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Contact
Information
Redacted

4 September 2023

VIA E-MAIL

ICANN
12025 Waterfront Drive, Suite 300
Los Angeles, CA 90094
Email: didp@icann.org

Re: Request for Documents under ICANN’s Documentary Information Disclosure Policy

Dear ICANN:

We write on behalf of Altanovo Domains Limited (**Altanovo**), f/k/a Afilias Domains No. 3 Limited (**Afilias**), to request documents pursuant to the Internet Corporation for Assigned Names and Numbers’ (**ICANN**) Documentary Information Disclosure Policy (**DIDP**).

A. Background of the Request

Under ICANN’s Bylaws and the Independent Review Process (**IRP**) Interim Supplementary Procedures, once the “Standing Panel” is in place, all IRP Panelists, Emergency Panelists, and Procedures Officers are to be selected from a Standing Panel in future IRP proceedings. The Standing Panel as an institution is therefore vital to the integrity and legitimacy of the IRP as one of the most important mechanisms regarding ICANN accountability. But, to-date, ICANN has provided very little information to the Internet Community regarding the selection process and criteria or empanelment procedures for the members of the Standing Panel.¹

On 17 February 2022, ICANN formed the Independent Review Process Community Representatives Group (**ICRG**). ICANN directed the ICRG “to work with ICANN org to evaluate, vet, and recommend a slate of candidates to serve as the IRP Standing Panelists to the ICANN Board for approval.”² The ICRG’s meetings have been increasingly closed

¹ The standard of transparency that ICANN must comply with is set out in ICANN’s Bylaws (2 June 2022), Art. 1, Sec. 1.2(a) (“ICANN must operate ... though open and transparent processes”); *id.*, Art. 1, Sec. 1.2(a)(iv) (ICANN commits to “[e]mploy open, transparent and bottom-up, multistakeholder policy development processes”).

² ICANN, Independent Review Process Community Representatives Group Terms of Reference (ToR) (11 Feb. 2022), p. 1, <https://tinyurl.com/33utzvf4> (hereinafter, **Terms of Reference**).

off from the public; no less than *twenty* ICRG meetings have been designated as fully confidential by the group; and without sufficient justification as to why this was necessary.³ The confidential portions of the ICRG’s meetings involve vital elements of the Standing Panel selection process, such as the ICRG’s efforts to select an external consultant to help with nominating a slate of Standing Panel members, and the interview and evaluation process for the Standing Panel candidates.

ICANN’s Bylaws require, at a minimum, that the Internet community be given an opportunity to comment on the proposed slate of candidates for the Standing Panel, before the Board votes on those candidates, as well the process by which that slate of candidates was developed. In short, the Internet community deserves to know the full extent of the selection process, the criteria for selection, and the procedures and requirements for empanelment considering the Standing Panel’s importance to the IRP accountability mechanism and ICANN’s Bylaws-mandated commitment to transparency.⁴ Accordingly, by this DIDP we request ICANN to produce the following documents related to the Standing Panel Selection Process. All capitalized terms in the requests have the same meaning as stated above.

B. Document Requests

- (1) All documents reflecting or relating to all ICRG meetings, including meeting transcripts and meeting minutes.
- (2) All documents reflecting or relating to communications between or involving ICRG members regarding their work on nominating a slate of Standing Panel members.
- (3) All documents reflecting or relating to the ICRG’s efforts to select the Standing Panel, including:

³ See ICANN, Establishment of the Standing Panel for Independent Review Process: 2022 Meetings, <https://tinyurl.com/2p8x3uja>.

⁴ ICANN Bylaws, Sec. 1.2(a) (stating that ICANN “must operate ... through open and transparent processes”); *id.*, Sec. 1.2(b)(ii) (explaining that ICANN must “ensure that the bottom-up, multistakeholder policy development process is used to ascertain the global public interest and that those processes are accountable and transparent”); *id.*, Sec. 3.1 (“ICANN and its constituent bodies shall operate to the maximum extent feasible in an open and transparent manner and consistent with procedures designed to ensure fairness[.]”).

- (a) the list of candidates who responded to ICANN’s “Call for Expressions of Interest: Standing Panel for ICANN’s Independent Review Process” (collectively, the **Candidates**);⁵
 - (b) the matrix scoring of the Candidates used by the ICRG;⁶
 - (c) the factors ICANN identified as “relevant in assessing a panelist’s application” and the weight given to each factor;⁷
 - (d) the selection process for the Standing Panel, including the “process/criteria for ‘winnowing’ candidates;”⁸ and
 - (e) any quality testing on the Candidates performed by the ICRG.⁹
- (4) All documents reflecting or relating to the ICRG’s interviews with the Candidates for the Standing Panel, including:
- (a) the interview protocol;¹⁰
 - (b) names of the participants in each interview;
 - (c) questions posed to the Candidates by the ICRG and the Candidates’ individual answers to those questions;
 - (d) the evaluation method for each interview; and
 - (e) any notes taken by ICANN Staff, ICANN Legal, and/or ICRG members on the Candidates’ interviews.
- (5) All documents reflecting or relating to the ICRG’s

⁵ See ICANN Announcements, ICANN Extends Call for Expressions of Interest: Standing Panel for ICANN’s Independent Review Process” (23 July 2020), <https://tinyurl.com/4sa2666w>.

⁶ Agenda – 22 August 2022 Meeting, <https://tinyurl.com/tc3bhuh4>.

⁷ ICANN, Expressions of Interest: Panelists Sought for ICANN Independent Review Process (IRP) (31 Mar. 2020), p. 4, <https://tinyurl.com/4x98km57> (hereinafter, **Expressions of Interest**).

⁸ Terms of Reference, p. 2.

⁹ Agenda – 31 October 2022 Meeting, <https://tinyurl.com/5xbe99ha>.

¹⁰ See Agenda – 17 October 2022 Meeting, <https://tinyurl.com/5757sv6k>.

- (a) selection of their external consultant, Odgers Berndtson;
 - (b) work with the external consultant regarding the Candidates and their selection for the Standing Panel;¹¹ and
 - (c) coordination with the external consultant to “vet[] and identify[] a slate of qualified panelists.”¹²
- (6) All documents reflecting or relating to communications, actions, consultations, or deliberations with the International Centre for Dispute Resolution (**ICDR**) regarding the Standing Panel.
- (7) All documents reflecting or relating to the ICRG’s work with any other consultant(s) regarding the selection of the Standing Panel.
- (8) All documents reflecting or relating to the “[i]nitial candidate assessments” of ICRG members that attended candidate interviews.¹³
- (9) All documents reflecting or relating to “ICANN [Org’s] view on unqualified candidates.”¹⁴
- (10) All documents reflecting or relating to the nominees forwarded to the ICANN Board by the ICRG, including:
- (a) The number of nominees;
 - (b) The names of the nominees;
 - (c) The nominees’ qualifications;

¹¹ Terms of Reference, p. 1 (“It was further agreed that an external consultant will be engaged to provide substantive expertise and guidance to the IRP Community Representative Group to facilitate the completion of the Group’s work.”).

¹² *Id.*, p. 2.

¹³ Agenda – 15 December 2022 Meeting, <https://tinyurl.com/mtudwh26>.

¹⁴ Agenda – 6 February 2023 Meeting, <https://tinyurl.com/2uwt6v48>.

- (d) The Expressions of Interest¹⁵ (**EOI**) submitted by each nominee to ICANN, and any documents accompanying their EOI; and
 - (e) how the ICRG selected the list nominees from the Candidates, including the ICRG’s “Candidate Scoring table.”¹⁶
- (11) All documents reflecting or relating to the ICANN Board’s consideration of the ICRG’s nominees for the Standing Panel.
 - (12) All documents reflecting or relating to the Terms of Engagement for Standing Panel members and/or contracts that will be entered into between ICANN and members of the Standing Panel.¹⁷
 - (13) All documents reflecting or relating to communications, actions, or deliberations on the remuneration and/or compensation given to members of the Standing Panel by ICANN.
 - (14) All documents reflecting or relating to communications, actions, or deliberations relating to
 - (a) the staggering of the Standing Panel members’ five-year terms;¹⁸
 - (b) the “future [Standing Panel] slate recommendation processes”; and
 - (c) the “appropriate times to initiate the slate recommendation process.”¹⁹
 - (15) All documents reflecting or relating to the “training provided by ICANN [to members of the Standing Panel] on the workings and management of the

¹⁵ See ICANN Announcements, ICANN Extends Call for Expressions of Interest: Standing Panel for ICANN’s Independent Review Process” (23 July 2020), <https://tinyurl.com/4sa2666w>.

¹⁶ Agenda – 13 February 2023 Meeting, <https://tinyurl.com/3z54tstt>.

¹⁷ Agenda – 12 September 2022 Meeting, <https://tinyurl.com/4rpanz2e>; see Expressions of Interest, p. 5 (“The panelists will be required to agree contractually to perform services in a first-rate manner.”).

¹⁸ Expressions of Interest, p. 3 (“Each panelist shall serve a five-year term, except that the initial terms of the members of the first Standing Panel shall be staggered. The panelists shall be available for appointment to serve on individual panels for requests for Independent Review.”).

¹⁹ Terms of Reference, p. 2.

Internet's unique identifiers and other appropriate training,"²⁰ including documents reflecting the ICRG and ICANN's deliberations on what constitutes "other appropriate training." Please also provide details on who has conducted or will conduct the trainings.

- (16) All documents reflecting or relating to the Standing Panel's compliance with "the conflicts-of-interest policy stated in the ICDR operating rules and procedures as well as additional conflict of interest considerations developed for the IRP."²¹
- (17) All documents reflecting or relating to actions or deliberations by (a) the ICANN Board or (b) ICANN Staff addressing Verisign's involvement in Mr. David McAuley's work on the ICRG.
- (18) All documents reflecting, containing, or relating to any communications about the constitution of the ICRG, including documents related to the selection of Mr. McAuley as a member of the group, comments made by Mr. McAuley and otherwise concerning his participation in the Standing Panel selection and empanelment criteria and procedures.
- (19) All documents reflecting, containing, or relating to any communications about the nomination or appointment of the Chair of the ICRG.

Please do not hesitate to contact me if you have any questions concerning the requests above. Altanovo reserves all rights in connection with these matters.

Sincerely,



Arif Hyder Ali
Counsel for Altanovo Domains Limited

²⁰ ICANN Bylaws, Art. 4, Sec. 4.3(j)(i).

²¹ Expressions of Interest, p. 8.