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## CCWG New gTLD Auction Proceeds

### Block 8 - GAC New gTLDs Policy

#### Session 8.1 - CCWG New gTLD Auction Proceeds

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##### Issues

1. Publication of the [Initial Report](#) of the Cross Community Working Group (CCWG) on New gTLD Auction Proceeds.
2. Discussion of interest in developing a GAC position on the matter

##### Background:

Significant funds have accrued as a result of several last-resort auctions conducted to resolve new gTLD competition sets between identical or similar terms for new gTLDs. The proceeds derived from these auctions have been reserved and earmarked until the ICANN Board authorizes a plan or mechanism for allocating them. The CCWG was formed for the purpose of proposing a mechanism for the Board's consideration. The GAC is one of the chartering organizations of the CCWG.

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 phases (see details below).

As part of its recommendations, the CCWG also expected to consider the scope of fund allocations, 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. The CCWG did not intend to make any recommendations or determinations with regards to specific funding decisions. This means that the CCWG will not decide, nor provide recommendations on which specific organizations or projects are to be funded or not.

The CCWG's work is organized in **6 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. **(Completed)**
- **PHASE 2:** Address any charter questions that have been identified requiring a further detailed response before commencing the next phase. **(Completed)**
- **PHASE 3:** Compile list of possible mechanisms for setting up a future organizational structure that could be considered by CCWG. **(Completed)**

- **PHASE 4:** Determine which mechanism(s) demonstrates the 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](https://community.icann.org/x/PNrRAw) following consensus on mechanism and responses to charter questions that meet legal, fiduciary, and audit constraints. To facilitate deliberation on key concepts, the WG has been using surveys to collect input, and this approach was found to be quite successful so far 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>).

## ICANN Board Input

Late last year, the ICANN Board provided [input](#) to the CCWG stating that:

- 1) ICANN Org does not anticipate applying for funds itself.
- 2) "SO/AC structures that are not legal entities in their own right, independent of the multistakeholder ICANN structure, would be unable to apply for proceeds as they likely do not meet due diligence requirements..."
- 3) "This would not preclude consideration of applications from participants in an SO/AC structure that are also established legal entities outside the multistakeholder model provided:
  - a) The request does not include an activity or project that is or should be covered by ICANN's operational budget.
  - b) Conflict of interest considerations are met, including but not limited to ensuring that those applying are not part of the evaluation process.
  - c) All other application criteria are met."

At the ICANN63 meeting in Barcelona, the ICANN Board directed the President and CEO, or his designee(s), to "take all actions necessary to allocate US\$36 million of auction proceeds to the Reserve Fund, as soon as technically feasible" (see, Resolution 2018.10.25.23). In its rationale for the resolution, the Board stated, "The remaining auction proceeds continue to be segregated and are not intended to be used for day-to-day operations. The Board will review the CCWG recommendations for a disbursement mechanism, as approved by the chartering organizations, and will then make a decision on the mechanism by which available proceeds should be disbursed, for implementation by ICANN org." (see <https://www.icann.org/resources/board-material/resolutions-2018-10-25-en#2.f>)

## Publication of Initial Report

The CCWG's [Initial Report was published for public comment and the public comment report was posted](#) shortly before the ICANN63 meeting in Barcelona. The

GAC did not submit a comment during the public comment process, and no substantial discussions have been held by the GAC to date on the work of the CCWG.

In the [Initial Report](#), the CCWG identified four possible mechanisms for further consideration that could serve as a possible organizational structure for fund allocation, namely:

- **Mechanism A:** A new ICANN Proceeds Allocation Department is created as part of ICANN Org;
- **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);
- **Mechanism C:** A new structure would be created e.g. ICANN foundation;
- **Mechanism D:** An established entity/entities (e.g. foundation or fund) are used (ICANN would organize the oversight of processes to ensure mission and fiduciary duties are met)

## Recent Developments

With the conclusion of the Public Comment Forum regarding the group's initial report, the CCWG new gTLD Auction Proceeds resumed its meetings. Given the varied responses received during the public comment forum (see [Public Comment Report](#)), additional feedback and ideas for next steps, and lack of general consensus, the CCWG Co-Chairs are evaluating whether another public comment proceeding may be necessary.

The CCWG is considering a number of next steps, namely:

- Opening another round of public comment for the methodology on the use of new gTLD auction proceeds using the initial report;
- Updating the initial report incorporating comments received to date via the public comment process, followed by another public comment process if the updated report differs enough from initial report to warrant a second public comment proceeding;
- Addressing comments received including new ideas and breaking down comments by category to review and assess how to incorporate them into the report and/or flag how these items were already addressed by the CCWG.

## Current Positions

The GAC is a Chartering Organization of this CCWG. Nominated members of the GAC participating in the effort include Argentina, India and Iran. Participants include Cook Islands. Observers include Egypt, CTU and the United States.

No substantial discussions have been held at the time of this briefing on this topic by the GAC and no official GAC member input appears to have been made in the most recent public comment forum.

## Session Goal and Expectations

In addition to an update on this topic, this session will give GAC members an opportunity to explore further potential input on the issue by the GAC.

## Further Information

- [CCWG Wiki Space](#)
- [CCWG Charter](#)
- [CCWG new gTLD Auction Proceeds Initial Report](#)
- [CCWG new gTLD Auction Proceeds Public Forum](#)
- [Public Comment Report](#)

## Document Administration

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