

Chair, ICANN New gTLD Program Committee
RE: Document Information Disclosure Policy Request

18 September 2015

By email: didp@icann.org

Dear Sir/Madam,

.CPA Community Priority Evaluation for Application ID 1-1911-56672
Document Information Disclosure Policy Request

This request is submitted under ICANN's Documentary Information Disclosure Policy on behalf of the American Institute of Certified Public Accountants, applicant for the .CPA gTLD ("**Requester**") in relation to ICANN's Community Priority Evaluation Panel's ("**CPE Panel**") determination that Requester's application for the .CPA gTLD (Application ID 1-1911-56672; ("**Application**") did not prevail in Community Priority Evaluation according to the Community Priority Evaluation report available at (<https://www.icann.org/sites/default/files/tlds/cpa/cpa-cpe-1-1911-56672-en.pdf>) (the "**Determination**").

Documentation Requested

The Requester respectfully requests the following information from ICANN under the Documentary Information Disclosure Policy:

- 1) the connection, experience level and qualification in regard to the targeted community of each of the members of the CPE Panel that were involved in reviewing the Requester's application and the preparation of the CPE Report;
- 2) policies, guidelines, directives, instructions or guidance given by ICANN or developed by the Economist Intelligence Unit, and/or adhered to by the Community Priority Evaluation Panel relating to the Community Priority Evaluation process;
- 3) statements, documentation, third party input or similar information that has been relied upon by the Community Priority Evaluation Panel, whether or not such information is in the public domain and which has been disclosed to or relied upon by the CPE Panel in connection with the Community Priority Evaluation and the development of the Determination;
- 4) whether Requester's Change Request, which has been provided to ICANN on December 24, 2014 has been taken into account in developing the Determination and – if so – how the information contained therein was evaluated and which were the views expressed by the Community Priority Evaluation Panel in this regard;
- 5) internal reports, notes, meeting minutes drawn up by or on behalf of ICANN, the Community Priority Evaluation Panels, and other individuals or organizations involved in the Community Priority Evaluation in relation to the Application and the development of the Determination;
- 6) detailed information in relation to (i) the information reviewed, whether or not included in the Requester's Application and Change Request, (ii) criteria and standards used, (iii) arguments exchanged, (iv) information disregarded or considered irrelevant, and (v) scores given by the

Community Priority Evaluation panel in view of the criteria set out in the Applicant Guidebook, as further detailed below.

For the avoidance of doubt, links to pre-existing publically available documents will not suffice to satisfy this request. Rather, additional documentation which is currently unavailable to Requester in clarifying the decision to disallow the validity of the pre-existing CPA community reaching the necessary points to satisfy CPE. The Requester would be amenable to documentation which redacts personal information to protect individual privacy should it be required yet still satisfy the above requests.

Context

The Requester makes reference to the Determination which stated *“After careful consideration and extensive review of the information provided in your application, including documents of support, the Community Priority Evaluation panel determined that the application did not meet the requirements specified in the Applicant Guidebook.”*

This Determination would result in ICANN not recognizing the community status of the Applicant and put Application into a contention set with other applicants which materially impacts the Requester.

As outlined by ICANN’s By-Laws, *“ICANN’s Documentary Information Disclosure Policy (DIDP) is intended to ensure that information contained in documents concerning ICANN’s operational activities, and within ICANN’s possession, custody, or control, is made available to the public unless there is a compelling reason for confidentiality.”*¹ It is under these requirements that Requester makes this filing to ICANN under the DIDP, in full consideration of the following:

1. Requester seeks information to understand the rationale that the CPE Panel used in not seeking further information from the Requester as regards the most recent state of agreements between parties as it directly relates to the composition of the defined community. The Application as submitted to ICANN makes clear that as an “International associate” and member of other AICPA-affiliated organizations, a registrant would be eligible to register a .CPA subdomain with the AICPA.

Given the information provided in the Application was submitted in 2012, and determination of Requester’s Change Request dated December 2014 has been deferred, clarification from the CPE Panel would be reasonably expected in this instance.

2. Requester seeks further information to understand the criteria and standards used by the CPE Panel in asserting that the association between the string and the defined community in relation to the specific determination that the Requester’s application is *“over-reaching substantially beyond the community.”* This term has not: (a) been fully defined in either the Applicant Guidebook or the CPE Guidelines; and (b) has been implemented in an inconsistent fashion in previous CPE evaluations, such as the .spa and .art (e-flux) applications which implement alternative implementations of “over-reaching” as regards to the string compared to the defined community (refer to subsequent Reconsideration Request submitted by the Applicant for further information).
3. Given that the CPE Panel stated the following in the Determination:

“That is because, the term “CPA” in the context of accounting is often used to mean Certified Public Accountant and to identify an individual who has passed a CPA exam, often in reference to the Uniform CPA Examination used in the US and elsewhere.”

¹ <https://www.icann.org/resources/pages/didp-2012-02-25-en>.

this shows a significant lack of understanding of the global nature of the CPA community, which globally refers to CPA's as not having simply passed an exam, but rather having passed an exam, securing a licence from a professional member body or licensing board and continuing to meet ongoing professional education and other prescribed requirements²³⁴⁵. The Requester seeks to understand by the disclosure of the above documentation, if the CPE Panel used other methods or rationale in reaching the conclusion that the defined community did not meet the (unclear) requirements in terms of "over-reaching substantially beyond the community".

ICANN's transparency obligations, created by ICANN's Bylaws and Articles of Incorporation require the publication of information related to the process, facts and analysis used by individual members of the Community Priority Evaluation panel in preparation of the Determination.

Bylaw Article III, Section 1 provides as follows:

"ICANN and its constituent bodies shall operate to the maximum extent feasible in an open and transparent manner and consistent with procedures designed to use fairness."

Furthermore, Requesters refer to ICANN's core mission and values, set out in their by-laws, and in particular, they intend to review the information provided and to be provided by ICANN following this request on the basis of the following values of ICANN:

7. Employing open and transparent policy development mechanisms that (i) promote well-informed decisions based on expert advice, and (ii) ensure that those entities most affected can assist in the policy development process.

8. Making decisions by applying documented policies neutrally and objectively, with integrity and fairness.

And

10. Remaining accountable to the Internet community through mechanisms that enhance ICANN's effectiveness.

Furthermore, Article 4 of ICANN's Articles of Incorporation provides:

"The Corporation shall operate for the benefit of the Internet community as a whole, carrying out its activities in conformity with relevant principles of international law and applicable international conventions and local law and, to the extent appropriate and consistent with these Articles and its Bylaws, through open and transparent processes that enable open competition and open entry in Internet-related markets. To this effect, the Corporation shall cooperate as appropriate with relevant international organizations."

² <http://www.aicpa.org/becomeacpa/cpaexam/examoverview/iqex/pages/default.aspx>

³ <http://nasba.org/education/becomingacpa/>

⁴ <http://www.accountingcoach.com/blog/what-is-a-certified-public-accountant>

⁵ <http://www.investopedia.com/terms/c/cpa.asp>

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In light of ICANN's obligations and in regards to the issues above, the Requester desires disclosure of the requested information to further understand the specific implementation of the provisions from the Applicant Guidebook and associated CPE Guidelines as it relates generally to application 1-1911-56672, and specifically the Community Priority Determination issued by ICANN on application 1-1911-56672 on September 03, 2015.

Respectfully submitted,

Eugene Chang

/s/ Eugene Chang
Signature

September 18, 2015
Date