

Budget and Strategic Plan Veto – PC2

Areas of Consensus

Overall, there is broad consensus (18 of 23 comments) that the community should have significant input into the budget and strategic plans, ideally in their development but ultimately in the form of a veto. There is equal consensus for the notion that the best *process* by which the board and community interact is not a veto but cooperative plan and budget development. The veto is meant as a tool of empowerment and would represent an unfortunate impasse between board and community.

Areas Needing Refinement

While this is broad support for a veto, several questions have been raised in the comments that require further refinement and details:

1. **Endless Loop.** 10 comments express concern over an endless loop of budget vetoes and reliance on the prior year's budget as the default.
2. **Escalation Threshold.** Two comments suggest the threshold for a second veto should be higher than the first though this could potentially encourage the board to proceed past the first veto.
3. **Overly Broad.** Three comments suggest that a broad veto places generally supported programs, staff and other expenses in jeopardy when the veto is probably about one or two specific expenditures.
4. **Vote Allocation.** Two comments suggest the GNSO should have more influence on the budget than other SOs and ACs because they represent the source of funds and are most influenced by the Operating Plan on which the budget is based. Two others note that weighted voting is likely to undermine the interests of under weighted ACs.
5. **Revenue Shortfall.** ALAC suggest there will be times when the budget must be decreased and freezing the budget and previous year's level might be fiscally irresponsible. The ICANN Board consider it their responsibility to "to align cost with revenue so that the financial stability of ICANN is not jeopardized."
6. **PTI Separation.** 6 comments make specific mention of clarity around PTI separation. CCWG discussions suggest the notion of separation is non-controversial among supporters of a budget veto so more clarity is simply needed.

Areas of Divergence

While there is broad support for a community veto power, 4 comments express concerns about the implications and efficacy of such a veto:

1. **Efficacy.** Linx in particular suggests that a budget veto is likely to be an ineffective accountability measure but is nonetheless neutral on the proposal provided it is not expanded. It is also suggested in 4 comments that the best time for interaction is while the budget is being developed. The ICANN Board suggest the area of focus should be the operating plan rather than the budget

2. **Discrimination and Balance of Interests.** ALAC, AFRALO and the ICANN Board are concerned that one part of the community might have undo influence over the interests of another, particularly in an environment of weighted voting. The board as seen as the arbiter of a “just” outcome which might not reflect consensus.
3. **Responsibility.** Partnership Istanbul argues that there might be an erosion of responsibility on the part of the board if budgets are subject to community veto.

Options for CCWG Consideration

A number of the issues raised above were raised and considered addressed in the CCWG so perhaps more clarity and refinement is required on PTI separation, for example. Some further areas for exploration include:

1. **Line Item Veto.** As AFRALO suggests, this might allow the community to more surgically affect the year’s operating plan without unduly threatening day to day operations.
2. **Limit Round Trips.** While previously discussed the idea of limiting round trips continues to persist and should perhaps be revisited. A number of proposals were advanced in this areas including:
 - a. **Adopting a 10% increase from the previous year.**
 - b. **Escalating to alternative accountability measures (arbitration, board reorganization)**
 - c. **Suspending new initiatives**
3. **Vote allocation.** There were conflicting issues expressed on the issue of vote allocation, with some suggesting the GNSO should have a larger influence as the source of funds while others fear the “tyranny of the majority” that such allocation could represent. Perhaps the CCWG could discuss different voting allocations for different types of projects or give the GNSO additional influence with an annual budget would involve an increase in fees.
4. **Defined Cause Boundaries for Objection:** The ICANN board suggest that only “New Initiatives that are not in the 5-year Strategic or Operating plan or that are inconsistent with the purpose, mission and role set out in ICANN’s Articles and Bylaws should be subject to community objection.”
5. **5 Year Plan versus Annual:** The ICANN Board argue that the 5-year plan should be subject to community approval but not the annual budget.
6. **Course Correction.** The ICANN Board suggest they maintain the ability, throughout the Fiscal Year, to approve certain new expenses not planned for in the approved Annual Operating Plan and Budget. This allows the Board to act in cases of unforeseen urgent matters that put ICANN’s operation and mission at risk. The Community should maintain the ability to reject items that fall outside the ICANN scope.
7. **PTI Budget Separation.** CyberInvasion make a specific recommendation with respect to PTI processes:

PTI/IANA budget (and relation to CWG requirements); "As per our interventions at the Paris meeting we suggest the following budget process:

1. PTI Formulates its budget for the next fiscal year using its internal processes
 - 1.1. These processes will include detailed input from the ICANN staff members who sit on PTIs board and will be privy to the financial status of the parent entity at any given time

1.2. The independent directors on PTIs board will also be involved in this budget formulation process

1.3. Community input may be then solicited via the CSC or another PTI level mechanism to ensure that the community and the direct customers of the PTI have no concerns as to cost overruns or unnecessary spending as part of the next fiscal years budget for PTI

2. PTI budget is sent to the parent entity for approval, this approval should be automatic except in the case of extreme unexpected financial crisis in the parent entity in which case the budget may be returned to PTI for an emergency reconsideration process

3. ICANN is compelled via a binding agreement or other legal instrument to honour PTIs budget request

4. This process will be ring fenced and explicitly not subject to the ICANN budget veto and/or reconsideration process as suggested by the CCWG"