

COMMENT ON DRAFT PTI FY18 OPERATING PLAN AND BUDGET

We welcome this opportunity to comment on the FY18 Operating Plan and Budget of the Public Technical Identifiers (PTI). A California public benefit corporation (entity number C3933089), the PTI is a corporate affiliate of ICANN (California entity number C2121683) whose stated function, to provide IANA services on behalf of ICANN, in certain circumstances is to be capable of separation from ICANN (see generally, articles 18 and 19 of the ICANN Bylaws). As we review the PTI Operating Plan and Budget we question whether the PTI's dependence upon ICANN is so extreme that it may better be viewed as a *division of* ICANN rather than as an *affiliate*--that is to say, a separate corporation controlled by ICANN, as it is supposed to be. We would encourage more separation between the two entities to bolster public confidence in the integrity of the transition and to improve overall accountability.

Independence from ICANN and accountability of the PTI. Concerning more specifically the budget, we note that the grand total, including support services, of the PTI operational budget shows that a majority of budgeted items are either shared costs or ICANN support service allocations attributed to the PTI: \$5,000,000 of the PTI's \$9,600,000 operational budget consist of costs shared with ICANN or are support services provided to the PTI by ICANN. **The \$2,800,000 in support services provided to PTI by ICANN is particularly troublesome.** We would prefer PTI to develop into an entity capable of providing most of its operational capabilities independently or, at the very least, openly shared with ICANN. The PTI should not be dependent upon staff employed exclusively by ICANN to function.

As an example, we have become aware of the status of the **Ombudsman** with PTI. The Ombudsman provides his services on a contractual basis to ICANN; he is not an ICANN employee. Our understanding is that he will be providing his services to PTI as well, when or if needed, *through* his contract with ICANN. This is wrong. The Ombudsman should be independently and directly contracted by PTI for any services he shall undertake for the company, in order to safeguard its independent role. The same holds true for any other independent contractor, particularly those providing professional services.

Caretaker Budget. We also express our concern over the establishment of the initial Caretaker Budget by the ICANN Chief Financial Officer for FY18 without prior consultation with the community regarding vision and priorities. While we understand that this budget might largely retrace the proposed budget for the operation of the IANA Services and not much flexibility may be possible here, we would like to observe that the Caretaker Budget comes into use only if the community rejects the proposed budget itself. It makes little sense for the Caretaker IANA Budget to be identical to the budget which has been rejected by the community.

We recognize that this initial Caretaker Budget proposal may be a result of FY18 being the first full budgetary cycle for the PTI. As such, as a matter of good faith and form, we suggest that the Caretaker Budget proposed for FY18 be submitted to both the GNSO Council and CCNSO Council for feedback and approval. These two groups have enhanced status with regards the PTI (see, for example, section 19.1.b.2 of the ICANN Bylaws), and if the PTI budget were to be

rejected by the Empowered Community the legitimacy of the initial Caretaker Budget would be enhanced by prior approval of the GNSO and CCNSO.

As to the specifics of the proposed Operating Plan and Budget:

1. We note that **travel and meeting expenses** are slated to rise 42.3% from FY17 to FY18 due to money budgeted for three Board meetings per annum as well as “incremental” community engagement. Given the rather limited remit of the PTI, can we be assured this budgeted amount is not expected to escalate so rapidly in coming years?
2. Following from the above, we notice that no specific outreach efforts are mentioned in the document and no further indication of their overall purpose, target and content is provided. We wonder what **outreach** activities are the PTI planning, and what professional figure within PTI will be in charge of planning said activities.
3. The same goes for the **community engagement** activities. We wonder whether PTI will have the ability to create its own community engagement strategy, or whether this will be derived from ICANN's.
4. Merit awards for existing employees are responsible for an increase of \$200,000 in **personnel** costs in FY18 from the FY17 baseline. With a staff FTE of just 22.6 this seems to be rather generous. Would you please be more specific about the merit rewards program (i.e. basis of rewards, spread amongst x number of employees etc.)?
5. An additional \$70,000 is budgeted for **outside legal expenses** in FY18. We find that surprising given that FY17 costs incurred for setting up the PTI as a legal entity were presumably one time expenses. Would you please help us understand the basis for this increased budgeted cost, the total amount budgeted for external legal expenses in FY18, the reasons it is anticipated these costs will be incurred? We would also like to know whether PTI automatically contracts with ICANN's external counsel, or whether it retains the ability to select its own external provider of legal services?

Respectfully,

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