

Response to Documentary Information Disclosure Policy Request

To: Padmini Baruah on behalf of the Centre for Internet & Society

Date: 30 December 2015

Re: Request No. 20151130-3

Thank you for your Request for Information dated 30 November 2015 (the “Request”), which was submitted through the Internet Corporation for Assigned Names and Numbers’ (ICANN’s) Documentary Information Disclosure Policy (DIDP) on behalf of The Centre for Internet & Society (CIS). For reference, a copy of your Request is attached to the email forwarding this Response.

Items Requested

Your Request seeks the disclosure documents relating to the relationship between ICANN and the Regional Internet Registries (“RIRs”). In particular, you Request seeks the following documents:

1. Documents that reflect the creation of a relationship between ICANN and the RIRs (by way of MoUs, contracts, etc.)
2. Documents that show the payment of such a fee to ICANN by the RIRs, and the receipt of such a sum as well.

Response

ICANN's DIDP is “intended to ensure that information contained in documents concerning ICANN’s operational activities, and within ICANN's possession, custody, or control, are made available to the public unless there is a compelling reason for confidentiality.” (See <https://www.icann.org/resources/pages/didp-2012-02-25-en>). As part of its commitment to transparency, ICANN makes available a comprehensive set of materials on its website as a matter of course.

ICANN’s current and historical financial information are among the categories of documents that ICANN publishes on its website. In particular, the financial materials can be accessed through ICANN’s Financials page at <https://www.icann.org/resources/pages/financials-2012-02-25-en> and contain, among others, the following financial information: Strategic Plan, Adopted Operating Plan and Budget, Adopted SO/AC Special Budget Request, Audited Financial Statements, Annual Reports, Federal and State Tax Filings, Staff Remuneration Practices Framework, Board Compensation Report, ccTLD Contributions Report, and Financial Analysis. (See <https://www.icann.org/resources/pages/financials-2012-02-25-en>.)

Your Request seeks the disclosure of documents relating to the relationship between ICANN and the RIRs, including documents that reflect the “creation of the relationship

between ICANN and the RIRs” and “documents that show the payment of such a fee to ICANN by the RIRs, and the receipt of such a sum.” As a preliminary manner, we note that CIS has previously submitted a DIDP request seeking documentary information regarding the relationship between ICANN and the RIRs and the “current and historical data regarding details of contract fees paid by the 5 Regional Internet Registries, namely AfriNIC, ARIN, APNIC, LACNIC and RIPE NCC, to ICANN for each fiscal year [...] from 1999 till 2014.” (DIDP Request 20150206-1, *available at* <https://www.icann.org/en/system/files/files/cis-request-06feb15-en.pdf>.) The documents responsive to the current DIDP were provided in our response to that DIDP request. (See DIDP Response to Request 20150206-1, *available at* <https://www.icann.org/en/system/files/files/cis-response-08mar15-en.pdf>.)

The RIRs are responsible for managing the distribution of Internet number resources (including IP addresses and Autonomous System Numbers) as well as facilitating development of policies for their geographical area of responsibility. (See Letter from Ray Plzak, Chair of Number Resource Organization (“NRO”), to Paul Twomey, dated 17 December 2007, available at <https://www.icann.org/en/system/files/files/plzak-to-twomey-17dec07-en.pdf>.) The five RIRs are: AFRINIC, APNIC, ARIN, LACNIC, and RIPE NCC. Collectively, the RIRs form the NRO, which serves as their coordinating body. (See <https://www.nro.net/about-the-nro>.)

Item No. 1

The documents responsive to Item No. 1 were set forth in our Response to DIDP Request 20150206-1 in addressing the scope and nature of ICANN’s relationship with the RIRs (and the NRO), including financial commitments. These documents are:

- Address Supporting Organization Memorandum of Understanding, approved 26 August 1999, available at <http://archive.icann.org/en/aso/aso-mou-26aug99.htm> (no longer in effect).
- ICANN Address Supporting Organization MoU, 29 October 2004, available at <http://archive.icann.org/en/aso/aso-mou-29oct04.htm>.
- Letter from Ray Plzak, Chair of Number Resource Organization (“NRO”), to Paul Twomey, dated 17 December 2007, available at <https://www.icann.org/en/system/files/files/plzak-to-twomey-17dec07-en.pdf>
- Letter from Paul Twomey to Ray Plzak, dated 19 December 2007, available at <https://www.icann.org/en/system/files/files/twomey-to-plzak-19dec07-en.pdf>.
- Letter from Adiel A. Akplogan to Paul Twomey, dated 23 March 2009, at <https://www.icann.org/en/system/files/files/akplogan-to-twomey-23mar09-en.pdf>.

- Letter from Paul Twomey to Adiel A. Akplogan, dated 17 April 2009, at <https://www.icann.org/en/system/files/files/twomey-to-akplogan-17apr09-en.pdf>

To the extent that any additional documents responsive to Item No. 1 exists that have not already been published, those documents are subject to the following DIDP Defined Conditions of Nondisclosure and are not appropriate for disclosure:

- Information provided by or to a government or international organization, or any form of recitation of such information, in the expectation that the information will be kept confidential and/or would or likely would materially prejudice ICANN's relationship with that party.
- 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.
- Drafts of all correspondence, reports, documents, agreements, contracts, emails, or any other forms of communication.
- Information requests: (i) which are not reasonable; and (ii) which are excessive or overly burdensome.

Item No. 2

The documents responsive to Item No. 2 have also been provided in our Response to DIDP Request 20150206-1. As noted therein, the RIRs (through the NRO) voluntarily contribute to ICANN's budget on an annual basis. (See <https://www.icann.org/en/system/files/files/plzak-to-twomey-17dec07-en.pdf> and <https://www.icann.org/en/system/files/files/akplogan-to-twomey-23mar09-en.pdf>.) The first contribution was made in FY00. With the exception of FY03 through FY05 (as noted below), since FY00 to the present, the annual contributions have been provided to ICANN as one aggregate amount, without any breakdown of the specific amounts contributed by each RIR. As the contribution comes to ICANN through the NRO, except as noted below for FY03 through FY05, ICANN does not have or seek any information from the NRO or the individual RIRs as to how individual RIRs may have contributed

towards the ICANN contribution. Because the RIRs do not contribute to ICANN on an individual basis, with the exception of FY03 through FY05, ICANN does not have the breakdown that is sought through the Request. For FY03 through FY05, the aggregate contributions can be broken down by individual RIR as follows:

- FY03: APNIC (US\$129,400), ARIN (US\$159,345), and RIPE (US\$206,255)
- FY04: APNIC (US\$160,500), ARIN (US\$144,450), LACNIC (US\$5,350) and RIPE (US\$224,700)
- FY05: APNIC (US\$220,976), ARIN (US\$218,507), LACNIC (US\$25,431) and RIPE (US\$358,086)

The amount of contributions made by the RIRs are listed in ICANN's Audited Financial Statements under the "R.I.R" line item for each year, which are available at:

- FY14 (available at <https://www.icann.org/en/system/files/files/financial-report-fye-30jun14-en.pdf>)
- FY13 (available at <https://www.icann.org/en/system/files/files/financial-report-fye-30jun13-en.pdf>)
- FY12 (available at <https://www.icann.org/en/system/files/files/financial-report-fye-30jun12-en.pdf>)
- FY11 (available at <https://www.icann.org/en/system/files/files/financial-report-fye-30jun11-en.pdf>)
- FY10 (available at <https://www.icann.org/en/system/files/files/financial-report-fye-30jun10-en.pdf>)
- FY09 (available at <https://www.icann.org/en/system/files/files/financial-report-fye-30jun09-en.pdf>)
- FY08 (available at <https://www.icann.org/en/system/files/files/financial-report-fye-30jun08-en.pdf>)
- FY07 (available at <https://www.icann.org/en/system/files/files/financial-report-fye-30jun07-en.pdf>)
- FY06 (available at <https://www.icann.org/en/system/files/files/financial-report-fye-30jun06-en.pdf>)
- FY05 (available at <https://www.icann.org/en/system/files/files/financial-report-fye-30jun05-en.pdf>)
- FY04 (available at <https://www.icann.org/en/system/files/files/financial-report-fye-30jun04-en.pdf>)
- FY03 (available at <https://www.icann.org/en/system/files/files/financial-report-fye-30jun03-en.pdf>)
- FY02 (available at https://www.icann.org/resources/unthemed-pages/financial-report-fye-2002-06-30-en?routing_type=path)
- FY01 (available at https://www.icann.org/resources/unthemed-pages/financial-report-fye-2001-06-30-en?routing_type=path)

- FY00 (available at https://www.icann.org/resources/unthemed-pages/financial-report-fye-2000-06-30-en?routing_type=path)

All of ICANN’s Financial Statements have been audited by independent auditors in accordance with accounting principles generally accepted in the United States. As noted in the auditor’s Report on the Financial Statements that accompany the Audited Financial Statements, the accounting principles under which the audits were performed require that the auditors plan and perform the audit “to obtain reasonable assurance about whether the financial statements are free from material misstatement.... An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements.” (See e.g. <https://www.icann.org/en/system/files/files/financial-report-fye-30jun15-en.pdf>.) Your request seeks evidence supporting the reported amounts of contribution by the RIRs. The accuracy of these amounts have already been verified by the independent auditors. Thus, it is unclear how the disclosure of the underlying documentation, which has been audited by the auditors, provides any public benefit. Rather, the burden of compiling the requested documentary information from 2000 to the present would require ICANN to expend a tremendous amount of time and resources, when ICANN has already done so the audits of each respective year. As such, such information are subject to the following DIDP Defined Conditions for Nondisclosure:

- Information requests: (i) which are not reasonable; (ii) which are excessive or overly burdensome; (iii) complying with which is not feasible; or (iv) are made with an abusive or vexatious purpose or by a vexatious or querulous individual.

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, which is contained within the ICANN Accountability & Transparency: Framework and Principles 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.