

Call for Expressions of Interest: ICANN Independent Review Process (IRP) Standing Panel Members

_____ 2015

The Internet Corporation for Assigned Names and Numbers (ICANN), is seeking nominations from third party international dispute resolution providers for candidates for the IRP standing panel (Standing Panel) that is provided for in Article IV, Section 3, Paragraph 6 of ICANN's Bylaws (see <https://www.icann.org/resources/pages/governance/bylaws-en>).

The overall purpose of the IRP panel is to ensure that ICANN does not exceed its limited technical Mission, and, in carrying out the mission, acts in a manner that respects community-agreed rights, freedoms and values. The independent review process (IRP) provides an avenue for any person that believes to have been materially and adversely affected by a Board decision, to seek an independent panel review of Board actions alleged to be inconsistent with the Articles of Incorporation or Bylaws.

Note also that ICANN's cross-community working group on accountability is seeking to expand the scope of the IRP to include commitments spelled out in the proposed *Statement of Mission, Commitments &/or Core Values*, or ICANN policies. See <insert link to CCWG report>.

IRP Standing Panel Member Position Description

The Standing Panel will consist of seven panelists who shall serve for staggered terms. Each Standing Panel member shall be appointed to serve on individual IRP panels to review and evaluate requests for Independent Review pursuant to the terms of Article IV, Section 3 of ICANN's Bylaws. The panelists shall act pursuant to the terms of the Bylaws, the Rules to be applied to the IRP, and any Supplementary Procedures that have been or are to be established.

Once selected to serve on a specific IRP panel, each panelist will be required, in coordination with the other panelists to:

- Review the Request for Independent Review with exhibits
- Review ICANN's Response with exhibits
- Develop a procedural timetable
- Decide on the need for any additional submissions or evidence
- Review any additional materials that the IRP Panel allows the Parties to submit
- If and when requested, issue a non-binding Interim Declaration granting or refusing interim measures of protection
- Determine whether to hold a hearing (hearings occur only in exceptional circumstances and are limited to arguments by the Parties)
- Decide on the allocation of costs
- Draft a non-binding Final Declaration to be submitted to the Parties and the ICANN Board, that will be limited to declaring the IRP panel's opinion as to whether ICANN's

Board violated either its Articles of Incorporation or its Bylaws in some way. No IRP panel will be required to, or will be empowered to, provide affirmative relief to the party that initiated the IRP.

- Note that the ICANN’s cross-community working group on accountability is seeking to make the decisions of the IRP panel binding. However, the panel may not direct the Board or ICANN on how to amend specific decisions, it shall only be able to confirm a decision by ICANN, or cancel a decision, totally or in parts.

Standing Member Panelists shall:

- Be impartial and independent, unaffiliated with any ICANN contracted party, known potential or actual TLD applicants and/or with any structure or body within the ICANN organization
- Have significant legal expertise, particularly international arbitration expertise and expertise, as well as expertise developed over time related to and ICANN’s policies, practices, and procedures.
- Have general knowledge of the Internet and in particular the domain name system, and of ICANN's mission and work.
- Be comfortable confronting issues where highly technical, civil society, business, diplomatic, and/or regulatory skills are needed.
- Be able to assess relevant principles of international law, international conventions, local law, and have knowledge of common law and civil law systems.
- Be able to build a thorough and detailed understanding of how ICANN's Mission is implemented, and its commitments and values applied - over time and across a variety of situations.

Time Commitment

The Standing Panel Members will be expected to make a one, two or three-year commitment starting on or about [day] [month] 2015.¹

Once selected to act as panelist on an IRP panel, the panelist should expect the IRP proceeding to last six months to one year.

Proposed Qualifications of Standing Panel Members

The Bylaws require that ICANN select panelists for the Standing Panel with a variety of expertise. In addition, the Standing Panel should have diversity in geographic and cultural representation. The following factors will be considered in assessing a candidate’s application:

Required or Highly Preferred Skills

¹ The term of the commitment may be revised pending potential revisions to the IRP recommended through an ICANN multistakeholder process and approved for implementation.

- Demonstrated ability to show impartiality in decision-making.
- Ability to objectively review and analyze submissions, and ensure that such submissions are fully and objectively considered when making decisions.
- Ability to review detailed information, perform a comprehensive analysis, and provide a reasoned opinion.
- Ability to work within predefined structure, rules and procedures, and recognize and follow established scope and limits of the role of the IRP Panel.
- Experience in disputes involving allegations of breach of Bylaws (which include a mission and core values) and/or Articles of Incorporation and allegations of conflicts of interests.
- Strong communication skills, including an ability to communicate effectively with individuals from various backgrounds and cultures.
- Demonstrated awareness of how ICANN Board decisions may impact the party filing the IRP Request, third parties, the public in general, and the Internet.
- Understanding of and experience with dispute resolution processes.
- Understanding of how international law, national laws, rules and regulations may be relevant to assess the consistency of actions or inactions by ICANN's Board of Directors with its Bylaws and Articles of Incorporation.
- Fluency in English and knowledge of one other major language.

Required or Highly Preferred Experience

- Familiarity with the Internet and ICANN's role, as well as an understanding of the New gTLD Program and ICANN's performance of the IANA functions.
- Extensive experience working with multinational organizations.
- Experience dealing with individuals with a variety of cultural backgrounds.
- Experience communicating about complex and often controversial topics, concepts, and positions, both orally and in writing.
- Experience participating in dispute resolution proceedings with set rules and deadlines, and working collaboratively with colleagues, co-panelists and/or counsel.
- Experience working with non-profit organizations.
- Experience with and knowledge of information technology.

Compensation and Selection of Panelists in IRP Proceedings

The members of the Standing Panel will be compensated based on hourly rates. At present it is unclear how many matters will be referred to any given Standing Panel member; over time this may become more predictable based upon the nature and number of requests for IRP submitted.

Consistent with ICANN's Bylaws, the membership of the Standing Panel shall be coordinated by a dispute resolution service provider subject to approval by ICANN. For each IRP proceeding, either party may request a one- or three-member IRP panel; the Chair of the Standing Panel will

make the final determination of the size of each IRP panel, taking into account the wishes of the parties and the complexity of the issues presented (Bylaws Art. IV, Section 3, Paragraph 4).

Upon receipt of an IRP request, there will be an assessment as to whether the membership of the Standing Panel has the requisite diversity of skill and experience needed for a particular IRP proceeding. One or more panelists from outside of the Standing Panel may be appointed to augment the panel members for any IRP proceeding in which there is a determination that the requisite diversity of skill and experience needed for a particular proceeding is not met.

Independence

All Standing Panel members must be independent from ICANN (*i.e.*, unaffiliated with any ICANN contracted party, known potential or actual TLD applicants and/or with any structure or body within the ICANN organization).

Further, all Standing Panel members must adhere to ICANN's conflicts of interest policy and annually complete a Conflicts of Interest Disclosure Form.

Post appointment, a Standing Panel member would not be permitted to serve on the Board, Nominating Committee, ICANN staff, or on the Supporting Organization Councils or Advisory Committees.

Expressions of Interest

Nominations from third party international dispute resolution providers should be sent to IRP-Standing-Panel@icann.org no later than _____ 2015.

Nominations should include: (a) a detailed description of how the candidate meets the required or highly desired skills and experience outlined above; (b) the candidate's current curriculum vitae; and (c) any additional information regarding the candidates' background, skills, expertise or experience that they think is applicable.

For more information about ICANN, and its Bylaws-mandated independent review process, see Article IV, section 3 of ICANN's Bylaws at <https://www.icann.org/resources/pages/governance/bylaws-en/#IV>