

To: Michael Palage

Date: 21 March 2020

Re: Request No. 20200219-1

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This is in response to your requests for documentary information, which was submitted on 19 February 2020, subsequently amended on 20 February 2020, and amended again on 22 February 2020 (Request), through the Internet Corporation for Assigned Names and Numbers' (ICANN organization or ICANN org) Documentary Information Disclosure Policy (DIDP). ICANN org has consolidated the requests and, for reference, a copy of your Request is attached to the email forwarding this Response.

### **Items Requested**

Your Request seeks the disclosure of the following documentary information:

1. "[A]ll documentation that was presented to the ICANN Board in connection with their decision to cancel the in-person Cancún meeting."
2. "[A] detailed accounting of how each ICANN Board member voted in connection with this action, and any individual formal statements made by directors in connection with this vote."
3. "[T]he cost impact of canceling the in-person meeting."
4. "[D]isclose the identity of the adaptive crisis management team (A-CMT) members, how they were selected and any compensation they may have received."
5. "[C]onfirm/deny if there was any direct engagement with the Mexican government. If there was any engagement, could ICANN make those communications available."

### **Response**

#### **I. Background Information**

Each year, ICANN org holds three Public Meetings in different regions around the world. Currently, the ICANN Bylaws define the five geographic regions as Africa, Asia/Australia/Pacific, Europe, Latin America/Caribbean, and North America. (See <https://meetings.icann.org/en/host>.) ICANN org sets the dates and regions in which it will hold its meetings in accordance with the 2016 Meeting Strategy definitions for Meeting A (Community Forum), Meeting B (Policy Forum), and Meeting C (Annual General Meeting).

On 15 July 2016, ICANN org posted a call for expressions of interest to host the ICANN Meetings in 2019 and 2020. (See <https://www.icann.org/news/announcement-2016-07-15-en>.) After completing a thorough analysis of the proposals received and other venues for the March 2020 Public Meeting, ICANN org identified Cancún, Mexico as the location for ICANN67 and the Board authorized ICANN org to facilitate all necessary contracting and disbursements for the host venue in Cancún (see <https://www.icann.org/resources/board-material/resolutions-2018-06-23-en#1.d>).

In December 2019, a new strain of the coronavirus, referred to as COVID-19, emerged, which the World Health Organization declared on 30 January 2020 to be a public health emergency of international concern. (See <https://www.icann.org/resources/board-material/resolutions-2020-02-19-en>.)

On 14 February 2020, ICANN org posted a blog on COVID-19 and its potential impact on ICANN67. (See <https://www.icann.org/news/blog/update-on-icann67-planning-and-covid-19-coronavirus>.) On 18 February 2020, ICANN org convened a call with community leaders and representatives “to share information [regarding the global situation related to COVID-19] and solicit their input.” (*Id.*) The call included presentations and remarks from ICANN org’s President and CEO Göran Marby, ICANN org’s VP of Security Operations, Simon Garside, as well as Dr. Alvaro Sanclemente, the Regional Medical Director for Latin America at International SOS. A recording and transcription of this call is available [here](#).

On 19 February 2020, following extensive discussions about the impact of COVID-19 on ICANN67, the Board resolved to turn ICANN67 into a fully remote meeting. (See <https://www.icann.org/resources/board-material/resolutions-2020-02-19-en>.) In its rationale, the Board stated, in part:

Prior to taking this decision, the Board received briefings from ICANN org, as well as experts from International SOS (ISOS), on the status of COVID-19 and preparations for ICANN67. ICANN's President and CEO contacted the leadership of ICANN's SOs and ACs to see how the different constituencies were reacting to the outbreak and convened a session on 18 February 2020 with the SO/AC leadership to share ICANN org's briefing and make an ISOS doctor available to receive questions. ICANN org then followed up with the leadership to further the understanding of the community on this issue. While we understand that many in the community are still willing and interested to travel to an in-person ICANN67, the risks and uncertainty discussed above are too difficult to mitigate. We understand that this cancellation poses some hardship on those with existing plans to travel to Cancún, and we greatly apologize for this. We also thank the ICANN community for its commitment to pursue the work of this meeting remotely, as we know that the ICANN community is well-suited for this effort. As the Board, we have been assured that a remote public forum remains on the schedule, and we look forward to engaging directly with you as we do at every Public Meeting.

On 21 February 2020, ICANN org notified members of the ICANN67 local host committee of the Board's decision. (See <https://www.icann.org/en/system/files/correspondence/botterman-marby-to-vega-et-al-21feb20-en.pdf>.) Further, on 24 February 2020 (updated on 5 March 2020), ICANN org published a [Frequently Asked Questions \(FAQs\) page](#).

On 13 March 2020, in accordance with ICANN's Bylaws requirements on the posting of minutes, the Minutes of the 19 February 2020 Board meeting were published reflecting the Board's deliberations to reach the decision to move ICANN67 to a virtual meeting. Those Minutes are available at <https://www.icann.org/resources/board-material/minutes-2020-02-19-en>; and the Board Papers are available at <https://www.icann.org/en/system/files/bm/briefing-materials-1-redacted-19feb20-en.pdf>.

## II. Your Request

The DIDP is a mechanism, developed through community consultation, to ensure that information contained in documents concerning ICANN organization's operational activities, and within ICANN org's possession, custody, or control, is made available to the public unless there is a compelling reason for confidentiality. (See <https://www.icann.org/resources/pages/didp-2012-02-25-en>.)

Consistent with its commitment to operating to the maximum extent feasible in an open and transparent manner, ICANN org has published process guidelines for responding to requests for documents submitted pursuant to the DIDP ([DIDP Response Process](#)). In responding to this DIDP, ICANN org followed the DIDP Response Process and, upon receipt of the Request, consulted with ICANN personnel and conducted a reasonable search for responsive documentary information. ICANN org has evaluated responsive documentary information and considered whether any responsive documents that are not already public are subject to any of the Defined Conditions for Nondisclosure (Nondisclosure Conditions) under the DIDP, and whether the public interest outweighs the potential harm in disclosure of the documents that are subject to one or more DIDP Nondisclosure Conditions.

### Item No. 1

Item No. 1 seeks “[a]ll documentation that was presented to the ICANN Board in connection with their decision to cancel the in-person Cancún meeting.”

On 13 March 2020, ICANN org posted documentation relating to the ICANN67 meeting that was provided to the ICANN Board and that is appropriate for release under the [Guidelines for the Posting of Board Briefing Materials](#) (Guidelines). The relevant briefing materials are published at <https://www.icann.org/en/system/files/bm/briefing-materials-1-redacted-19feb20-en.pdf>.

To the extent that there may be other documents that might contain information responsive to Item No. 1 that have not already been made public, including the

information redacted from the 19 February 2020 Board Briefing Materials, they are subject to the following Nondisclosure Conditions:

- Information provided by or to a government or international organization, or any form of recitation of such information, in the expectation that the information will be kept confidential and/or would or likely would materially prejudice ICANN's relationship with that party.
- Internal information that, if disclosed, would or would be likely to compromise the integrity of ICANN's deliberative and decision-making process by inhibiting the candid exchange of ideas and communications, including internal documents, memoranda, and other similar communications to or from ICANN Directors, ICANN Directors' Advisors, ICANN staff, ICANN consultants, ICANN contractors and ICANN agents.
- Information exchanged, prepared for, or derived from the deliberative and decision-making process between ICANN, its constituents, and/or other entities with which ICANN cooperates that, if disclosed, would or would be likely to compromise the integrity of the deliberative and decision-making process between and among ICANN, its constituents, and/or other entities with which ICANN cooperates by inhibiting the candid exchange of ideas and communications.
- Information subject to the attorney-client, attorney work product privilege, or any other applicable privilege, or disclosure of which might prejudice any internal, governmental, or legal investigation.

#### Item No. 2

Item No. 2 seeks “[a] detailed accounting of how each ICANN Board member voted in connection with this action, and any individual formal statements made by directors in connection with this vote.”

As all Board meeting minutes do, the [Minutes](#) of the 19 February 2020 Board meeting identify how each Board member voted and reflect the Board discussions. To the extent that there may be other documents that might contain information responsive to Item No. 2 that have not already been made public, they are subject to the following Nondisclosure Conditions:

- Internal information that, if disclosed, would or would be likely to compromise the integrity of ICANN's deliberative and decision-making process by inhibiting the candid exchange of ideas and communications, including internal documents, memoranda, and other similar communications to or from ICANN Directors, ICANN Directors' Advisors, ICANN staff, ICANN consultants, ICANN contractors and ICANN agents.

- Information subject to the attorney-client, attorney work product privilege, or any other applicable privilege, or disclosure of which might prejudice any internal, governmental, or legal investigation.

### Item No. 3

Item No. 3 seeks “[t]he cost impact of cancelling the in-person meeting.”

ICANN is still in the process of documenting the actual cost impact of the conversion of ICANN67 into a full remote participation meeting.

ICANN org understands and acknowledges the importance of being transparent about information related to its operational activities, including the cost impacts, if any, to the overall budget allocated for ICANN Public Meetings. As part of its commitment to accountability and transparency, ICANN org publishes a range of financial documents on the [ICANN Financials page](#) as a matter of course when the information becomes available. These documents include quarterly reports of Unaudited Financials and the Annual Audited Financial statements, all of which report on budgeted and actual expenses across various operations, including travel and meetings. Any actual impact that resulted from the conversion of ICANN67 into a full remote participation meeting will be accounted for as part of ICANN org’s ongoing and upcoming financial reporting.

To the extent there are any existing documents that contain information that might be responsive to Item No. 3 that have not been made public, they are subject to the following Nondisclosure Conditions:

- Internal information that, if disclosed, would or would be likely to compromise the integrity of ICANN's deliberative and decision-making process by inhibiting the candid exchange of ideas and communications, including internal documents, memoranda, and other similar communications to or from ICANN Directors, ICANN Directors' Advisors, ICANN staff, ICANN consultants, ICANN contractors and ICANN agents.
- Information subject to the attorney-client, attorney work product privilege, or any other applicable privilege, or disclosure of which might prejudice any internal, governmental, or legal investigation.

### Item No. 4

Item No. 4 seeks “the identity of the Adaptive Crisis Management Team (A-CMT) members, how they were selected and any compensation they may have received.”

In January 2020, ICANN org convened an A-CMT in order to assist ICANN org in tracking and assessing the impact of COVID-19 on ICANN. The A-CMT members are all ICANN org personnel for whom service on the A-CMT is identified as part of their regular business duties with no additional compensation. The composition of the A-CMT changes from time to time depending on the needs of the org and/or the issues

currently under discussion. Documents identifying the membership of the A-CMT at any point in time are subject to the following Nondisclosure Conditions:

- Internal information that, if disclosed, would or would be likely to compromise the integrity of ICANN's deliberative and decision-making process by inhibiting the candid exchange of ideas and communications, including internal documents, memoranda, and other similar communications to or from ICANN Directors, ICANN Directors' Advisors, ICANN staff, ICANN consultants, ICANN contractors, and ICANN agents.
- Information subject to the attorney-client, attorney work product privilege, or any other applicable privilege, or disclosure of which might prejudice any internal, governmental, or legal investigation.

#### Item No. 5

Item No. 5 requests that ICANN “confirm/deny if there was any direct engagement with the Mexican government. If there was any engagement, could ICANN make those communications available.”

ICANN org engaged with the Mexican health authorities about their ability to respond to the global health emergency and their readiness to address a suspected or confirmed case if one were to emerge. To the extent there are any responsive documents, they are subject to the following Nondisclosure Conditions:

- Information provided by or to a government or international organization, or any form of recitation of such information, in the expectation that the information will be kept confidential and/or would or likely would materially prejudice ICANN's relationship with that party.
- Information exchanged, prepared for, or derived from the deliberative and decision-making process between ICANN, its constituents, and/or other entities with which ICANN cooperates that, if disclosed, would or would be likely to compromise the integrity of the deliberative and decision-making process between and among ICANN, its constituents, and/or other entities with which ICANN cooperates by inhibiting the candid exchange of ideas and communications.

Notwithstanding the applicable Nondisclosure Conditions identified in this Response to all of the Items requested, ICANN org has considered whether the public interest in disclosure of the information subject to these conditions at this point in time outweighs the harm that may be caused by such disclosure. ICANN org has determined that there are no current circumstances for which the public interest in disclosing the information outweighs the harm that may be caused by the requested disclosure.

## About DIDP

ICANN org's DIDP is limited to requests for documentary information already in existence within ICANN org that is not publicly available. In addition, the DIDP sets forth Defined Conditions of Nondisclosure. To review a copy of the DIDP, please see <http://www.icann.org/en/about/transparency/didp>. ICANN org makes every effort to be as responsive as possible to the entirety of your Request. As part of its accountability and transparency commitments, ICANN org continually strives to provide as much information to the community as is reasonable. We hope this information is helpful. If you have any further inquiries, please forward them to [didp@icann.org](mailto:didp@icann.org).