

Report on 401(k) Plan Compliance Project

ICANN recently completed a thorough review of its compliance with certain rules and regulations governing its 401(k) Retirement Savings Plan (401(k) Plan).

Late in 2009, staff discovered several compliance issues with the administration of ICANN's 401(k) Plan, a retirement benefit plan established by the U.S. Internal Revenue Code and enforced by the Internal Revenue Service (IRS). 401(k) plans allow employers to create tax-deferred savings vehicles for employees, in which employers can match funds.

Given the compliance errors detected in 2009, we implemented a review (including engaging outside experts) to help us research whether any other errors had occurred. Having found some additional problems, we decided to take the most conservative path, evaluating every contribution back to year 2000. This is essentially the lifetime of the ICANN 401(k) Plan.

Without making any excuses for these errors, perspective is important. As with any tax-related matter, there are a host of complex rules and regulations to follow while maintaining 401(k) plans. Compliance issues for such retirement plans like ICANN's are not uncommon, which is why both the IRS and the Department of Labor (DOL) have introduced voluntary correction programs; the IRS reported that it received more than 3,000 voluntary correction filings last year alone.

Upon completion of its compliance review, ICANN filed for relief under the voluntary correction programs administered by both the IRS and DOL. Prior to the DOL filing, ICANN made a corrective contribution to the 401(k) Plan of approximately \$1,270.00 covering the entire ten-year period reviewed. To the IRS, ICANN proposed a number of corrections. The final determination of financial impact on ICANN, and specific remediation necessary, will depend on the IRS' assessment of ICANN's proposals. The corrections already made and additional proposed corrections, if approved by the IRS, are not expected to have a material impact on ICANN's financial position. We intend to correct each and every error down to the last penny.

ICANN sent a tailored letter to all affected plan participants (including current and former U.S. ICANN employees) explaining the impact of the DOL filing on their account and indicating that there may be additional changes to their individual accounts once IRS approval is received. This is in addition to the communications that went to all staff and Board Audit and Finance committees. We also met with participants to explain the situation and continue to be available to meet individually with any participant who has questions. Finally, ICANN intends to make additional resources, training and systems available to ensure adequate measures are in place so such compliance issues are not repeated.

This information is shared widely and posted on the public website so that ICANN can be an exemplar of openness and transparency.