.
14	Global DNS Root Service: Operations ● The operation of global DNS root service needs sustainable funding. Access to funding should be developed such that it preserves the autonomy and independence of the root server operator organizations in architecting and delivering the service with adherence to standards and service expectations.	The CCWG considers this type of project consistent with ICANN's mission.

Commented [MK42]: Updated as outdated language was used

15	Global DNS Root Service: Emergency Fund ● The exponential growth of the Internet and proliferation of complex attack vectors call for access to emergency funding should the need arise.	The CCWG considers this type of project consistent with ICANN's mission.
16	Global DNS Root Service: Research and Development ● As with all technologies, DNS technology will experience an evolution over time. Technology advancement should be funded for research, development, and testing.	The CCWG considers this type of project consistent with ICANN's mission.
18	Investment in long term sustainability of the DNS ● Ensure long-term usability and sustainability of DNS across the globe and various existing and future networks (i.e. IoT, blockchain, inter-planetary network, etc.)	The CCWG considers this type of project consistent with ICANN's mission.
~~#new~~#19	Support to preserve the source code of the historical software infrastructure that made the Internet and the Web what they are today.	The CCWG considers this type of project consistent with ICANN's mission.

Examples to be further considered by CCWG – certain parts may be consistent while others may not.

(Previous #12)	Projects that educate users about what a website is and how they can obtain a unique identifier -- without prejudice to gTLD or country code. This may be of particular interest to small and medium businesses or farms, and entrepreneurs. Projects should avoid "marketing" any particular option, but help to highlight how the DNS works, and how to use a domain name, generally.	Although a noble cause, the CCWG does not consider this type of project consistent with ICANN's mission. Notes from 16 November 2017 meeting: ▪ unclear whether this is within the mission or not ▪ we should not be too narrow in our understanding of the mission statement ▪ inappropriate use of the funds, smells too much like marketing ▪ Marketing new gTLDs is up to the new gTLDs, this wo uld be outside of our scope.

Commented [EB43]: Elliot Noss: I would like to add my voice in strong support of "Support to preserve the source code of the historical software infrastructure that made the Internet and the Web what they are today." Currently this rests on the shoulders of one individual and is of utmost historical and technical importance

		▪ ICANN engaging in marketing, would be negatively viewed. A legal investigation is needed, whether this is within scope. Are we violating ICANN's integrity? ▪ No support to promote branding, but awareness raising regarding names is important. Information sharing as such would be fine. ▪ The AGB used it as an example for the use of those funds, so why would it not be within ICANN's mission? "grants to support new gTLD applications" is contained in the Applicant Guidebook as a potential use of auction proceeds -- again let's not look at the specific merits of an example, but whether the category might be ok
~~#new~~	~~Support to preserve the source code of the historical software infrastructure that made the Internet and the Web what they are today.~~	

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Commented [EB44]: Elliot Noss: I would like to add my voice in strong support of "Support to preserve the source code of the historical software infrastructure that made the Internet and the Web what they are today." Currently this rests on the shoulders of one individual and is of utmost historical and technical importance