

# ICANN | GAC

## Governmental Advisory Committee

17 May 2024

Tripti Sinha  
Chair, ICANN Board of Directors

**RE: Proposed Update to Recommendation 7 by the New gTLD Auction Proceeds Cross Community Working Group (CCWG-AP)**

Dear Tripti,

Thank you for your letter of 4 March 2024 to the GAC in its capacity as one of the Chartering Organizations of the Cross-Community Working Group on Auction Proceeds (CCWG-AP). In your letter you asked the GAC and other chartering organizations to consider implementation of a proposed “update” to Recommendation 7 issued by the CCWG-AP that would remove the phrase “from the I startedIndependent Project Application Panel” from the recommendation.

According to your letter, if the Chartering Organizations approve this update, the Board believes that there is a path to full implementation of the CCWG-AP’s Recommendation 7, including the ability to apply the restriction to third parties. Your letter further explained that full implementation of the change would also require the ICANN Empowered Community to approve the Fundamental Bylaws Amendments to Article 4, Section 4.1 of the ICANN Bylaws and noted the holding of a separate ICANN Public Forum devoted to that particular issue (see [Proposed Bylaws Updates to Limit Access to Accountability Mechanisms](#)).

Although the GAC did not actively participate in that Public Forum, some members of the GAC Leadership did take part in the discussion the SO/AC Leadership had on the issue ahead of ICANN79. The committee is thus aware of the broader concerns expressed by other ICANN communities regarding the methodology for implementation of this proposed update and its potentially broader impact, potentially beyond the CCWG-AP, on ICANN accountability mechanisms. Consequently, after the GAC Leadership was alerted to this proposed update during ICANN79, GAC Members were asked to consider this request to review and consider the proposed update.

The GAC collaborated with ICANN org staff to arrange a special briefing from the staff on 22 April 2024 to learn more about the proposal and its background and context. That briefing

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helped participants to better understand the intentions of the proposed change to ensure that auction funds are preserved for funding worthy projects and not necessarily spent to defend challenges to individual application decisions. The GAC appreciates the efforts of staff to provide that information.

The webinar discussion, however, also raised concerns from several GAC members regarding the proposal – particularly that the full implementation of the proposed update would require the ICANN Empowered Community to also approve Fundamental Bylaws Amendments to Article 4, Section 4.1 of the ICANN Bylaws and that both actions would serve as dependencies to the Board’s ultimate approval of any slate of successful applications as part of the ICANN Grant program.

GAC Members are concerned that in an attempt to close loopholes presented by the original Recommendation 7 language, the proposed update solution potentially creates broader loopholes to fundamental ICANN community expectations regarding the independent review of other ICANN actions that may range beyond the ICANN Grant Program. These concerns to preserve long standing ICANN accountability mechanisms have been expressed much more eloquently by other community organizations in ICANN (see [Community Submissions to Proposed Bylaws Updates to Limit Access to Accountability Mechanisms](#)), including suggestions that “narrowly tailored” amendment language could potentially address community concerns.

Consequently, before GAC members can express support for the proposed update to Recommendation 7, the committee would like to see assurances that these potential broader impacts on ICANN accountability mechanisms can be limited. Perhaps those assurances will be evident from the resolution of the Proposed Bylaws Updates proceedings. The committee would appreciate hearing your views as to whether such an approach or result will be possible.

Best regards,



Nicolas G. Caballero  
Chair, Governmental Advisory Committee (GAC)  
Internet Corporation for Assigned Names and Numbers (ICANN)