

The background image is a night-time photograph of a cityscape in Abu Dhabi. On the left, several tall, modern skyscrapers with glass facades are illuminated. In the center, there is a large, ornate fountain with water spraying upwards. To the right, a large, domed building with intricate architectural details is lit up. The foreground is filled with vibrant, colorful flower beds in shades of red, pink, and white. A paved walkway leads from the bottom center towards the fountain and the domed building. The sky is a deep blue with some clouds.

ICANN
ANNUAL GENERAL

60

ABU DHABI

28 October–3 November 2017

CCWG-Accountability WS2 Plenary

Plenary #25 – ICANN60 Abu Dhabi
04:30 UTC to 11:30 UTC



ICANN60 Face-to-Face Meeting
27 October 2017

Agenda

Timing
(local & UTC)

- | | |
|-------------------|---|
| 09:00 (05:00 UTC) | 1. Introduction, update to SOIs, reminder on standards of behavior |
| | 2. Review of agenda |
| | 3. Administration (incl. review of timeline and status of reports) |
| | 4. Legal committee update |
| 10:00 (06:00 UTC) | 5. Update on IRP-IOT |
| | Coffee break |
| 11:00 (07:00 UTC) | 6. Second reading of the final recommendations of the Transparency sub-group |
| 11:30 (07:30 UTC) | 7. 7.1. Jurisdiction - Presentation and discussion of minority opinions (session 1) |
| | Lunch break |
| 13:30 (09:30 UTC) | 7.1. Jurisdiction - Presentation and discussion of minority opinions (session 2) |
| 14:30 (10:30 UTC) | 7.2 Second reading of the draft recommendation of the Jurisdiction sub-group |
| 15:00 (11:00 UTC) | 8. AOB |
| | 9. Wrap-up and Co-Chair statement on the meeting |
| 15:30 (11:30 UTC) | 10. Adjournment |

ICANN Expected Standards of Behavior

Those who take part in ICANN's multistakeholder process, including Board, staff and all those involved in SO and AC councils, undertake to:



Act in accordance with ICANN's Bylaws. In particular, participants undertake to act within the mission of ICANN and in the spirit of the values contained in the Bylaws.



Adhere to ICANN's conflict of interest policies.



Treat all members of the ICANN community equally, irrespective of nationality, gender, racial or ethnic origin, religion or beliefs, disability, age or sexual orientation; members of the ICANN community should treat each other with civility both face-to-face and online.



Respect all members of the ICANN community equally and behave according to professional standards and demonstrate appropriate behavior. ICANN strives to create and maintain an environment in which people of many different backgrounds and cultures are treated with dignity, decency and respect. Specifically, participants in the ICANN process must not engage in any type of harassment. Generally, harassment is considered unwelcome hostile or intimidating behavior – in particular, speech or behavior that is sexually aggressive or intimidates based on attributes such as race, gender, ethnicity, religion, age, color, national origin, ancestry, disability or medical condition, sexual orientation or gender identity.



Protect the organization's assets and ensure their efficient and effective use.



Act fairly and in good faith with other participants in the ICANN process.



Conduct themselves in accordance with ICANN policies.



Support the maintenance of robust mechanisms for public input, accountability, and transparency so as to ensure that policy development and decision-making processes will reflect the public interest and be accountable to all stakeholders.



Listen to the views of all stakeholders when considering policy issues. ICANN is a unique multistakeholder environment. Those who take part in the ICANN process must acknowledge the importance of all stakeholders and seek to understand their points of view.



Work to build consensus with other stakeholders in order to find solutions to the issues that fall within the areas of ICANN's responsibility. The ICANN model is based on a bottom-up, consensus-driven approach to policy development. Those who take part in the ICANN process must take responsibility for ensuring the success of the model by trying to build consensus with other participants.



Promote ethical and responsible behavior. Ethics and integrity are essential, and ICANN expects all stakeholders to behave in a responsible and principled way.



Facilitate transparency and openness when participating in policy development and decision-making processes.



Act in a reasonable, objective and informed manner when participating in policy development and decision-making processes. This includes regularly attending all scheduled meetings and exercising independent judgment based solely on what is in the overall best interest of Internet users and the stability and security of the Internet's system of unique identifiers, irrespective of personal interests and the interests of the entity to which individuals might owe their appointment.

3. Administration

Agenda Item # 3

3. Administration

3.1 Plenary dates going forward

- ⊙ 29 November 05:00 UTC ([propose to cancel](#))
 - ICANN60 completes on 2 November – as usual no meetings scheduled the week after – Earliest meeting possible Monday 13 November.
 - US-based staff not available to support meetings 22 to 26 November for US Thanksgiving.
 - Next plenary scheduled for 29 November = 9 possible WS2 working days in November prior to the scheduled meeting.
- ⊙ 13 December 13:00 UTC (may be cancelled if no need for it)
- ⊙ 31 January 19:00 UTC
- ⊙ 14 February 05:00 ([new meeting](#) – usually useful to have 2 meetings in proximity prior to a face to face)
- ⊙ 28 February 13:00 UTC ([new time](#))
- ⊙ **9 March Face to Face ICANN 61 Puerto Rico**

3. Administration

3.2 High interest presentation on WS2

- ⦿ Monday 30 October 10:30 - 12:00 local time (06:30 – 08:00 UTC).
- ⦿ **REMINDER** we need to have 1 rapporteur per sub-group present at this session to answer questions from the community. We are still missing quite a few confirmations.

3. Administration

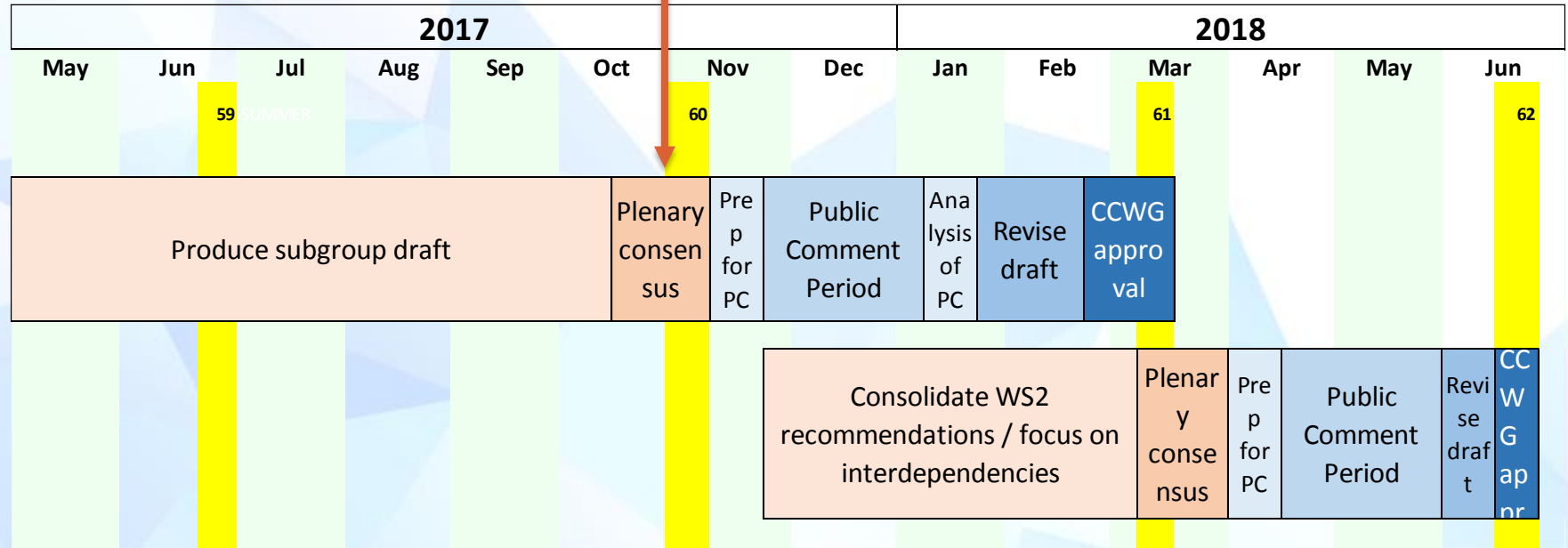
3.3 ICANN61

- ⦿ Reminder we will hold the usual pre-conference face to face on **9 March 2018**.
- ⦿ Reminder of funding rules.
- ⦿ Confirmation of travel funding dates:
 - **Close applications Sunday 19 November 23:59 UTC.**
 - Submit final list to ICANN Monday 27 November.

3.4 Review of Timeline and Status of Reports

WS2 Timeline

We are here



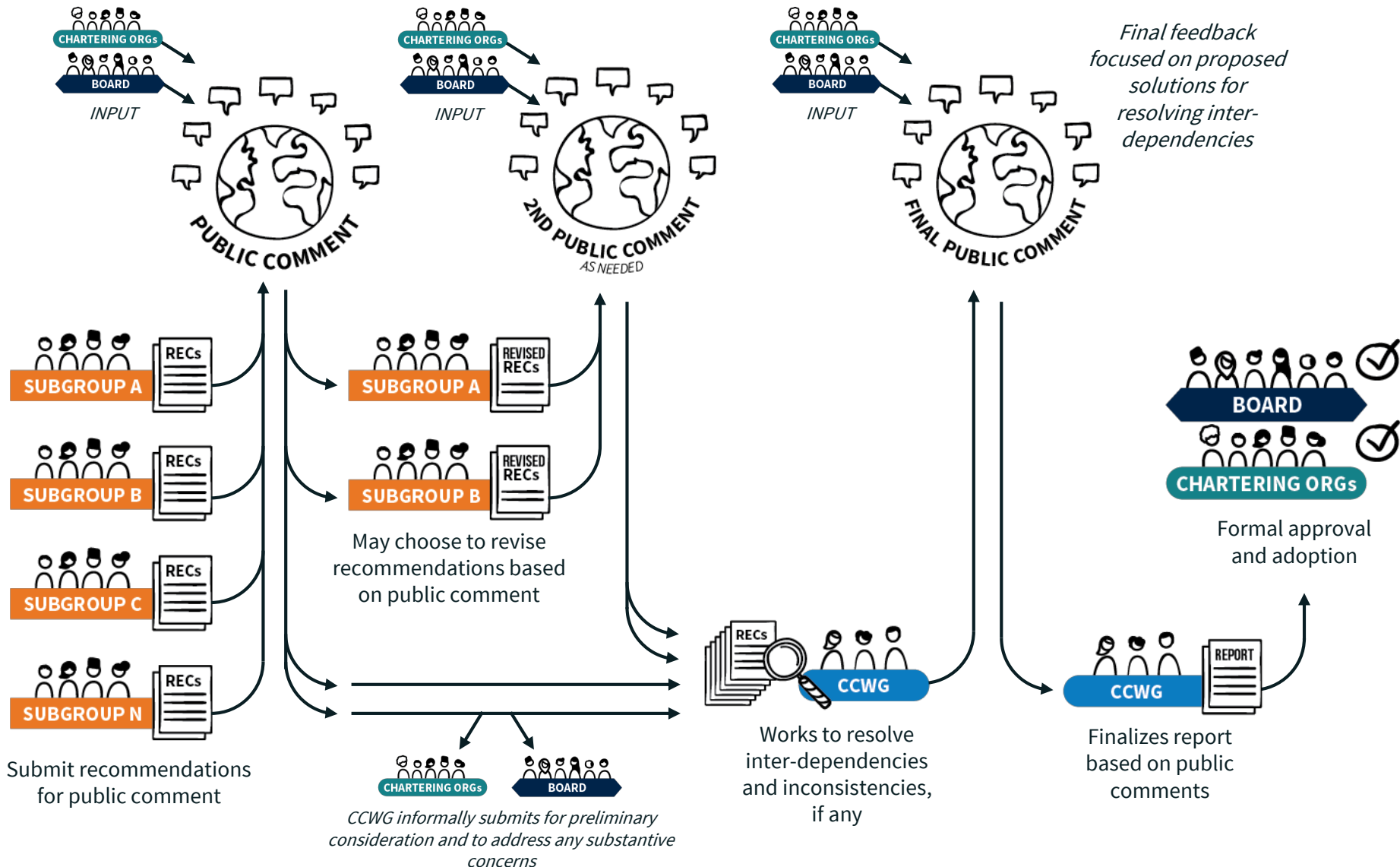
- Target is to finish the work within the FY18 timeframe
- ICANN61 (March 2018) is the drop deadline for subgroups to complete their work

Steps & milestones to finalize recommendations

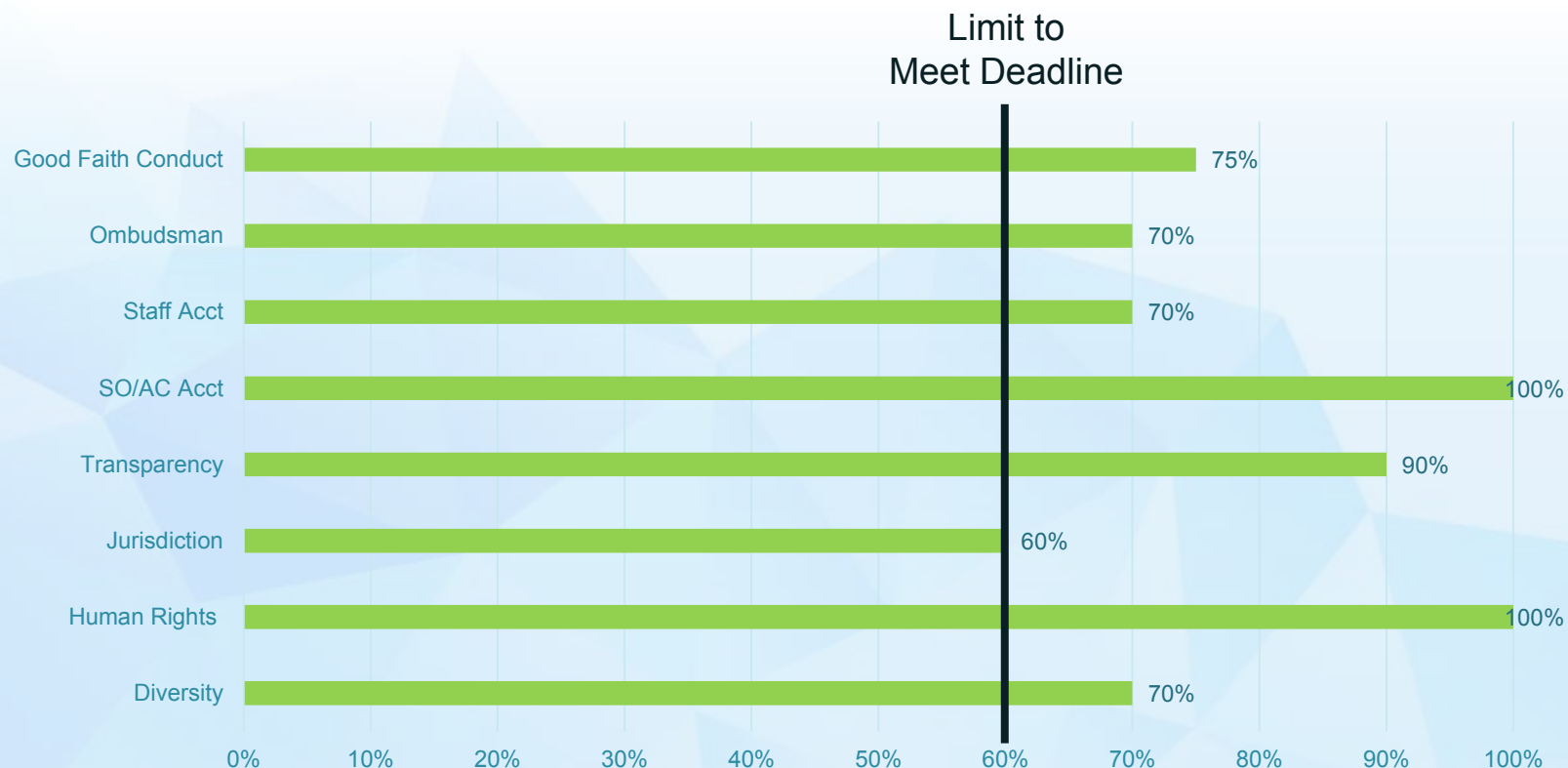
Subgroup Report		
Subgroup produces Initial draft	30%	10-Aug-17
Subgroup produces stable draft that covers all identified issues	40%	7-Sep-17
Subgroup consensus on draft to submit to plenary for consideration	50%	5-Oct-17
Plenary consensus on subgroup draft (1st reading)		12-Oct-17
Plenary consensus on subgroup draft (2nd reading)	60%	27-Oct-17
ICANN 60		28-Oct-17
		3-Nov-17
Staff produces draft for public comment	70%	17-Nov-17
Public Comment Period		17-Nov-17
		29-Dec-17
End of Year Break		23-Dec-17
		7-Jan-18
Analyze public comments	75%	22-Jan-18
Revise draft for CCWG consideration and comments	80%	16-Feb-18
CCWG review (1st reading)	90%	23-Feb-18
CCWG review (2nd reading)	95%	9-Mar-18

Final Report		
Consolidate WS2 recommendations / focus on inconsistencies & interdependencies (start)		17-Nov-17
CCWG draft final report review (1st reading)		9-Mar-18
ICANN 61		10-Mar-18
		15-Mar-18
CCWG draft final report review (2nd reading)		29-Mar-18
Staff produces draft for public comment		12-Apr-18
Public Comment Period		12-Apr-18
		24-May-18
Analyze public comments		31-May-18
Revise draft for CCWG consideration and comments		10-Jun-18
CCWG final report review (1st reading)		17-Jun-18
CCWG final report review (2nd reading)	100%	24-Jun-18
ICANN 62		25-Jun-18
		28-Jun-18

Approval Process



WS2 Progress as of 27 October 2017



Progress	30%	40%	50%	55%	60%	70%		75%	80%	90%	95%
Milestone	Subgroup Initial Draft	Subgroup Stable Draft	Subgroup Consensus Draft	Plenary 1st Reading	Plenary 2nd Reading	Public Comment Start	Public Comment End	Subgroup has Completed PC Analysis	Subgroup Consensus Revised Draft	Plenary 1st Reading	Plenary 2nd Reading
Limit to Meet Deadline	10-Aug-17	7-Sep-17	5-Oct-17	12-Oct-17	27-Oct-17	17-Nov-17	29-Dec-17	22-Jan-18	16-Feb-18	23-Feb-18	9-Mar-18

Plenary Reviews and Public Comment Periods Schedule

	CCWG Plenary 1 st reading	CCWG Plenary 2 nd reading	Public Comments
1st drafts			
Diversity	✓ 08/30/17	✓ 09/27/17	TBA
Staff Accountability	✓ 09/27/17	✓ 10/11/17	TBA
Ombudsman	✓ 10/11/17	✓ 10/18/17	TBA
Jurisdiction	✓ 10/18/17	10/27/17	TBD
2nd drafts (revised after first public consultation)			
SO/AC Accountability	✓ 09/27/17	✓ 10/11/17	N/A (minor edits)
Human Rights	✓ 10/11/17	✓ 10/18/17	N/A (minor edits)
Transparency	✓ 10/18/17	10/27/17	TBD
Good Faith Conduct	TBD	TBD	N/A (tbc)

Links to Draft Recommendations

- [Diversity](#)
- [Guidelines for Good Faith Conduct](#)
- [Human Rights](#)
- [Jurisdiction](#)
- [Ombudsman](#)
- [SO/AC Accountability](#)
- [Staff Accountability](#)
- [Transparency](#)

3.5 WS2 FY18 Budget Update

Reporting Period: **September 2017 YTD – Three months**
(July 1, 2017 – September 30, 2017)

Amounts in USD Thousands (000s)	September 2017 YTD - Three months July 1, 2017 - September 30, 2017							% Spend To-Date	2018 Budget Remaining	2018 Total Budget	% Budget To-Date
	Staff	Travel & Meetings	Telecom & Language Support	Legal Services	US Gov't Affairs (Lobbying)	Other Professional Services	Total				
Cross Community Working Group Support											
IRP Phase 2	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	0%	\$ 88	\$ 88	25%
Accountability WS2	-	-	-	-	-	-	-	0%	563	563	25%
Total Costs - Cross Community Working Group Support	-	-	-	-	-	-	-	0%	650	650	25%
ICANN Support											
IRP Phase 2	-	-	-	-	-	-	-	0%	88	88	25%
Accountability WS2	198	-	9	-	-	58	264	11%	2,095	2,360	25%
Total Costs - ICANN Support	198	-	9	-	-	58	264	11%	2,183	2,447	25%
Total IANA Transition Project											
IRP Phase 2	-	-	-	-	-	-	-	0%	175	175	25%
Accountability WS2	198	-	9	-	-	58	264	9%	2,658	2,922	25%
Total Costs - IANA Transition Project	\$ 198	\$ -	\$ 9	\$ -	\$ -	\$ 58	\$ 264	9%	\$ 2,833	\$ 3,097	25%
Total Budget by Cost Category	\$ 937	\$ 160	\$ 450	\$ 700	\$ -	\$ 850	\$ 3,097				
% Spend To-Date vs. Budget by Cost Category	21%	0%	2%	0%	0%	7%	9%				

Notes:

Total spend for YTD September 2017 represents 9% of annual budget as compared to a year-to-date budget of 25%.

- Community Support: spend year-to-date represents legal analyses, supporting the IRP work and community travel expenses for the CCWG meeting at ICANN meetings -- with no actual activity for YTD September 2017.
- ICANN Support represented 11% of the annual spend after three months - below target due to the timing of staff support scheduled.

4. Legal Committee Update

4.1 Ombudsman sub-group

- ⦿ Question sent to ICANN Legal on Ombudsman recommendation 8 regarding the independence of the proposed Ombuds Advisory Panel (questions sent directly to ICANN legal on approval of Co-chairs).

5. Update on IRP-IOT

Agenda Item # 5

ICANN's Independent Review Process (IRP)

October 2017 Update/Overview

By

David McAuley

On behalf of IRP Implementation Oversight Team

IRP

- IRP:
 - Created as part of CCWG Accountability Work Stream One; then
 - Adopted as a separate entity by ICANN Board on Oct. 1, 2016
 - See Bylaw Section 4.3(n)(i)

IRP - Purpose

- Purpose of IRP (Section 4.3(a)) (in part):
 - Ensure: (a) against exceeding mission; (b) compliance with Articles/Bylaws;
 - Empower community/claimants to enforce compliance with Articles/Bylaws;
 - Address claims ICANN failed to enforce IANA Naming Functions contract;
 - Provide vehicle for direct IANA customers to seek resolution of PTI service complaints that are not resolved through mediation;
 - Reduce disputes by creating precedent in connection with policy development and implementation;
 - Lead to binding, enforceable, final resolutions of such disputes.

IRP - Standard of Review

- New IRP standard of review (Section 4.3(b))
 - Address claims that ICANN (Board, individual directors, officers or staff) acted/failed-to-act in manner that violated Articles/Bylaws, including:
 - Exceeded scope of mission;
 - Resulted from response to advice or input from any AC or SO that are claimed to be inconsistent with Articles or Bylaws;
 - Resulted from decisions of process-specific expert panels that are claimed to be inconsistent with Articles or Bylaws; ...

IRP - Standard of Review (con't)

- New IRP standard of review ..
 - Address claims that ICANN ... violated Articles/Bylaws, by (among other things):
 - Resulted from a response to a DIDP request that is claimed to be inconsistent with Articles or Bylaws;
 - Arose from claims involving rights of the EC as set forth in Articles or Bylaws;
 - Claims of non-enforcement of ICANN's contractual rights with respect to the IANA Naming Function Contract; and
 - Claims regarding PTI service complaints by direct customers of the IANA naming functions that are not resolved through mediation.

IRP Review - Exclusions

- Excluded from Scope of IRP:
 - EC challenges to the result(s) of a PDP, unless the SO(s) that approved the PDP supports the EC challenge;
 - Claims relating to ccTLD delegations and re-delegations;
 - Claims relating to Internet numbering resources, and
 - Claims relating to protocol parameters.

IRP – Standing Panel

- Standing Panel (Section 4.3(j))
 - At least seven members (ICANN to provide DNS training);
 - Secretariat/admin support to be provided (ICANN – SOs/ACs – IOT to coordinate selection);
 - Expression of Interest doc for panelist application (ICANN);
 - Seeking/vetting applications (ICANN – SOs/ACs);
 - Panel nominations by SOs/ACs – confirmation by Board (not to be unreasonably withheld);

IRP – Standing Panel

- Standing Panel ...
 - Panelists serve five-year term (recall only for specific reasons like fraud/corruption – IOT to develop recall process);
 - Panelists must be independent of ICANN and SOs/ACs (Section 4.3(q));
 - Individual cases to be heard by three-member panel selected from standing panel (Section 4.3(k));
 - Appeals to full standing panel possible (Section 4.3(w));
 - Resolution within six months is target (Section 4.3(s));
 - Enforcement in court envisioned if needed (Section 4.3(x)).

IRP – Rules of Procedure

- Rules of Procedure (Section 4.3(n)):
 - First draft of [updated rules](#) (these rules supplement ICDR Arbitration Rules);
 - Review of [public comments](#) underway, making progress, including discussions on these rules, among others:
 - Time within which a claim must be filed (need to add CEP consideration);
 - Retroactivity of (1) IRP-standard, and (2) IRP-rules;
 - Joinder of interested parties; and
 - Translation – interpretations.

IRP IOT: Post – Rules Tasks

- Recommendations regarding training for Standing Panel;
- Review the Cooperative Engagement Process (CEP) (Bylaw sections 27.1(b)(ix) and 4.3(e));
- Standards/rules regarding IRP appeals to full panel;
- Process for recalling members of Standing Panel;
- Procedure when ICANN fails to reply to claim;
- Recommendations regarding periodic review of IRP.

6. Second reading of the final recommendations of the Transparency subgroup

Agenda Item # 6

6.1 Transparency – Final Report

First reading of the final recommendations was held on 18 October 2017.

This is the second reading of the final recommendations.

6.2 Transparency – Changes to recommendations - DIDP

2) The DIDP should include a documentation rule whereby, if significant elements of a decision-making process take place orally, or otherwise without a lasting paper-trail, the participants should be required to document the substance of the conversation, and include it alongside other documentation related to this decision-making process.

~~2) The DIDP should include a duty to document, whereby ICANN staff are required to create and maintain full and accurate records, in an accessible form, so as to be able to be used for subsequent reference, containing adequate and proper documentation of the office or authority's organization, functions, policies, decisions, decision-making processes, procedures, and essential transactions.~~

4) The DIDP should impose clear guidelines on ICANN for how to process requests, including delegating a specific employee **or employees** ~~or team~~ with the responsibility of responding to DIDP requests, including a commitment to provide reasonable assistance to requesters who need it, particularly where they are disabled or unable to identify adequately the information they are seeking.

6.3 Transparency – Changes to recommendations - DIDP

5) The DIDP should commit to complying with requesters' reasonable preferences regarding the form in which they wish to ~~access~~ receive ~~the~~ information ~~under request~~ (for example, if it is available as either a pdf or as a doc), ~~if ICANN either already has that information available in the requested format, or can convert it to the requested format relatively easily.~~

8) In cases where information subject to request is already publicly available, ICANN staff should direct requesters, with as much specificity as possible, to where the information may be found. ~~In other words, if the processing of a DIDP request reveals that the information has already been published, staff should include information about where this information may be found in their response to the requester.~~

6.4 Transparency – Changes to recommendations - DIDP

12) Where an exception is applied to protect a third party, the DIDP should include a mechanism **for ICANN staff to contact**ing this third party to assess whether they would consent to the disclosure.

15) ICANN should consider future processes to expand transparency at ICANN legal, including through clarification of how attorney-client privilege is invoked. The DIDP exception for attorney-client privilege should be narrowed so that information will only be withheld if its disclosure would be harmful to an ongoing or contemplated lawsuit or negotiation, and explicitly mandate the disclosure of broader policy-making advice received from lawyers.

6.5 Transparency – Changes to recommendations - DIDP

16)Wherever possible, ICANN's contracts should either be proactively dis-closed or available for request under the DIDP. The DIDP should allow ICANN to withhold information subject to a non-disclosure agreement, however such agreements should only be entered into where the contracting party satisfies ICANN that it has a legitimate commercial reason for requesting the NDA, or where information contained therein would be subject to other exceptions within the DIDP (such as, for example, where the contract contains information whose disclosure would be harmful to the security and stability of the Internet).

~~16)ICANN should consider adopting open contracting, whereby all con-tracts above \$5,000 are automatically disclosed, and non-disclosure clauses are limited in their application to the legitimate exceptions foundin the DIDP.~~

6.6 Transparency – Changes to recommendations -

II. Documenting and Reporting on ICANN's Interactions with Governments

In the interest of providing the community greater clarity with regard to how ICANN engages government stakeholders³⁷ and to ensure that the ICANN community and, if necessary, the Empowered Community is fully aware of ICANN's interactions with governments, the CCWG-Accountability recommends that ICANN begin disclosing public-ly the following (notwithstanding any contractual confidentiality provisions) on at least a yearly (but no more than quarterly) basis:

- All expenditures **over \$20,000** on an itemized basis by ICANN both for outside contractors and internal personnel devoted to “political activities”³⁸ both in the U.S. and abroad

7.1. Jurisdiction - Presentation and discussion of minority opinions

Agenda Item # 7.1

7.2. Second reading of the draft recommendations of the Jurisdiction sub-group.

Agenda Item # 7.2

7.2.1 Jurisdiction – OFAC Recommendation

Comment regarding recommendation:

During the preparation of this Recommendation, the Subgroup considered an email where a registrar declined to do business with a potential reseller, based on the registrar's policy of not doing business with people with Iranian passports. The Subgroup also learned that this registrar, which had been registering domains for a number of Iranian nationals, refused to continue to do business with them. The Subgroup has concluded that, to the extent these instances are related to OFAC, the concerns raised by these instances are adequately covered in the Recommendation already without any additional changes. This is not in any way a comment on the validity of these particular concerns. The Subgroup will consider creating "stress tests" based on these scenarios.

7.2.2 Jurisdiction – OFAC Recommendation

- **ICANN Terms and Conditions for Registrar Accreditation Application Relating to OFAC Licenses**

For ICANN to enter into a Registration Accreditation Agreement (RAA) with an applicant from a sanctioned country, it will need an OFAC license. Currently, “ICANN is under no obligation to seek such licenses and, in any given case, OFAC could decide not to issue a requested license.” (Application Terms, Section 4) This uncertainty could discourage residents of sanctioned countries from applying for accreditation.

The Subgroup recommends that the above sentence should be amended to require ICANN to apply for and use best efforts to secure an OFAC license if the other party is otherwise qualified to be a registrar (and is not individually subject to sanctions). During the licensing process, ICANN should be helpful and transparent with regard to the licensing process and ICANN’s efforts, including ongoing communication with the potential registrar.

7.2.3 Jurisdiction – OFAC Recommendation

- **Approval of gTLD Registries**

In the 2012 round of the New gTLD Program, it was difficult for residents from sanctioned countries to file and make their way through the application process. The AGB (Applicant Guidebook) states: “In the past, when ICANN has been requested to provide services to individuals or entities that are not SDNs (specially designated nationals) but are residents of sanctioned countries, ICANN has sought and been granted licenses as required. In any given case, however, OFAC could decide not to issue a requested license.”

The Subgroup recommends that ICANN should commit to applying for and using best efforts to secure an OFAC license for all such applicants if the applicant is otherwise qualified (and is not on the SDN list). ICANN should also be helpful and transparent with regard to the licensing process, including ongoing communication with the applicant.

7.2.4 Jurisdiction – OFAC Recommendation

- **Application of OFAC Limitations by Non-US Registrars**

It appears that some non-U.S. based registrars might be applying OFAC sanctions with registrants and potential registrants, based on a mistaken assumption that they must do simply because the registrar has a contract with ICANN. Non-U.S. registrars may also appear to apply OFAC sanctions if they “cut and paste” registrant agreements from U.S based registrars containing OFAC provisions. While ICANN cannot provide legal advice to registrars, it can bring awareness of these issues to registrars.

The Subgroup recommends that ICANN clarify to registrars that the mere existence of their RAA with ICANN does not cause them to be required to comply with OFAC sanctions. ICANN should also explore various tools to remind registrars to understand the applicable laws under which they operate and to accurately reflect those laws in their customer relationships.

7.2.5 Jurisdiction – OFAC Recommendation

- **General Licenses**

OFAC “general licenses” cover particular classes of persons and types of transactions. ICANN could pursue general licenses to cover transactions integral to ICANN’s role in managing the DNS and contracts for Internet resources, e.g., registries/registrars entering into RAs/RAAs, Privacy/Proxy Accreditation, support for ICANN funded travelers, etc. This would enable individual transactions to proceed without needing specific licenses. A general license would be developed with the U.S. Department of the Treasury, which must amend OFAC regulations to add the new license. This regulatory process may be a significant undertaking.

The Subgroup recommends that ICANN take steps to pursue one or more OFAC “general licenses.” ICANN should first prioritize a study of the costs, benefits, timeline and details of the process. ICANN should then pursue general licenses as soon as possible, unless it discovers significant obstacles. If so, ICANN should report this to the community and seek its advice on how to proceed. If unsuccessful, ICANN needs to find other ways to remove “friction” from transactions between ICANN and residents of sanctioned countries. ICANN should communicate regularly about its progress, to raise awareness in the ICANN community and with affected parties.

7.2.6 Jurisdiction – Choice of Law

- **Choice of Law and Venue Provisions in the Registry Agreement**

The Subgroup identified several alternative approaches for the RA, which could also apply to the RAA:

1. **Menu Approach.**
2. **“California” (or “fixed law”) Approach.**
3. **Carve-out Approach.**
4. **Bespoke Approach.**
5. **Status Quo Approach.**

These are discussed on the following slides.

7.2.7 Jurisdiction – Choice of Law

1. Menu Approach. The Subgroup supports a “Menu” approach, where the governing law would be chosen before the contract is executed from a “menu” of possible governing laws. The menu needs to be defined; this could best be left to ICANN and the registries. The Subgroup discussed a number of possible menus, which could include (a) one country, or a small number of countries, from each ICANN Geographic Region, plus (b) the status quo (no choice of law) and/or (c) the registry’s jurisdiction of incorporation and/or (d) the countries in which ICANN has physical locations.

The Subgroup has not determined what the menu items should be, but believes there should be a balance between the advantages and disadvantages of having different governing laws apply to the same base RA, which likely suggests having a relatively limited number of choices on the menu. The Subgroup has also not determined how options will be chosen from the menu, e.g., the registry could simply choose from the menu, or it could be negotiated with ICANN.

7.2.8 Jurisdiction – Choice of Law

2. **“California” (or “fixed law”) Approach.** A second possible option is for all RAs to include a choice of law clause naming California and U.S. law as the governing law.
3. **Carve-out Approach.** A third possible option would be a “Carve-Out” approach, whereby parts of the contract that would benefit from uniform treatment are governed by a uniform predetermined law (e.g., California) and other parts are governed by the law of the registry’s jurisdiction or by a law chosen using the “Menu” approach.
4. **Bespoke Approach.** In the “Bespoke” approach, the governing law of the entire agreement is the governing law of the Registry Operator.
5. **Status Quo Approach.** A fifth possible approach is to retain the status quo, i.e., have no “governing law” clause in the RAA.

7.2.9 Jurisdiction – Choice of Law

- **Choice of law provision in registrar accreditation agreements**

The options for the RAA are essentially the same as for the RA.

- **Choice of venue provisions in registry agreements**

Under the RA, disputes are resolved by “binding arbitration,” pursuant to ICC rules. The RA contains a choice of venue provision stating that the venue is Los Angeles, California as both the physical place and the seat of the arbitration.

When entering into contracts with registries, ICANN could offer a list of possible venues for arbitration rather than imposing Los Angeles, California venue. The registry that enters into a registry agreement with ICANN could then choose which venue it prefers at or before the time of execution of the contract.

8. AOB

Agenda Item # 8

9. Wrap-up and Co-Chair statement on the meeting

Agenda Item # 9

10. Adjournment

Agenda Item # 10



Thank You and Questions

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