

Subject: [DIDP] DIDP Request regarding .ORG Domain Registry Agreement renegotiation and subsequent notification of sale
Date: Thursday, December 12, 2019 at 9:30:28 PM Pacific Standard Time
From: didp on behalf of Amy Sample Ward
To: didp@icann.org, Mitch Stoltz, Jacob Malthouse
Attachments: ATT00001.txt

Dear ICANN:

In a blog post dated December 9, 2019, and in a letter from ICANN General Counsel of the same date, you called for greater transparency and disclosure of the facts surrounding the proposed sale of the .ORG registry to the private equity firm Ethos Capital (the “Proposed Transaction”). We agree.

We are therefore seeking documentary material related to the Proposed Transaction that concerns the public interest and that all stakeholders are entitled to see in order to make informed judgments regarding the Proposed Transaction. We further believe that releasing such documentation would outweigh any perceived harm to the involved parties, such as Public Interest Registry (PIR) and the Internet Society (ISOC).

We emphasise that ISOC and PIR have already made public commitments to transparency and accountability vis-a-vis these matters, per ICANN’s letter at: <https://www.icann.org/en/system/files/correspondence/jeffrey-to-sullivan-nevett-09dec19-en.pdf> [icann.org].

In ICANN General Counsel’s letter dated December 9, 2019, a reference was made to a certain notification from PIR to ICANN regarding the Proposed Transaction dated November 14, 2019 (the “Request”). We hereby ask that the Request and all related documentary material be released and disclosed, including but not limited to the following:

- a) All correspondence between (i) ICANN org (including but not limited to ICANN Board members and staff) and (ii) PIR, Ethos, and/or ISOC related to the Proposed Transaction;
- b) Without limiting the generality of the foregoing, the particular correspondence referenced in the aforementioned December 9, 2019 letter, which indicated that ICANN was sending an additional letter to PIR on the same day wherein ICANN org was making “detailed requests for additional information” regarding the Proposed Transaction (“ICANN’s Questions regarding the Proposed Transaction”);
- c) All responses from ISOC, PIR, and/or Ethos, or any person acting on their behalf, in response to ICANN’s Questions regarding the Proposed Transaction, as they exist and as they are received by ICANN org;
- d) Any correspondence between (i) any person employed or acting on behalf of Ethos, PIR, and/or ISOC and (ii) any person employed by ICANN or any ICANN Board member that references or mentions, directly or indirectly, the possibility of a sale or other transaction of the .ORG registry, prior to the ICANN’s receipt of the Notice.

We also feel that the recent .ORG Registry Agreement renewal process, and the proposed transfer by the registry operator, has made prior registry transfers or assignments relevant. To help us better understand these recent processes in historical context, we request disclosure of any documents—including but not limited to draft and final written agreements, memoranda, reports, analyses, and correspondence between ICANN and/or any person acting on behalf of ICANN—that are not currently publicly available and that relate to:

a) the terms of the 2002 transfer of .ORG (see: [https://www.icann.org/news/announcement-2002-10-14-en \[icann.org\]](https://www.icann.org/news/announcement-2002-10-14-en [icann.org]));

b) the terms of the renewal/renegotiation of the 2006 .ORG registry agreement (see: [https://www.icann.org/news/announcement-3-2006-07-28-en \[icann.org\]](https://www.icann.org/news/announcement-3-2006-07-28-en [icann.org])); and/or

c) the removal of Annex W of the 2002 Registry Agreement “Additional Covenants” found here: [https://www.icann.org/resources/unthemed-pages/registry-agmt-appw-2002-10-24-en \[icann.org\]](https://www.icann.org/resources/unthemed-pages/registry-agmt-appw-2002-10-24-en [icann.org]).

Please feel free to contact us directly with questions and/or clarifications.

Submitted by:

Amy Sample Ward, CEO, NTEN
Mitch Stoltz, Senior Staff Attorney, Electronic Frontier Foundation (EFF)

Point of Contact:

Jacob Malthouse
Contact Information Redacted

Amy Sample Ward (pronouns: she/her)
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