# 2013-05-18-NoticeBDMtg.docx

**Directors and Liaisons,**

**Attached below please find the Notice of date and time for a Regular Meeting of the ICANN Board of Directors:**

**18 May 2013 – Regular Meeting of the ICANN Board of Directors - at 12:00 UTC (2:00pm – 3:00pm in Amsterdam) – This Board meeting is estimated to last 1 hour.**

**http://www.timeanddate.com/worldclock/fixedtime.html?msg=Board+Meeting&iso=20130518T14&p1=16&ah=1**

**Some other time zones:**
**18 May 2013 - 5:00 AM PM PDT Los Angeles**
**18 May 2013 – 2:00 PM CEST Brussels**
**18 May 2013 – 8:00 AM EDT Washington, D.C.**

**Consent Agenda**

1. **Approval of Minutes of 11 April 2013 Regular Meeting of the ICANN Board**
2. **Delegation of BGC Authority (pending BGC recommendation)**
3. **Site of October 2014 ICANN Meeting in North America (pending PSEC/possible BFC recommendation)**
4. **Redelegation Request for .ID, representing Indonesia**

**Main Agenda**

1. **ACDR Proposal to be a UDRP Provider**
2. **SSAC Advisory on Internal Name Certificates**
3. **Any Other Business**

**Executive Session**

1. **Approval of CEO's T2 at-risk compensation**

**MATERIALS - SPECIAL NOTE – MATERIALS - SPECIAL NOTE –** Changes have recently been made to the materials being provided to the Board based on input from a number of sources. Materials will be provided in three different ways. You do not need to read all materials – the ones you find most useful will depend on how much information you need about the specific topic. This will hopefully make it easier to manage the materials coming to you. The materials have been collated in 3 parts on BoardVantage.

**PART 1:** you will find the Board papers and a one-page overview sheet for each paper. The format of the paper has been tightened up to make them shorter and more concise. Where appropriate, they will contain proposed resolutions and rationales. The overview sheet is a one page summary in which four specific questions are answered – what is the issue, why is it important, who is the decision maker and the shepherd, and next steps.

**PART 2:** you will find all proposed resolutions assembled in one document and any minutes which are being presented for approval. There is a new set of minutes for your approval from the meeting on Jan 10 2013.

**PART 3** will include reference materials such as summaries of public comments, redlined versions of documents, check-lists regarding PDPs and any additional analysis required. This is being provided for board members who would like to explore additional information on many of the topics.

**MATERIALS -- All Materials are available on** Contact Information Redacted **, if you have trouble with access, please let us know and we will work with you to assure that you can use the BoardVantage Portal for this meeting.**

**If you have any questions, or we can be of assistance to you, please let us know.**

**If call information is required, it will be distributed separately**

**If you have any questions, or we can be of assistance to you, please let us know.**

**John Jeffrey**

**General Counsel & Secretary, ICANN**

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Contact Information Redacted

# 2013-05-18-01b-Board Overview-NGPC Reconsideration-Subcommittee of BGC.docx

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| **What is the Issue?**<br><br>ICANN is expecting multiple Reconsideration Requests (Article IV, Section 3 of the Bylaws) regarding actions relating to the New gTLD Program. The ICANN Board has already determined that members with unmitigated and actual, potential or perceived conflicts of interest relating to the Program are not to participate in discussions or votes on those issues. As the BGC has members that cannot participate on New gTLD Program-related issues, ICANN needs to identify a clear and efficient way to deal with the New gTLD-related Reconsideration Requests. | **Why Is It Important?**<br><br>The Reconsideration Request process is one of the touchstones of ICANN's accountability. Clear and predictable paths for handling these requests, while addressing the conflict of interest issues, is necessary. |
| **Who is the Decision-maker? Who is the Shepherd?**<br><br>The Board Governance Committee has recommended that the Board create a subcommtitee of the BGC for the purpose of handling these new gTLD-related Reconsideration Requests. Bruce Tonkin, as Chair of the BGC, is the shepherd. | **Next Steps?**<br><br>If approved by the Board, the Subcommittee will be formed and will be responsible for consideration of New gTLD Program-related Reconsideration Requests, instead of the full BGC. |

# 2013-05-18-01b-Board Paper-NGPC-Reconsideration-Subcommittee-of-the-BGC.doc

**ICANN Board Submission No. 2013-05-18-1b**

**TITLE:** **Establishment of New gTLD Program Reconsideration Subcommittee of the Board Governance Committee**

**PROPOSED ACTION:** **For Board consideration and action**

**EXECUTIVE SUMMARY:**

On 10 April 2012, the Board created the New gTLD Program Committee (NGPC), which was developed to facilitate Board action on the New gTLD Program while taking into account the potential, actual or perceived conflicts of interest among the members of the Board in relationship to the New gTLD Program. Recently it has become apparent that applicants and community members dissatisfied with decisions or actions relating to the New gTLD Program are filing requests for Reconsideration of those actions. Reconsideration requests are heard by the Board Governance Committee (BGC) in the first instance. However, the Board has determined that some members of the BGC have an actual, potential or perceived conflict of interest with respect to the New gTLD Program. The Board's determination that these individuals should not participate in any discussions or votes relating to the New gTLD Program for the current round should extend to participation and votes in the consideration of the Reconsideration Requests on new gTLD Program-related issues.

The establishment of a New gTLD Program Reconsideration Subcommittee of the BGC will facilitate the timely consideration of new gTLD-related Reconsideration Requests. As with the NGPC, the use of a Subcommittee will have the following advantages: (1) it will eliminate uncertainty for conflicted members regarding attendance at meetings where Program-related Reconsideration Requests will be discussed; (2) it will allow for actions to be taken without a meeting of the Subcommittee, as unanimous consent can only be achieved when there is no issue of recusal or abstention; and (3) it will increase the transparency of the process that the Board uses to deal with conflicts of interest, whether perceived, actual or

potential. As with the NGPC, the Subcommittee will have the ability – when appropriate – to invite those members of the Board with expertise on an issue to participate in the discussions.

**BOARD GOVERNANCE COMMITTEE RECOMMENDATION:**

The BGC recommends that the Board establish the New gTLD Program Reconsideration Subcommittee of the Board Governance Committee, to be comprised of all members of the BGC that are also members of the NGPC. It is further recommended that all of the powers of the BGC in relation to Reconsideration Requests related to the New gTLD Program be delegated to the New gTLD Program Reconsideration Subcommittee of the BGC. Recommendations arising from the Subcommittee are to be forwarded to the NGPC for consideration and further action, as appropriate.

**PROPOSED BOARD RESOLUTION:**

Resolution Not Considered

**PROPOSED RATIONALE:**

Rationale Not Considered

Rationale Not Considered

Submitted by: Amy Stathos, Deputy General Counsel
Date Noted: 6 May 2013
Email: amy.stathos@icann.org

# 2013-05-18-01c-Overview Sheet-October 2014 ICANN Meeting.docx

| What is the Issue? | Why Is It Important? |
| --- | --- |
| The location for the October 2014 ICANN Meeting in North America needs to be approved. | The contract with the Hyatt Regency Century Plaza must be signed in order to secure the location. In addition, ICANN has committed to inform the community as soon as possible about meeting locations, to assist the community in determining meeting attendance and travel plans. |
| **Who is the Decision-maker? Who is the Shepherd?**<br><br>The decision-maker is the Board.<br><br>The shepherd is Sébastien Bachollet. | **Next Steps?**<br><br>After the Board approves the resolution identifying Los Angeles as the location of the October 2014 ICANN Meeting, staff will undertake all necessary contracting and planning to execute the meeting. |

# 2013-05-18-01c-Board Paper-October 2014 Meeting.doc

**ICANN BOARD SUBMISSION No. 2013-05-18-1c**

**TITLE:** **Location of October 2014 ICANN Meeting**

**PROPOSED ACTION:** **For Board Approval**

**EXECUTIVE SUMMARY:**
The location of the ICANN Public Meeting ("Meeting") to be held from 12-17 October 2014 needs to be confirmed. In the modified rotation for 2014, this Meeting is to be held in North America. The Annex to this paper summarizes the steps taken to locate a site for the North America 2014 Meeting.

**STAFF RECOMMENDATION:**
Staff recommends conducting the October 2014 ICANN Meeting in Los Angeles, California.

**BOARD COMMITTEE RECOMMENDATIONS:**
The Board Finance Committee is expected to review and recommend the budget for North America 2014 as reflected in the Annex to this Paper on 16 May 2013.

The Board Public Stakeholder Engagement Committee is coordinating the review of the staff proposal and supports the proposition of the following resolution.

**PROPOSED RESOLUTION:**
Whereas, ICANN intends to hold its third Meeting for 2014 in the North America region as per its policy,

Whereas, staff has completed a thorough review of all available meeting venues in North America and finds the one in Los Angeles, California to be the most suitable.

Whereas, the Board Finance Committee is expected to approve the budget for the ICANN 2014 North America Meeting as proposed on 16 May 2103.

Resolved (2013.05.xx.xx), the Board accepts the staff recommendation, and approves that the ICANN 2014 North America Meeting shall be held in Los Angeles, California from 12-17 October 2014, with a budget not to exceed US$568K, and that the Los Angeles Meeting be designated as the 2014 Annual Meeting.

**PROPOSED RATIONALE**

As part of ICANN's public meeting schedule, three times a year ICANN hosts a meeting in a different geographic region (as defined in the ICANN Bylaws) of the world. Meeting Number 51, scheduled for 12-17 October 2014, is to occur in the North America geographic region. The Staff performed a search to identify all available and suitable locations, and conducted a thorough analysis of those venues to ensure that they met the Meeting Selection Criteria. Based on that analysis, the Staff has recommended that ICANN 51 be held in Los Angeles, California.

The Board reviewed Staff's recommendation for hosting the meeting in Los Angeles, California and the determination that the proposal met the significant factors of the Meeting Selection Criteria used to guide site selection work. The process for selection

of this site does not call for public consultation, as the staff assessment of the feasibility of any site is the primary consideration.

There will be a financial impact on ICANN in hosting the meeting and providing travel support as necessary, as well as on the community in incurring costs to travel to the meeting. But such impact would be faced regardless of the location of the meeting. There is no impact on the security or the stability of the DNS due to the hosting of the meeting.

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| Submitted by: | Nick Tomasso |
| Position: | Senior Director, Meetings |
| Date Noted: | 8 May 2013 |
| Email and Phone Number | nick.tomasso@icann.org |

# 2013-05-18-02a-Board Overview-ACDR-Proposal-UDRP-Provider.docx

| What is the Issue? | Why Is It Important? |
|---|---|
| ICANN has received an application from the Arab Center for Dispute Resolution (ACDR) to serve as a UDPR Provider. ICANN currently has four UDRP providers. The ACDR's proposal has been posted twice for public comment;, each time the proposal was modified to address the issues raised in public comment. | The ACDR's application to serve as a UDRP provider met all of the elements set out in the Information Concerning Approval Process for Dispute Resolution Service Providers posted at http://www.icann.org/en/help/dndr/udrp/provider-approval-process. ICANN's approval of the ACDR will introduce a UDRP provider into a region that does not yet have a provider. The ACDR also will provide further language capacity among providers. This decision is particularly timely in light of the introduction of new gTLDs and the potential for additional UDRP filings that may occur with their introduction. |
| **Who is the Decision-maker? Who is the Shepherd?**<br><br>The Board is the decision maker on this. ICANN staff worked with the ACDR on their application. Samantha Eisner, Senior Counsel, is the shepherd. | **Next Steps?**<br><br>If approved by the Board, ICANN's General Counsel's Office will work with the ACDR to discuss the steps necessary for the ACDR to launch its UDRP work.<br><br>On a tangential issue, staff is also posting a report on the work done regarding contracting with UDRP providers and assuring provider uniformity. |

# 2013-05-18-02a-Board Paper-ACDR-proposal-UDRP-Provider.doc

**ICANN BOARD SUBMISSION NO. 2013-05-18-2a**

**TITLE:** **ACDR's Proposal to Serve as a UDRP Provider**

**PROPOSED ACTION:** **For Board Action**

**EXECUTIVE SUMMARY:**

The Arab Center for Dispute Resolution (ACDR) is requesting to serve as an approved dispute resolution provider for the Uniform Domain Name Dispute Resolution Policy (UDRP). There are currently four approved UDRP providers, and the ACDR would be the fifth; ACDR would also be the first provider located in the Middle East region. The ACDR has been working diligently with ICANN staff to address some of the concerns raised in an earlier public comment period on the application, which mainly focused on issues of uniformity among the UDRP providers. At the Board's direction, the revised ACDR's proposal was posted for further public comment, which elicited similar comments relating to uniformity among UDRP providers. For the commenters that addressed the substance of the ACDR proposal, however, they noted their support for the proposal pending a modification to the ACDR's Supplemental Rules, which has been adopted by the ACDR. With that, the ACDR fulfils the qualifications set forth in the Information Concerning Approval Process for Dispute Resolution Service Providers that is used to evaluate UDRP provider proposals. Adding the ACDR as a provider is expected to increase the capacity for UDRP filings, and will also provide additional language expertise and choice for UDRP complainants.

The Board's options are:

(1) Approve the proposal; or

(2) Decline to approve the proposal. There are no apparent grounds for declination at this time.

While not directly relating to the ACDR's proposal, when the Board considered this issue in February 2013, it was noted that ICANN needed to publicly post information on the conclusion of prior work related to UDRP provider uniformity and the community calls for contracting. Attached to the Reference Materials of this Board

Submission is the draft of a document that ICANN will be posting publicly to close out this work.

**STAFF RECOMMENDATION:**

ICANN staff recommends that the Board approve the ACDR's proposal to serve as a UDRP provider.

**PROPOSED RESOLUTION:**

Whereas, the Arab Center for Dispute Resolution (ACDR) submitted a proposal to ICANN to be approved as an UDRP provider.

Whereas, the ACDR proposal was posted for public comment on 28 September 2010 and a revised version was posted on 1 March 2013, which took into account comments received; ACDR has produced a further revised proposal addressing a final issue raised in the 1 March 2013 public comment forum.

Whereas, the revised ACDR proposal meets the suggested elements as set forth in Information Concerning Approval Process for Dispute Resolution Service Providers.

Resolved (2013.05.xx.xx), the Board approves the application of ACDR to become a UDRP provider, and advises the President and CEO, through the General Counsel's Office, to enter into discussions with ACDR regarding the process for ACDR's provision of UDRP services.

**PROPOSED RATIONALE:**

The Board's approval of the ACDR application brings to a close the work of the ACDR (in cooperation with ICANN staff) in working to meet the standards and elements of the process for approval of Uniform Domain Name Dispute Resolution Policy ("UDRP") providers. This enhances ICANN's accountability through adherence to its processes. In addition, the approval of the first UDRP provider located in the Middle East enhances ICANN's accountability to the Internet community as a whole, enhancing choice for UDRP complainants.

The ACDR's proposal was posted twice for public comment. All of the comments received were provided to ACDR for consideration. Some of the comments in

opposition addressed issues such as the level of fees, which is fully within the ACDR's purview. Other commenters suggested that ICANN develop contracts with each of its UDRP providers as a means to require uniformity among providers. Contracts have never been required of UDRP providers. On the issue of uniformity among providers, however, the ACDR's proposal does two things: first, highlighted areas where risk of non-uniform conduct was perceived (such as issues with commencement dates and definitions of writings) have been modified; second, the proposal now includes an affirmative recognition that if ICANN imposes further requirements on providers, the ACDR will follow those requirements; third, the ACDR has revised a specific portion of its Supplemental Rules that was highlighted by commenters as a potential risk to uniformity. This is a positive advancement and helps address concerns of ICANN's ability to, in the future, identify areas where uniformity of action is of its obligation to abide by ICANN modifications that could enhance uniformity among providers.

ICANN's consideration of the ACDR's proposal also highlights the import of accountability to the community. After the community requested the opportunity to see the proposal again prior to approval, the Board agreed and asked staff to proceed with a further comment period. In addition, the Board also requested that staff report to the community on how ICANN's earlier consideration of UDRP provider uniformity issues was concluded. As a result, a briefing paper has been prepared and will be publicly posted.

There is a minimal resource impact on ICANN as a result of this decision in assuring that ICANN staff is available to work with the ACDR in starting and maintaining its work as a provider. There is no expected impact on the security, stability or the resiliency of the DNS as a result of this decision.

This is an Organizational Administrative Function for which public comment was received.


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| Submitted by: | Samantha Eisner |
| Position: | Senior Counsel |
| Date Noted: | 6 May 2013 |
| Email: | Samantha.eisner@icann.org |

# 2013-05-18-02b-Board Paper-SAC 057-SSAC Advisory on Internal Names Certificates.docx

**ICANN BOARD SUBMISSION NO. 2013-05-18-2b**

**TITLE:** **SAC 057: SSAC Advisory on Internal Name Certificates**

**PROPOSED ACTION:** **For Board Discussion**

**EXECUTIVE SUMMARY:**

In SAC 057, the SSAC identifies a Certificate Authority (CA) practice that, if widely exploited, could pose a significant risk to the privacy and integrity of secure Internet communications. This CA practice could impact the new gTLD program. The SSAC advised ICANN to take immediate steps to mitigate the risks.

Following the SSAC advice, ICANN took immediate mitigation actions to reduce the risk: 1) ICANN alerted the CA/Browser (CA/B) Forum Chairperson (23 Jan 2013), 2) ICANN briefed the CA/B Forum at its annual meeting (5 Feb 2013); 3) Ballot 96 on new gTLDs was brought forward and passed by the CA/B Forum (20 Feb 2013), which implies: CAs will stop issuing certificates that end in an applied-for-gTLD string within 30 days of ICANN signing the contract with the registry operator. CAs will revoke any existing certificates within 120 days of ICANN signing the contract with the registry operator.

The internal certificate issue identified in SAC 057 is a symptom that enterprises have local environments that include strong assumptions about the number of top-level domains and/or have introduced local top-level domains that may conflict with names yet to be allocated (SAC 045 and 046).

Regardless of whether these assumptions are valid or not, to be proactive in its stewardship role, ICANN should determine what security and stability implications these potential conflicts have. One such way is to study the queries seen at the root servers for non-existent TLDs. Another way is to get more statistics and details from certificate authorities on which internal certificates have been issued for TLDs. These two data points will provide a first order approximation of the likely conflicts.

Thus, it is recommended that the Board resolve to:

1) Request ICANN staff, in consultation with the SSAC, commission a study on use of non-allocated TLDs in enterprises. The study should consider the potential security impacts of applied-for new-gTLD strings in relation to this usage.

2) Request the RSSAC to assist staff in the collection of data and observations related to root server operations that are relevant for the study, and to work with root server operators to enable sharing of such data and observations as appropriate.
3) Request the ICANN staff reach out to Certificate Authority/Browser forum to collect statistics on the distribution of internal name certificates by top-level domain.
4) Request the SSAC to consider offering additional advice based on its assessment of the issues identified in the ICANN study.

**PROPOSED RESOLUTION**

Whereas, the delegation of TLDs in a way that promotes security and a good user experience is a longstanding topic of importance to ICANN's Board and the global Internet community.

Whereas, on 15 March 2013, the ICANN Security and Stability Advisory Committee (SSAC) published SAC 057: SSAC Advisory on Internal Name Certificates.

Whereas, enterprises have local environments may include strong assumptions about the number of top-level domains and/or have introduced local top-level domains that may conflict with names yet to be allocated.

Whereas, in its stewardship role, ICANN wishes to determine what these potential clashes are.

RESOLVED (2013.XX.XX.XX), the Board requests ICANN staff, in consultation with the SSAC, commission a study on the use of non-allocated TLDs in enterprises. The study should consider the potential security impacts of applied-for new-gTLD strings in relation to this usage

RESOLVED (2013.XX.XX.XX), the Board requests the RSSAC assist staff in the collection of data and observations related to root server operations that are relevant for the study, and to work with root server operators to enable sharing of such data and observations as appropriate, in the most expedient way possible.

RESOLVED (2013.XX.XX.XX), The Board requests that the ICANN staff reach out to Certificate Authority/Browser forum to collect statistics on the distribution of internal name certificates by top-level domain, in the most expedient way possible.

RESOLVED (2013.XX.XX.XX), the Board requests the SSAC to consider offering additional advice based on its assessment of the issues identified in the ICANN study, in the most expedient way possible.

**RATIONALE**

**Why the Board is addressing the issue now?**

The internal certificate issue identified by SSAC in SAC 057 is a symptom that enterprises have local environments that include strong assumptions about the static number of top-level domains and/or have introduced local top-level domains that may conflict with names yet to be allocated. Regardless of whether these assumptions are valid or not, to be proactive in its stewardship role, ICANN wishes to determine what security and stability implications these potential conflicts have, especially since applications for new gTLDs are in the process of being evaluated by ICANN for delegation into the root. This study also sets a precedent for potential future TLD rounds, where similar studies might need to be conducted as a matter of due diligence.

**What are the proposals being considered?**

The Board is considering requesting ICANN staff to commission a study on the use of non-allocated TLDs in enterprises. The study would also consider the potential security impacts of applied-for new-gTLD strings in relation to this usage. In fulfilling the study, the Board is also considering requesting RSSAC to assist root operators in providing some statistics and observations. Finally the Board is considering requesting the SSAC to consider whether it has additional advice for the Board based on its analysis of the study.

**What Stakeholders or others were consulted?**

The SSAC presented the "SAC 057: SSAC Advisory on Internal Name Certificates" to the ICANN community in Beijing. As a result, the SSAC received feedback from the community on this issue and their input informed the SSAC's request.

**What concerns or issues were raised by the community?**

Some community members have raised concerns about the use of non-delegated TLDs and its impact to enterprises when ICANN delegate these TLDs. Some have asked for an evaluation of such risks so that the ICANN community can make informed decisions. Some have said that their studies show no significant risk to the security and stability of the DNS and have exhorted ICANN to continue on the course of evaluation and eventual delegation of all successful gTLD applications, regardless of conflict due to internal name certificates.

**What significant materials did Board review?**

The SSAC Report on Internal Name Certificates[1], The SSAC Report on invalid Top Level Domain Queries at the Root Level of the Domain Name System (15 November 2010 with corrections)[2], Report of the Security and Stability Advisory Committee on Root Scaling (6 December 2010)[3]

**What factors the Board found to be significant?**

In taking its action, the Board considered the recommendations of the SSAC in SAC 045, 046 and 057.

**Are there Positive or Negative Community Impacts?**

The Board's action to direct Staff to commission a detailed study on the risks related to the use of non-allocated TLDs in enterprises will provide a positive impact on the community as it will enhance the understanding of this issue by providing additional information on security impacts of applied-for new-gTLD strings in relation to this usage. This will permit the community and the Board to understand in more detail the potential security and stability concerns if TLDs that are in conflict are delegated, and the impact on the overall functionality of the Internet.

**Are there fiscal impacts/ramifications on ICANN (Strategic Plan, Operating Plan, Budget); the community; and/or the public?**

This action is not expected to have an impact on ICANN's resources, and directing this work to be done may result in changes to the implementation plans for new gTLDs. While the study itself will not have a fiscal impact on ICANN, the community or the public, it is possible that study might uncover

[1] See http://www.icann.org/en/groups/ssac/documents/sac-057-en.pdf
[2] See http://www.icann.org/en/groups/ssac/documents/sac-045-en.pdf
[3] See http://www.icann.org/en/groups/ssac/documents/sac-046-en.pdf

risks that result in the requirement to place special safeguards for gTLDs that have conflicts. It is also possible that some new gTLDs may not be eligible for delegation.

**Are there any Security, Stability or Resiliency issues relating to the DNS?**

SAC057 has identified several security risks to the DNS. This study intends to provide a more quantitative view of the problem, and to provide information that would inform future decisions.

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| Submitted by: | Ram Mohan—SSAC liaison to ICANN Board | Date Noted: | 16 April 2013 |
| | | Email and Phone Number | ram.mohan@icann.org |