**Questions / Approach for addressing input received on Charter Question #5 / Guidance for the Implementation Phase in relation to charter question #5**

Charter Question #5: What conflict of interest provisions and procedures need to be put in place as part of this framework for fund allocations?

OVERARCHING QUESTION:

As a result of the input provided during the public comment period, should the CCWG reconsider its recommendation that:

Preliminary CCWG Recommendation #4: Robust conflict of interest provisions must be developed and put in place, regardless of which mechanism is ultimately selected.

Guidance for the Implementation Phase in relation to charter question #5: The provisions outlined in response to this charter question should at a minimum be considered for inclusion in the conflict of interest requirements that are expected to be developed during the implementation phase. In the case of mechanism B, there will need to be clearly defined roles and responsibilities incumbent upon both ICANN and the other organization, and an agreement in place about how these roles are carried out operationally. The external organization would need to have appropriate conflict of interest policies and practices in place for the elements of the program it manages. In addition, ICANN will maintain oversight to ensure that legal and fiduciary obligations are met.

If yes, why?

If no, why not?

If it is not possible to make this determination at this stage, what input, or information would be necessary to make this determination?

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| **Comment #1 (ICANN Board)** | |
| **Suggestion from Commenter** | CCWG to ensure that mechanism recommended upholds avoidance of conflict of interest at every phase as one of its primary principles. |
| **Leadership recommendation** |  |
| **CCWG Team discussion / agreement** |  |

# Response to Charter Question #5/ Guidance for the Implementation Phase in relation to charter question #5

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| **#** | **Comment** | **Contributor** | **Type of change suggested by commenter / Possible action and/or question for CCWG** | **CCWG Response / Action Taken** |
| **Section Summary:**  Charter Question #5: What conflict of interest provisions and procedures need to be put in place as part of this framework for fund allocations?  Preliminary CCWG Recommendation #4: Robust conflict of interest provisions must be developed and put in place, regardless of which mechanism is ultimately selected.  Guidance for the Implementation Phase in relation to charter question #5: The provisions outlined in response to this charter question should at a minimum be considered for inclusion in the conflict of interest requirements that are expected to be developed during the implementation phase. In the case of mechanism B, there will need to be clearly defined roles and responsibilities incumbent upon both ICANN and the other organization, and an agreement in place about how these roles are carried out operationally. The external organization would need to have appropriate conflict of interest policies and practices in place for the elements of the program it manages. In addition, ICANN will maintain oversight to ensure that legal and fiduciary obligations are met.  **Overview of Comments:** Responses generally support the provisions outlined in response to Charter Question #5 and the related recommendation and guidance for the Implementation Phase. | | | | |
| **1.** | Charter Question #5  The Board recognizes the efforts of the CCWG-AP to address conflict of interest concerns in an eventual mechanism(s) for evaluating grant applications and/or administering the program. The Board emphasizes that all decisions relating to the use of auction proceeds must be undertaken with a transparent understanding of the motivations of those participating in the recommendations. The ICANN Board thanks the CCWG-AP for its attention to disclosure of interests of those participating in the process and encourages all participants to maintain up-to- date disclosures. We thank the CCWG-AP for highlighting the conflict of interest concerns and recognizing the need to address these issues at every step in the process. The mechanism should aspire to uphold avoidance of conflict of interest at every phase as one of its primary principles.  See full comment: <https://mm.icann.org/pipermail/comments-new-gtld-auction-proceeds-initial-08oct18/2018q4/000024.html> | ICANN Board | CCWG to ensure that mechanism recommended upholds avoidance of conflict of interest at every phase as one of its primary principles. | Concerns  **CCWG Response:**  **Action Taken:**  [**COMPLETED / NOT COMPLETED**] – [Instruction of what was done.] |
| **2.** | **Recommendation 4:** The ALAC agrees with the CCWG Auction Proceeds report in Recommendation 4 that states that robust conflict of interest provisions must be developed and put in place, regardless of which mechanism is ultimately selected. The ALAC is a strong believer in this recommendation, as it is one of the reasons that concern the ALAC with the possible choice of Mechanism A in Recommendation 1.  See full comment: <https://mm.icann.org/pipermail/comments-new-gtld-auction-proceeds-initial-08oct18/2018q4/000041.html> | ALAC | None (supportive of recommendation #4) | Support  **CCWG Response:** The CCWG appreciates the input provided and notes the support for robust conflict of interest provisions.  **Action Taken:** None for the moment  [**COMPLETED / NOT COMPLETED**] – [Instruction of what was done.] |
| **3.** | The RrSG supports Preliminary CCWG Recommendations # 3, 4, 6, 9, and 10.  See full comment: https://mm.icann.org/pipermail/comments-new-gtld-auction-proceeds-initial-08oct18/2018q4/000030.html | RrSG | None (supportive of recommendation #4) | Support  **CCWG Response:** The CCWG appreciates the input provided  **Action Taken:** None for the moment  [**COMPLETED / NOT COMPLETED**] – [Instruction of what was done.] |
| **4.** | We also support the importance of a well-defined and implementable “conflict of interest” tests for decisions influenced by ICANN org, or ICANN community, including the Board.  See full comment: <https://mm.icann.org/pipermail/comments-new-gtld-auction-proceeds-initial-08oct18/2018q4/000031.html> | BC | None (supportive of recommendation #4) | Support  **CCWG Response:** The CCWG appreciates the input provided and notes the support for robust conflict of interest provisions.  **Action Taken:** None for the moment  [**COMPLETED / NOT COMPLETED**] – [Instruction of what was done.] |
| **5.** | **Preliminary CCWG Recommendation #4**  The NCSG agrees that extensive measures should be taken to address real or perceived conflicts of interest. Moreover, the NCSG strongly endorses the notion that increased reporting and transparency of the mechanism will lead to a decreased likelihood of an illegitimate use of grant funds by the grantor and grantees.  See full comment: https://mm.icann.org/pipermail/comments-new-gtld-auction-proceeds-initial-08oct18/2018q4/000034.html | NCSG | None (supportive of recommendation #4) | Support  **CCWG Response:** The CCWG appreciates the input provided and notes the support for robust conflict of interest provisions, with a commitment to accountability and transparency in all of its practices.  **Action Taken:** None for the moment  [**COMPLETED / NOT COMPLETED**] – [Instruction of what was done.] |
| **6.** | Recommendation #3 and # 4: Support  See full comment: https://mm.icann.org/pipermail/comments-new-gtld-auction-proceeds-initial-08oct18/2018q4/000035.html | Anne Aikman-Scalese | None (supportive of recommendation #4) | Support  **CCWG Response:** The CCWG appreciates the input provided  **Action Taken:** None for the moment  [**COMPLETED / NOT COMPLETED**] – [Instruction of what was done.] |