

Response to Documentary Information Disclosure Policy Request

To: Dot Registry, LLC

Date: 3 October 2014

Re: Request No. 20140904-01

Thank you for your Request for Information dated 4 September 2014 (the “Request”), which was submitted through the Internet Corporation for Assigned Names and Numbers’ (“ICANN’s”) Documentary Information Disclosure Policy (“DIDP”). For reference, a copy of your Request is attached to the email forwarding this Response.

Items Requested:

Your Request seeks the following:

“Dot Registry requests that ICANN produce a copy of the contract between ICANN and the EIU, which serves as the sole evaluator for CPEs.”

Response

The contract between ICANN and the Economist Intelligent Unit (“EIU”) for the coordination of the independent community panels to perform Community Priority Evaluations (“CPEs”) in the New gTLD Program is not appropriate for public disclosure through the DIDP. The contract includes a confidentiality clause barring ICANN from disclosing the agreement as requested.

As such, the following Defined Conditions for Nondisclosure apply:

- 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 provided to ICANN by a party that, if disclosed, would or would be likely to materially prejudice the commercial interests, financial interests, and/or competitive position of such party or was provided to ICANN pursuant to a nondisclosure agreement or nondisclosure provision within an agreement.
- Confidential business information and/or internal policies and procedures.

More generally, the EIU is an independent, third-party company that contracts with ICANN to perform the coordination of the CPE reviews. The CPE Panel Process Document (at <http://newgtlds.icann.org/en/applicants/cpe>) and the CPE Guidelines (at

<http://newgtlds.icann.org/en/applicants/cpe>) provide more information on the CPE process and the role of the EIU. Further information about the EIU is available at <http://www.eiu.com/home.aspx>.

To help assure independence of the process and evaluation, the coordination of the CPE Panel, as explained in the CPE Panel Process Document, is performed entirely within the EIU.

Although your analysis in the Request concluded that no Conditions for Nondisclosure should apply, ICANN must independently undertake the analysis of each Condition as it applies to the documentation at issue, and make the final determination as to whether any Nondisclosure Conditions apply. Here, the contractual language clearly places the agreement within the Defined Conditions. As Defined Conditions clearly apply, ICANN also must evaluate whether the disclosure of the requested contract outweighs the harm that may be caused to ICANN through its release. Here, the release of this contract could impair ICANN's contractual relationships and have a significant operational impact that is not outweighed by disclosure, particularly where CPE panel process documentation and guidelines are already publicly available.

About DIDP

ICANN's DIDP is limited to requests for information already in existence within ICANN that is not publicly available. In addition, the DIDP sets forth Defined Conditions of Nondisclosure. To review a copy of the DIDP, please see <https://www.icann.org/resources/pages/didp-2012-02-25-en>. ICANN makes every effort to be as responsive as possible to the entirety of your Request.

We hope this information is helpful. If you have any further inquiries, please forward them to didp@icann.org.