

Response to Documentary Information Disclosure Policy Request

To: Kieren McCarthy

Date: 20 October 2011

Re: Request No. 20110920-1

Thank you for your Request for Information dated 20 September 2011 (the "Request"), which was submitted through the Internet Corporation for Assigned Names and Numbers' (ICANN) Documentary Information Disclosure Policy (DIDP). Your Request is set forth below.

Request:

Thank you for your response earlier today to DIDP request 20110919-1.

I have two clarifying questions and two follow-up questions with respect to that request. I would appreciate it if you can answer the request using the same numbering as the questions themselves below.

1. Your response outlines the criteria used to create the list of meetings sent in response to request 20110820-1 (question 1 in that request) but it does not clearly answer question 2 of that request, namely whether ICANN staff directly contacted ICANN Board members to request whether they had arranged meetings that may have arranged outside the formal process referenced in your process. Could you clarify this point please. Did ICANN staff contact any Board members directly in response to request 20110820-1?
2. If the answer to question 1 is Yes, could you please provide any and all correspondence, notes, records of conversations or any other material related to those inquiries.
3. Does ICANN consider emails sent through its email system using an 'icann.org' email address and concerning ICANN business as covered by the DIDP?
4. If the answer to question three is yes, could you please provide copies of emails sent or received through an 'icann.org' email address and sent between 28 July 2011 and 12 August 2011 that are pertaining to, covering or arranging for a meeting, teleconference or discussion between Board members to be held between 8-12 August 2011, with the exception of the IANA Committee meeting already identified in DIDP request 20110820-1.

Response:

The documentary information sought through your request is:

- Correspondence, notes, records of conversations or any other material related to ICANN staff contacting Board members in response to DIDP Request 20110820-1 if ICANN staff contacted Board members for information; and

- Copies of emails sent or received through an 'icann.org' email address and sent between 28 July 2011 and 12 August 2011 that are pertaining to, covering or arranging for a meeting, teleconference or discussion between Board members to be held between 8-12 August 2011, with the exception of the IANA Committee meeting already identified in DIDP request 20110820-1

ICANN notes that many portions of this Request, as well as Request 20110919-1 are not seeking documentary information, but instead seek ICANN to provide answers to questions. Because the DIDP is limited to requests for documentary information, the answers sought are not incorporated into this Response. Although you may propose such questions, these are not covered under the DIDP process.

ICANN has previously responded to your questions seeking documentary information regarding ICANN Board meetings within the timeframe you've defined. ICANN did not respond to your Question 2 within the 20110919-1 Request because it did not seek documentary information. You now request documentary information related to ICANN staff efforts to seek documentary information in response to Request 20110820-1. To be clear, ICANN has already identified the Board meetings that occurred within the relevant timeframe, and no further documents exist in response to this portion of your request.

For item 4 of your Request, to the extent that documents do exist that reflect conversations among ICANN Directors and planning for any combination of Directors to engage in a discussion outside of a meeting noticed in accordance with the ICANN Bylaws or relevant committee Charter, those documents are not subject to disclosure pursuant to the following Defined Condition of Non-Disclosure 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.

The ability for directors to have candid exchanges while they are considering what is in the best interest of the organization does not outweigh the public interest in disclosing the broad and undefined documentary information you're requesting.

When preparing a response to a DIDP request, ICANN undertakes a review of documentary information available. In response to at least one prior DIDP request, ICANN has provided an email as supporting documentation. The DIDP, however, does not require that every piece of paper that exists within ICANN be publicly disclosed. ICANN will continue to evaluate all DIDP requests on a case-by-case basis.

If you have questions regarding whether we have appropriately complied with our DIDP process or responded correctly, that is a question regarding a staff or board action or inaction, which might more appropriately be addressed through a different form of communication or another accountability mechanism, such as an Ombudsman inquiry.

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, which is contained within the ICANN Accountability & Transparency: Framework and Principles please see <http://www.icann.org/transparency/acct-trans-frameworks-principles-10jan08.pdf>. 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.