

18 February 2019

GNSO Council comments on the updated Operating Standards for Specific Reviews

The GNSO Council welcomes the opportunity to comment on the updated Operating Standards for Specific Reviews. We would like to take this opportunity to thank the drafters for having taken all public comments into consideration during the previous public comment round. The comment below has taken into account the GNSO Council's [previous comment on Operating Standards for Specific Reviews](#) (October 2017) and further collective considerations as per the changes provided in the updated draft.

2.3 - Call for volunteers

The GNSO Council reiterates as stated in its previous [comment](#) on Operating Standards for Specific Reviews (October 2017) that *"ICANN org must consult SO/AC Leaders if they believe the pool of candidates is insufficiently diverse or skilled . Any decision to extend the call for volunteers should have support from a majority of SO/AC Leaders. The requirement that an interested candidate indicate which SO/AC they are seeking nomination from has created some challenges for the selection process adopted by the GNSO Council because not all candidates are well-known within the GNSO and this can be detrimental to their application. Where a candidate does not have a natural SO/AC from which to seek nomination, it should be acceptable for that candidate to be considered by all SO/AC in their respective selection processes"*.

Previous calls for volunteers for review teams indicate the need to extend the call and provide the room for outreaching beyond representation from SO/AC. The GNSO Council emphasizes the need for SO/AC support through their Chairs for any extension of the call for volunteers.

2.4 - Eligibility Criteria for Review Candidates

Once again, while we believe that sections **2.4.1, 2.4.2, 2.4.3, and 2.4.4** provide good outlines of the possible skills and attributes that may be considered relevant to each of the four specific reviews, we believe it is important to keep the criteria up to date depending on current or future PDPs. For example, it is possible to add to 2.4.4 a bullet point regarding the familiarity with the outcomes that would result from the Temporary Specification for gTLD Registration Data Expedited Policy Development Process (EPDP) which may impact previous policies.

As indicated in the previous comment, we also believe there should be an added criteria regarding leadership skills and experience of multistakeholder groups in order to be considered by the SO/AC leaders for the final slate.

2.5 Review Team Selection Process

The GNSO Council notices an inconsistency in the document regarding the number of nominated candidates by SO/ACs which should be up to seven as stated in the bylaws. We reiterate our comment that SO/AC leaders should be required to select a minimum number of 15 members, including the Board Liaison, for each RT in order to ensure the balance of skills and diversity, and having enough members to handle the expected workload.

For transparency, the post-factum summary report might also include any Board concerns that were communicated to SO/AC Chairs if they were not made public prior to the selection.

We support in general the timeline and outlined process. While there should be some flexibility for SO/AC Chairs to organize their deliberations such as the number of meetings, we also recommend that the decision by SO/AC Chair regarding the final slate should be done within 4 weeks.

3.1.8 Meeting Attendance

The requirement to attend all meetings is unreasonable, we reiterate that a 90% attendance rate could be considered acceptable and realistic.

3.1.9 Roles and Responsibilities

The GNSO Council worked on its own process to improve PDP and developed several [recommendations](#). We would like to suggest that Operating Standards may use recommendations such as the [Terms of Participation](#) for members or going into further details to document expectations for review team leadership that outlines role & responsibilities as well as minimum skills / expertise required.

We believe that the 3.1.9.5 regarding Board role and responsibilities should include details on Board liaison role and expectations within the RT.

3.11 Determining Review Team Leadership

We support the proposed process while we emphasize that the leadership of the Review Team should have previous experience leading or chairing similar efforts, either within ICANN or outside. The candidates for RT leadership should also indicate their commitment for the workload necessary for that role. In case of a possibility for co-chairs, we believe that there shouldn't be more than 2 co-chairs in order to ensure responsiveness from leadership.

3.2 Terms of Reference, Scope, and Work Plan

The GNSO Council welcomes the new Operating Standards related to this section's development which took into account much of our previous comment on the scope setting and tasked the RT to decide. We found however that the new draft does not mention any public comment opportunity regarding the scoping other than sharing with SO/AC leadership.

Accordingly, the GNSO Council finds it necessary that a public comment period be included in the Operating Standards post scope setting, as it will rightfully allow the community to provide feedback on the Scope drafted by the Review Team (RT). This public comment should be managed by the RT itself, with the administrative support of ICANN Org, before it is shared with the Board for approval.

3.4 Removal of Review Team Members

As expressed in our previous comment, the GNSO Council does not support the removal process as described in this section. We are still concerned that the suggested process lacks an objective mechanism which is supposed to be supported by concrete evidence of disruption or inactivity. We also notice the lack of a clear process of escalation, mediation and absence of any mention of an appeal process, while that might be covered partly in section 5 for dispute resolution. Using voting as option might, depending on the result, impact the team cooperation and collegiality among team members.

We still believe that RT members should have a number of options available to them when a need to raise concerns about the behavior of a fellow RT member or the management of the RT as a whole arises. For example RT members could raise concerns with RT leadership, their appointing SO/AC, or could contact the Ombudsman or Board liaison. Any complaints must be accompanied by evidence to support the claims.

Consistent with practices that the GNSO Council adopts, we believe it would be appropriate for instance, that the initial responsibility for dealing with any concerns about disruption or inactivity rest with the RT leadership. In the event that the RT leadership becomes aware that a member is disruptive or inactive, or if they receive complaints from other review team members, the RT leadership should in the first instance have a discussion with the member in question to ascertain if there are any extenuating circumstances. The member in question should be informed at the time that if the behavior continues, to the discretion of RT leadership, this will be brought to the attention of the appointing SO/AC and ultimately call for the member to resign.

We believe that this approach is consistent with the roles and responsibilities of the RT leadership as highlighted in section 3.1.9.2: In particular the role stating the leaders to: *"Drive the review team towards the timely delivery of key milestones according to the work plan, maintaining standards of focus on the*

goals of the review team, as established in the Terms of Reference.” However, for clarity, the roles and responsibilities should also provide the RT leadership with the discretion to address behavior and performance related issues of RT members.

3.6 Reporting

The GNSO Council supports the described reporting mechanism which is consistent with the current practices in other groups. We would like to suggest that the preparation of the factsheet by ICANN Org should be done with consultation and review by the RT leadership and RT liaison.

3.7 Monitoring Review Progress

The GNSO Council supports the role of Board OEC and SO/AC in monitoring the RT progress and considered areas for tracking. While not prescribing how OEC or SO/AC should conduct their monitoring of RTs, those efforts should be standardized and consistent and using objective criteria and metrics.

3.8.1 Managing Budget Implications of Face-To-Face Meetings

The GNSO Council supports Face-To-Face meetings but RTs should be strongly encouraged to conduct them immediately preceding ICANN meetings.

4.1 Recommendations

While we support the proposed approach for RT recommendations based on SMART goal-settings and considering feasibility and implementation, we don’t believe that the number of total recommendations should be limited or considered as a factor to evaluate them.

4.5 Implementation Shepherd

While we understand the intent behind the idea of having RT team members acting as implementation shepherds, we believe having a whole team e.g. an implementation oversight team, composed of some of the RT members can be a better option instead while assuring the same role and expectations.

4.6 Board Consideration and Implementation

The GNSO Council suggests that the Board should consider the recommendations within three months of receiving the final report or they should provide a rationale if they find themselves being unable to meet the timeframe. We reiterate our comment to apply a threshold similar to rejecting GAC advice.

5. Dispute Resolution

The GNSO Council supports the proposed process and approach. We also believe that pausing a review team should be a last resort and needs a higher threshold.