

To: THEME Investments Pvt Ltd

Date: 5 April 2024

Re: Request No. 20240307-1

This is in response to your request for documentary information (Request), which was submitted on 7 March 2024 through the Internet Corporation for Assigned Names and Numbers' (ICANN) Documentary Information Disclosure Policy (DIDP). For reference, the Request is attached to the email forwarding this Response.

Items Requested

Your Request seeks the disclosure of “the agreement(s), MoU(s), terms, conditions, policies agreed between you and the party responsible for handling .mv domains while assigning the manager, sponsorship, government manager, policies and exchange of letter regarding the .mv ccTLD.”

Response

The DIDP is a mechanism, developed through community consultation, to ensure that information contained in documents concerning ICANN, and within ICANN org's possession, custody, or control, that are not already publicly available is made available to the public unless there is a compelling reason for confidentiality. (See <https://www.icann.org/resources/pages/didp-2023-01-24-en>.) This Response was prepared in accordance with the Process for Responding to ICANN's DIDP Requests. (See <https://www.icann.org/en/system/files/files/revised-didp-response-process-2023-21jan23-en.pdf>).

Background information

Your request seeks the disclosure of information relating to the management of the .mv country code Top-Level Domain (ccTLD). Management of ccTLDs is governed by a number of policy documents, most notably RFC 1591 (<https://www.rfc-editor.org/rfc/rfc1591>) as interpreted by the “Framework of Interpretation” (https://ccnso.icann.org/sites/default/files/filefield_46435/foi-final-07oct14-en.pdf). Additionally, the website for the Internet Assigned Numbers Authority (IANA), the functions through which ICANN performs ccTLD delegations and transfer actions, contains procedural information on the ccTLD delegation and transfer (previously referred to as redelegation) process. As stated therein, “[t]he delegation and transfer process is designed to assign or re-assign a ccTLD to a manager, taking into account a number of technical and public interest criteria. These criteria relate to the basic principles that the manager be a responsible and technically competent trustee of the domain on behalf of the national and global Internet communities.” (<https://www.iana.org/help/cctld-delegation>). Managers of ccTLDs must abide by the requirements set forth in these policies and procedures regardless of whether they have

entered into any form of agreement or statement of mutual recognition for ccTLD management with ICANN. The policies and procedures include parameters under which responsibility for managing a ccTLD may be revoked, as a last resort, for substantial misbehavior. Specifically, as stated in the Framework of Interpretation, IANA is empowered to act in “situations where substantial misbehaviour by the ccTLD manager (a) poses a risk to the security and stability of the DNS or (b) involves the manager's failure, after notice and a reasonable opportunity to cure, to perform the objective requirements (i.e., to be on the Internet, maintain IP and email connectivity, identify a technical contact and to identify an in-country administrative contact).” (https://ccnso.icann.org/sites/default/files/filefield_46435/foi-final-07oct14-en.pdf)

There is no requirement that ccTLD managers have a formal contract with ICANN governing the manager's operation of the ccTLD. ccTLD managers may voluntarily enter into agreements or statements of mutual recognition with ICANN that describe the parties' respective roles. Where ccTLD managers have elected to enter into agreements or statements of mutual recognition with ICANN, those documents set forth statements of existing practices and do not alter the way ICANN and its IANA functions perform its role with respect to ccTLD management, and do not confer any additional recognition or rights to the ccTLD manager.

The operation of ccTLDs has historically been considered to be a matter of accountability to the respective jurisdiction with which the ccTLD is associated. Decisions related to the oversight of the ccTLD is intended to be performed within the country under local law.

Your request

Your Request seeks “agreement(s), MOU(s), terms conditions, or policies between ICANN and the party responsible for handling .mv domains.”

As part of its commitment to transparency, ICANN makes available a comprehensive set of materials on its website as a matter of course, including, but not limited to, the following information related to ccTLDs: ccTLD background materials (<https://www.icann.org/resources/pages/background-2012-02-25-en>); ccTLD Agreements (<https://www.icann.org/resources/pages/cctlds/cctlds-en>); the Root Zone Database webpage (<https://www.iana.org/domains/root/db>); and model ccTLD memorandum of understanding (<https://www.icann.org/resources/pages/model-mous-2012-02-25-en>).

With respect to your request for “agreement(s), MOU(s), terms conditions” between ICANN and the party, all agreements, exchanges of letters and Accountability Frameworks entered into between ICANN and ccTLD managers are published on the ccTLD Agreements webpage at <https://www.icann.org/resources/pages/cctlds/cctlds-en>. ICANN has not entered into any such agreement for the management of the .mv ccTLD. As such, there are no documents in ICANN's possession, custody, or control responsive to this request.

With respect to your request for “policies between ICANN and the party responsible for handling .mv domains”, as discussed above, the management of ccTLDs is governed by a number of policy documents, most notably RFC 1591 (<https://www.rfc-editor.org/rfc/rfc1591>) as interpreted by the “Framework of Interpretation” (https://ccnso.icann.org/sites/default/files/filefield_46435/foi-final-07oct14-en.pdf), as well as the procedural information on the ccTLD delegation and transfer (redelegation) process published at <https://www.iana.org/help/cctld-delegation>.

To the extent that there are additional documents responsive to the Request that are internal documents in ICANN’s possession, custody, or control that are responsive to this Request, such documents are subject to the following DIDP Defined Conditions of Nondisclosure (DIDP Nondisclosures Conditions), and are not appropriate for disclosure. Due to these DIDP Nondisclosure Conditions, ICANN does not disclose details beyond the relevant ccTLD delegation report (<https://www.iana.org/reports>) such as requests for delegation or transfer or documents assessing those requests.

- 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.
- Information subject to the attorney–client, attorney work product privilege, or any other applicable privilege, or disclosure of which might prejudice any internal, governmental, or legal investigation.
- Drafts of all correspondence, reports, documents, agreements, contracts, emails, or any other forms of communication that, if disclosed, could be harmful to an ongoing deliberative or decision-making process, or are subject to another Condition for Non-Disclosure.
- Information that, if disclosed, could be harmful to the security and stability of the Internet, including the operation of the ICANN Managed Root Server or the Root Server System for which ICANN facilitates the coordination, or any changes, modifications, or additions to the root zone

Public Interest in Disclosure of Information Subject to Nondisclosure Conditions

Notwithstanding the applicable Nondisclosure Conditions identified in this Response, ICANN has considered whether the public interest in disclosure of the additional documentary information subject to these conditions at this point in time outweighs the harm that may be caused by such disclosure. ICANN has determined that there are no current circumstances for which the public interest in disclosing the information outweighs the harm that may be caused by the requested disclosure.

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, please see <https://www.icann.org/resources/pages/didp-2023-01-24-en>. 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. ICANN hopes this information is helpful. If you have any further inquiries, please forward them to didp@icann.org.