

Response to Documentary Information Disclosure Policy Request

To: Eugene Chang, on behalf of American Institute of Certified Public Accountants

Date: 18 October 2015

Re: Request No. 20150918-2

Thank you for your Request for Information dated 18 September 2015 (Request), which was submitted through the Internet Corporation for Assigned Names and Numbers' (ICANN's) Documentary Information Disclosure Policy (DIDP) on behalf of the American Institute of Certified Public Accountants (AICPA). For reference, a copy of your Request is attached to the email forwarding this Response.

Items Requested

Your Request seeks documentary information relating to the Community Priority Evaluation (CPE) of AICPA's application for the .CPA gTLD (Application ID: 1-1911-56672) and requests disclosure of:

- (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 in 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;" and
- (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 [in the Request].”

Response

CPE is a method to resolve string contention. The standards governing CPE are set forth in Module 4.2 of the New gTLD Applicant Guidebook (Guidebook), and are available at <http://newgtlds.icann.org/en/applicants/agb>. CPE will occur only if a community-based applicant in contention selects CPE, and after all applications in the contention set have completed all previous stages of the gTLD evaluation process. (See Guidebook, § 4.2.) CPEs are performed by independent CPE panels that are coordinated by the Economist Intelligent Unit (EIU), an independent third party provider, which contracts with ICANN to perform that coordination role. (See *id.*; see also, CPE webpage at <http://newgtlds.icann.org/en/applicants/cpe>.) The CPE panel’s role is to determine whether a community-based application fulfills the community priority criteria. (See *id.*) The Guidebook, CPE Panel Process Document, and the CPE Guidelines (all of which can be accessed at <http://newgtlds.icann.org/en/applicants/cpe>) set forth the guidelines, procedures, standards and criteria applied to CPEs, and make clear that the EIU and its designated panelists are the only persons or entities involved in the performance of CPEs.

As part of the evaluation process, the CPE panels review and score a community application submitted to CPE against the following four criteria: (i) Community Establishment; (ii) Nexus between Proposed String and Community; (iii) Registration Policies; and (iv) Community Endorsement. An application must score at least 14 out of a possible 16 points to prevail in a CPE; a high bar because awarding priority eliminates all non-community applicants in the contention set as well as any other non-prevailing community applicants. (See Guidebook at § 4.2; see also, CPE webpage at <http://newgtlds.icann.org/en/applicants/cpe>.)

To provide transparency of the CPE process, ICANN has established a CPE webpage on the New gTLD microsite, at <http://newgtlds.icann.org/en/applicants/cpe>, which provides detailed information about CPEs. In particular, the following information can be accessed through the CPE webpage:

- CPE results, including information regarding to the Application ID, string, contention set number, applicant name, CPE invitation date, whether the applicant elected to participate in CPE, and the CPE status. (<http://newgtlds.icann.org/en/applicants/cpe#invitations>)
- CPE Panel Process Document (<http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>)
- EIU Contract and Statement of Work Information (SOW) (<http://newgtlds.icann.org/en/applicants/cpe/eiu-contract-sow-information-08apr15-en.zip>)

- CPE Guidelines (<http://newgtlds.icann.org/en/applicants/cpe/guidelines-27sep13-en.pdf>)
- Draft CPE Guidelines (<http://newgtlds.icann.org/en/applicants/cpe/guidelines-16aug13-en.pdf>)
- Community Feedback on Draft CPE Guidelines (<http://newgtlds.icann.org/en/applicants/cpe#invitations>)
- Updated CPE Frequently Asked Questions (<http://newgtlds.icann.org/en/applicants/cpe/faqs-10sep14-en.pdf>)
- CPE Processing Timeline (<http://newgtlds.icann.org/en/applicants/cpe/timeline-10sep14-en.pdf>)

Item 1 seeks “the connection [to the targeted community], experience level and qualification[s]” of “the members of the CPE Panel” that reviewed the Requester’s application (“CPE Panel”). ICANN (either Board or staff) is not involved with the selection of a CPE panel’s individual evaluators that perform the scoring in each CPE process, nor is ICANN provided with information about who the evaluators on any individual panel may be. ICANN therefore does not have any documentation regarding the “connection, experience level and qualification[s]” of the CPE Panel members as requested in Item 1. The coordination of a CPE panel, as explained in the CPE Panel Process Document, is entirely within the work of the EIU’s team. (See CPE Process Documents, Pgs. 2 and 4, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>.) The CPE Panel Process Document provides a detailed description of the EIU’s experience level, qualifications, EIU evaluators and core team. Specifically, the CPE Panel Process Document states:

The Economist Intelligence Unit (EIU) was selected as a Panel Firm for the gTLD evaluation process. The EIU is the business information arm of The Economist Group, publisher of The Economist. Through a global network of more than 500 analysts and contributors, the EIU continuously assesses political, economic, and business conditions in more than 200 countries. As the world’s leading provider of country intelligence, the EIU helps executives, governments, and institutions by providing timely, reliable, and impartial analysis.

The evaluation process respects the principles of fairness, transparency, avoidance of potential conflicts of interest, and non-discrimination. Consistency of approach in scoring applications is of particular importance. In this regard, the Economist Intelligence Unit has more than six decades of experience building evaluative frameworks and benchmarking models for its clients, including governments, corporations, academic institutions and NGOs. Applying scoring systems to complex questions is a core competence.

EIU evaluators and core team

The Community Priority Evaluation panel comprises a core team, in addition to several independent 1 evaluators. The core team comprises a Project Manager, who oversees the Community Priority Evaluation project, a Project Coordinator, who is in charge of the day-to-day management of the project and provides guidance to the independent evaluators, and other senior staff members, including The Economist Intelligence Unit's Executive Editor and Global Director of Public Policy. Together, this team assesses the evaluation results. Each application is assessed by seven individuals: two independent evaluators, and the core team, which comprises five people.

The following principles characterize the EIU evaluation process for gTLD applications:

- All EIU evaluators, including the core team, have ensured that no conflicts of interest exist.
- All EIU evaluators undergo regular training to ensure full understanding of all CPE requirements as listed in the Applicant Guidebook, as well as to ensure consistent judgment. This process included a pilot training process, which has been followed by regular training sessions to ensure that all evaluators have the same understanding of the evaluation process and procedures.
- EIU evaluators are highly qualified, they speak several languages and have expertise in applying criteria and standardized methodologies across a broad variety of issues in a consistent and systematic manner.
- Language skills and knowledge of specific regions are also considered in the selection of evaluators and the assignment of specific applications.

(CPE Panel Process Document, Pgs. 1-2,

<http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>.)

Item 2 seeks “policies, guidelines, directives, instructions or guidance given by ICANN or developed by the [EIU] relating to” the CPE process. ICANN has published documentary information responsive to this item on the CPE webpage, including, the EIU Contract and SOW (<http://newgtlds.icann.org/en/applicants/cpe/eiu-contract-sow-information-08apr15-en.zip>), the CPE Panel Process Document (<http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>), the CPE Guidelines (<http://newgtlds.icann.org/en/applicants/cpe/guidelines-27sep13-en.pdf>), Module 4.2 of the Guidebook (<http://newgtlds.icann.org/en/applicants/agb/string-contention-procedures-04jun12-en.pdf>), and CPE Processing Timeline (<http://newgtlds.icann.org/en/applicants/cpe/timeline-10sep14-en.pdf>). Additionally, in

response to this DIDP Request, ICANN will provide the email notification to begin CPE of the community applications for .CPA that was sent from ICANN staff to the EIU on 30 April 2015. As stated in the CPE Panel Process Document, along with the notice to commence CPE, ICANN delivers to the EIU the public comment(s), if any, received on the application. (See CPE Process Document, Pg. 2, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>.) In the case of AICPA's application for .CPA, no comments were submitted to the Application Comment Forum, available at <https://gtldcomment.icann.org/applicationcomment/viewcomments>, and therefore, no comments were provided to the EIU in conjunction with the notice to commence CPE. To the extent that ICANN has communications with persons from EIU who are not involved in the scoring of a CPE, but otherwise assist in a particular CPE, (as anticipated in the CPE Panel Process Document), those documents are subject to the following Defined Conditions of Nondisclosure set forth in the DIDP:

- 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 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.
- Drafts of all correspondence, reports, documents, agreements, contracts, emails, or any other forms of communication.

Items 3 thru 6 seek extensive, detailed information regarding the materials reviewed and the analysis conducted by the CPE Panel in making its determination that the Requester's .CPA application did not prevail in CPE. For instance, the Requester seeks information that is "not [...] in the public domain," "internal reports," "detailed information in relation to [...] information disregarded or considered irrelevant," and whether the Requester's Change Request "has been taken into account in developing the Determination."¹

¹ ICANN is not aware of any "other individuals or organizations" (as referenced in Item 5 of the DIDP Request) outside of the EIU and the CPE Panel that were "involved in the Community Priority Evaluation" of the Requester's .CPA application.

To help assure independence of the process and evaluation of CPEs, ICANN (either Board or staff) is not involved with the CPE Panel's evaluation of criteria, scoring decisions, or underlying analyses. The coordination of the CPE Panel, as explained above and in the CPE Panel Process Document, is entirely within the work of the EIU's team. As stated in the CPE Process Document, "[t]he Panel Firm's Project Manager is notified by ICANN that an application is ready for CPE, and the application ID and public comment delivered to the EIU. The EIU is responsible for gathering the application materials and other documentation, including letter(s) of support and relevant correspondence, from the public ICANN website." (See CPE Panel Process Document, Pg. 2, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>.) Thus, except for the notice of commencement of CPE and the public comments submitted on the Application Comments page relating to the application (of which there were none in the case of AICPA's application for .CPA), ICANN is not responsible for gathering the materials to be considered by the CPE Panel. As such, ICANN does not have, nor does it collect or maintain, the work papers of the individual CPE panels (including the AICPA's .CPA CPE Panel) that contain the information called for within these items. The end result of the CPE Panel's analysis is the CPE Report, which explains the CPE Panel's determinations and scoring, and is available at <https://www.icann.org/sites/default/files/tlds/cpa/cpa-cpe-1-1911-56672-en.pdf>.

Item No. 4 requests documentary information regarding whether the AICPA's Change Request was been taken in account in developing the CPE 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." AICPA included the Change Request as Annex 2 to its letter to the ICANN Board and the EIU on 12 June 2015. This letter was published on ICANN's correspondence page at <https://www.icann.org/en/system/files/correspondence/melancon-to-icann-eiu-12jun15-en.pdf> and <https://www.icann.org/en/system/files/correspondence/melancon-to-icann-eiu-2-12jun15-en.pdf>. In accordance with the CPE Panel Process Document, the CPE Panel reviews documents and communications that are publicly available through a number of resources, such as: (a) the Requester's application for .CPA available at <https://gtldresult.icann.org/application-result/applicationstatus/applicationdetails/209>; (b) the Correspondence webpage available at <https://www.icann.org/resources/pages/correspondence-2012-09-24-en> and <https://newgtlds.icann.org/en/program-status/correspondence>; (c) the Applicant Comment Forum available at <https://gtldcomment.icann.org/comments-feedback/applicationcomment/viewcomments>; and (d) the Objection Determinations webpage available at <http://newgtlds.icann.org/en/program-status/odr/determination>. (See CPE Panel Process Document at Pg. 2, <http://newgtlds.icann.org/en/applicants/cpe/panel-process-07aug14-en.pdf>.) As further noted in the CPE Panel Process Documents, the EIU reviews ICANN's public correspondence page on a regular basis for recently received correspondence to assess whether it is relevant to an ongoing evaluation. If it is relevant, the EIU provides the public correspondence to the evaluators assigned to the evaluation of a particular application. (See *id.* at Pg. 5.) Thus, the EIU and the evaluators had access to AICPA's 12 June 2015 letter during the evaluation process, including its Change Request, which was attached as Annex 2.

In addition to, and based on the foregoing, to the extent that ICANN has documentation responsive to Items 3 thru 6, such documents are either already public or subject to certain of the Defined Conditions for Nondisclosure set forth in the DIDP:

- 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.
- Confidential business information and/or internal policies and procedures.
- Drafts of all correspondence, reports, documents, agreements, contracts, emails, or any other forms of communication.

For each of the items identified above as subject to Defined Conditions of Nondisclosure, ICANN has determined that there are no particular circumstances for which the public interest in disclosing the information outweighs the harm that may be caused to ICANN, its contractual relationships, and its contractors' deliberative processes by the requested disclosure.

About DIDP

ICANN's DIDP is limited to requests for documentary 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 <http://www.icann.org/en/about/transparency/didp>. ICANN makes every effort to be as responsive as possible to the entirety of your Request. As part of its accountability and transparency commitments, ICANN continually strives to provide as much information to the community as is reasonable. We encourage you to sign up for an account at MyICANN.org, through which you can receive daily updates regarding postings to the portions of ICANN's website that are of interest because, as we continue to enhance our reporting mechanisms, reports will be posted for public access.

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

Attachment

Subject: Notification to Begin Evaluation of Applications for .cpa

Date: Thursday, April 30, 2015 at 2:45:57 PM Pacific Daylight Time

From: Parissa Sohie Contact Information Redacted

To: EIU Contact Information Redacted

CC: Russ Weinstein Contact Information Redacted , Jared Erwin Contact Information Redacted

Hi EIU Contact Information Redacted

This email serves as the EIU's notification that evaluation can begin on application 1-1911-56672 (American Institute of Certified Public Accountants) and 1-1744-1971 (CPA Australia LTD) , community applicants for CPA. As per other evaluations, the following are in scope:

- Application questions 1-30a
- There were no application comments
- Correspondence
- Objection outcomes
- Outside research (as necessary)

The CPE micro site (<http://newgtlds.icann.org/en/applicants/cpe>) will be updated later today to reflect that evaluation is now in progress for this applicant.

Please let me know if you have any questions.

Regards,

Parissa Sohie
Operations Specialist
Global Domains Division

Direct: Contact Information Redacted

Mobile

Email:

www.icann.org