Implementing Work Stream 2

Enhancing ICANN Accountability

28 October 2021

Purpose of this Document

The purpose of this document is to provide a high level and comprehensive description of each topic, and status of progress of the implementation work at the date of production of this document.

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What is Work Stream 2 Implementation?

At the conclusion of the IANA Stewardship Transition in 2016, the Cross-Community Working Group on Enhancing ICANN Accountability (CCWG-ACCT) proceeded to launch a second work stream (WS2) focused on addressing accountability topics for which a timeline for developing solutions and full implementation could extend beyond the IANA Stewardship Transition. For more information on background, please refer to Appendix A.

While this is not a periodic process improvement or review effort, this project resulted in over 100 consensus-based accountability and transparency related recommendations directed at ICANN org, the community and the Board, which, similarly to reviews, serve to ensure ICANN remains accountable to the multistakeholder community. Upon approval by the Chartering Organizations, the CCWG-ACCT Co-Chairs submitted the WS2 Final Report to the Board in November 2018. The Board approved the WS2 Final Report, inclusive of implementation guidance, in November 2019.

Implementation of the WS2 recommendations, most of which are very complex and require significant time and resources to implement effectively, is a multi-year project and entails a great deal of work. Unlike most reviews, the implementation work of WS2 recommendations belongs to both the org and the community organizations who have approved the recommendations from the WS2 cross community work group. Board, org, and community members are all contributing to getting this important project completed, as documented in appendix B.

Topic	Responsibility* *ICANN org is responsible for providing suitable support to the community in its implementation work of WS2 recommendations
Diversity	org - community
Guidelines for Good Faith	community
Framework of Interpretation - Human Rights	org - community
Jurisdiction	org
Ombuds	org
SO/AC Accountability	org - community
Staff Accountability	org
Transparency	org

A group of CCWG-Accountability members volunteered to participate in the Work Stream 2 Implementation Team (WS2-IT). The WS2-IT remains available as a source to provide input/advice on any WS2 recommendation and implementation matter, as solicited. More information about the WS2-IT's role can be found in Appendix B or on its dedicated wiki space (including its activities).
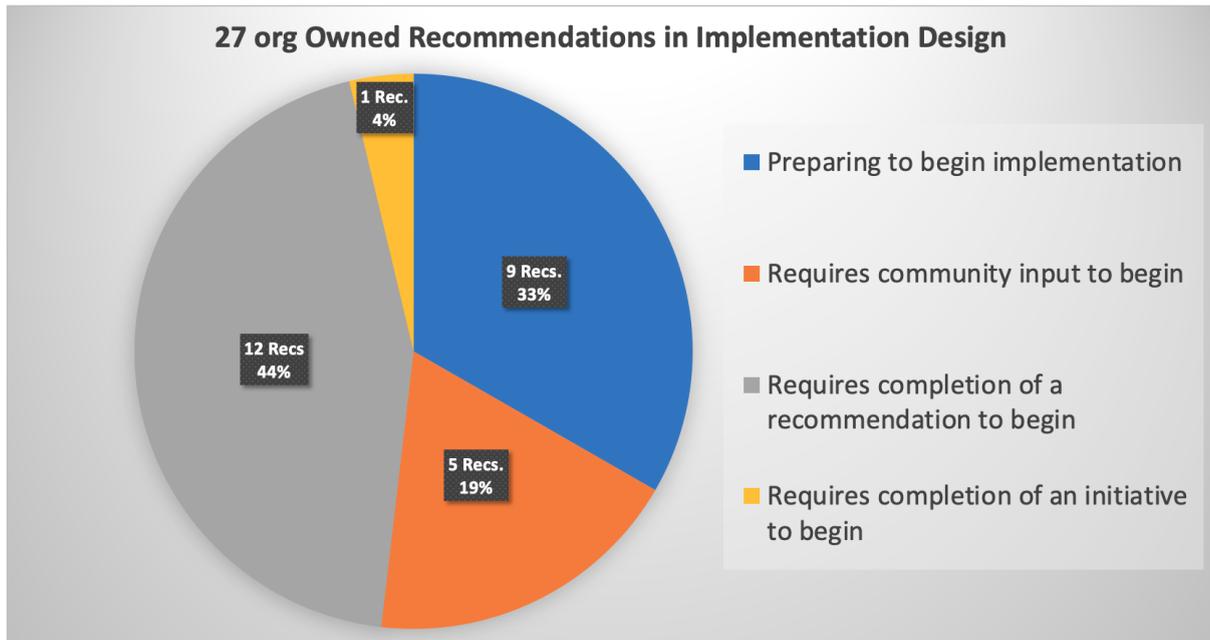
What is the Status of Implementation?

As [announced](#) in March 2021, ICANN org re-assembled in November 2020 a dedicated cross-functional project team to conclude the design of implementation paths, including but not limited to inventorying existing work, identifying risks, defining deliverables and ownership, designing the tasks necessary to implement the activities that achieve the objectives of the recommendations, as well as costing out resources needed to complete the work.

The implementation design effort from org has now concluded, and ICANN org determined implementation status to be as follows:
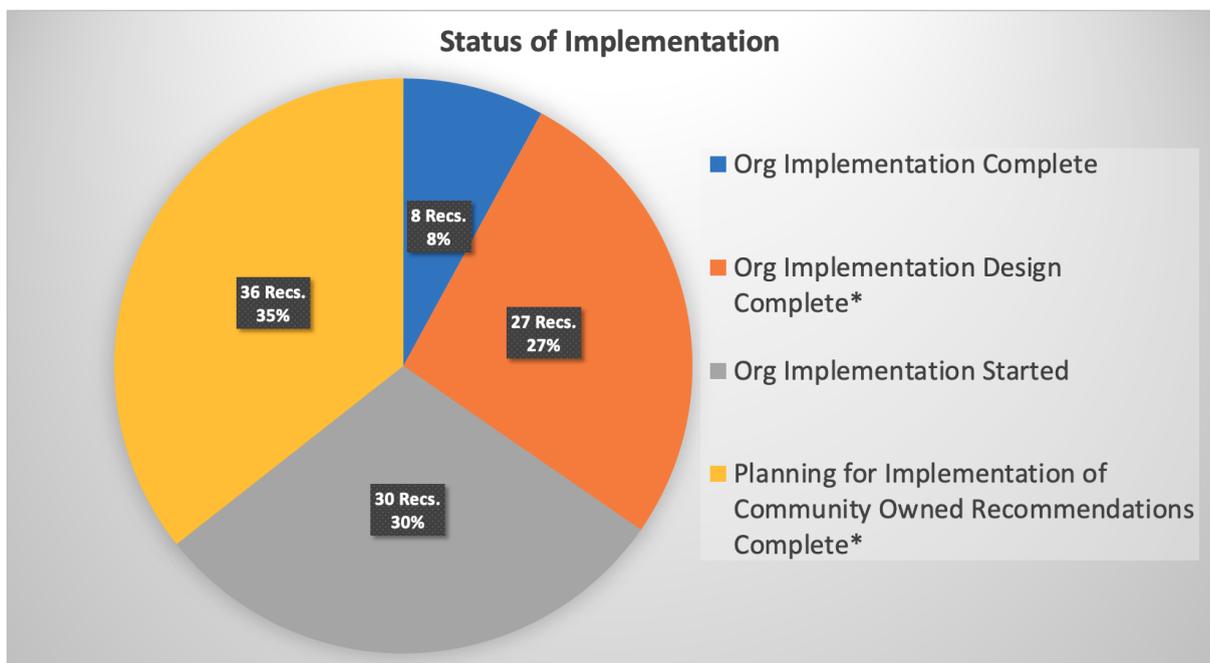
The review of the recommendations for implementation by the community organizations is on going in most organizations. Implementation work has started and is on-going in several but not all organizations.

This analysis helped shed light on what work the org may proceed with now, as opposed to tasks/recommendations that are dependent on other initiatives.

27 org Owned Recommendations in Implementation Design

- **9 Recs. 33%** — Preparing to begin implementation (blue)
- **5 Recs. 19%** — Requires community input to begin (orange)
- **12 Recs 44%** — Requires completion of a recommendation to begin (gray)
- **1 Rec. 4%** — Requires completion of an initiative to begin (yellow)

The FY22-26 Operating and Financial Plan and FY22 Operating Plan and Budget approved by the Board in May 2021 includes the implementation of Board-approved WS2 recommendations as a priority. The org will continue its efforts to address its FY22 priority. For more information on status, please refer to Appendix D.

Implementation design also included identifying how to best support community groups in their planning for implementation work, including determining recommendations that require or could benefit from cross-community coordination and/or prioritization. To support the community's discussions around plans to implement recommendations, as appropriate, ICANN org prepared an initial inventory of how existing community processes align with the recommendations. This gap analysis serves to narrow down the work that each SO/AC/Group may need to take on in order to complete implementation. ICANN org's Policy Development Support function has engaged with all community groups to begin a review of this mapping/inventory with a view toward informing each group's discussions on whether to implement a particular recommendation, whether implementation is considered complete or if further work is needed. All community groups are expected to begin the review and determine next steps (if any are deemed necessary) in FY22. ICANN org will continue to support the community's work in reviewing existing documentation and procedures, discussions regarding prioritization and timelines, as well as any additional work (such as drafting) that may be required.

Given the multiple areas of WS2 implementation that require or could benefit from cross-community coordination and prioritization (including timing of any agreed implementation); specifically, Recommendations 1.1 and 1.7 regarding Diversity, Recommendation 2.3 on Guidelines for Good Faith and Recommendation 3.1 on the adoption of the Framework of Interpretation of Human Rights, a discussion about how to proceed with this particular work was held with the SO/AC Chairs Roundtable in May 2021. The SO/AC chairs were asked to seek their communities' feedback on forming a cross-SOAC coordination group, consisting of interested volunteers from across the community, to serve as the central point for coordination and prioritization and for updating/reporting on each individual group's implementation progress (including information sharing on possible best practices). On 4 October 2021, the SO/AC chairs continued this conversation with the clarification that the envisioned "WS2 Community Coordination Group"

would function as a central coordinating point for information sharing, not as a decision making body. ICANN org was asked to provide the SO/AC chairs with a written summary outlining the scope, function and role of the WS2 Community Coordination Group.

Diversity

The desired objective of the eight diversity recommendations and components is to ensure there is comprehensive representation of the global Internet community, and an extensive range of perspectives in skills and experience, throughout all levels of ICANN. There are three areas of focus: 1) Agreement on elements of diversity; 2) Measuring and promoting diversity; 3) Ongoing support for assessing and reporting on diversity. The CCWG-Accountability noted that these recommendations apply to the ICANN Board[1], Nominating Committee (NomCom)[2], ICANN org, ICANN's Supporting Organizations and Advisory Group (SO/ACs), Stakeholder Groups (SGs/Cs), and Regional At-Large Organizations (RALOs).

The CCWG-Accountability recommendation 1.1, identified a list of seven elements for which there is a need to establish a shared understanding to facilitate uniform data gathering and reporting. Given the nature of the recommendations' scope, a broader community discussion, reflective of the multistakeholder bottom-up model, to draw on the diversity elements, and agree on a baseline data collection is needed. ICANN org is sensitive to community bandwidth issues. As such, in May 2021, the SO/AC Leadership Roundtable was encouraged to identify the most suitable timing to begin the consultation ICANN org will facilitate. Given the sensitivities around diversity discussions, it was determined that the hiring of an independent diversity expert would be highly desirable to shepherd this process and help ensure the agreed elements are appropriate. The diversity expert (whose work and selection would be overseen by ICANN org) is expected to advise on best practices, and facilitate the drafting of a shared understanding document through a consultation process. Hiring an expert will also help address community bandwidth issues.

The agreement on diversity definitions cascades down to other recommendations: its completion is a dependency, and creates a network of dependencies, to launch, and complete in some instances, implementation of recommendations 1.2, 1.3, 1,4, 1.5, 1.6. Recognizing this, ICANN org will attempt to begin work, where possible, and to the extent possible. For instance, ICANN org will begin working on the design of the practical toolkit that will contain best practices and case studies to support the community in the assessment and elaboration of diversity strategies/objectives and associated reviews in FY22. The practical toolkit will include diversity survey templates, guidance on how to collect data in an inclusive way, examples of strategies to increase diversity and inclusion, and will be finalized after completion of recommendation 1.1 so agreed diversity elements can be reflected accordingly.

As it relates to recommendation 1.7 and the creation of a process for diversity related complaints and issues, org believes this is similar to recommendation 1.1 and requires community input on the timing of a community consultation to put together a process. Work cannot begin on this until the community leadership has had a chance to consider when it would be opportune to hold this discussion. In preparing for this, ICANN org is planning to

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[1] The Board is bound by the Bylaws and the diversity measures they contain. The Board does not control its own diversity makeup as it is appointed by the community.
[2] The NomCom is bound by the Bylaws and the diversity measures they contain. The NomCom does not control its own diversity makeup as it is appointed by the community.

compile existing methods that can be used to lodge a complaint to inform the community in its determination of whether existing tools can be leveraged.

To address recommendation 1.8, a repository of diversity-related information will be posted on icann.org's website. The page will include existing diversity resources, surveys, and reports and will be updated as new relevant information becomes available. In an effort to streamline org resources and reduce the number of reports being published, ICANN org will incorporate the data noted in the Annual Diversity Reporting into the ICANN Annual Report. Although the completion of this recommendation is not tied to others and can effectively begin now, updates may be required to absorb outcomes from recommendation 1.1.

Guidelines for Good Faith

This set of recommendations concerns the establishment of guidelines to facilitate the ICANN Empowered Community[3]'s exercise of its power to remove individual ICANN Board Directors. The CCWG-Accountability sought to create a framework that would enable individuals to understand what is meant by "acting in good faith on behalf of their supporting organization or advisory committee" when participating in Board Director removal conversations. The recommendations reflect the CCWG-Accountability's decision to adopt a minimalist approach that respects each SO/AC's discretion to follow its own processes. The recommended guidelines are intended to apply whether the Director in question is appointed by a SO/AC or the NomCom. Discussions with the Decisional Participants[4] to implement recommendations 2.1 and 2.2 have kicked off.

The CCWG-Accountability also proposed two standalone recommendation components that suggest developing a standard framework for exercising the Empowered Community powers and potentially applying the recommended guidelines to Empowered Community discussions beyond the power to remove a Board Director. Unlike 2.1 and 2.2 which can be addressed through Decisions Participants on an individual basis, 2.3 requires community coordination and prioritization given the cross-community nature of this proposal. As such, and similar to Diversity recommendations 1.1 and 1.7 (see above), this was flagged to the SO/AC Chairs Roundtable. Implementing 2.3 is anticipated to be a substantial effort that will likely not commence until each relevant community group has completed its work on Recommendations 2.1 and 2.2. Support from ICANN org to convene and facilitate the discussion will also be needed.

All recommendations included in this section are directed at and owned by the community, with ICANN org supporting the community's discussions and activities.

Framework of Interpretation - Human Rights Core Value

With the 2016 Bylaws change that was prompted by implementation of Work Stream 1 (WS1), a human rights core value was added to the Bylaws with a note that, as outlined in Section 27.2 of ICANN's Bylaws, for this bylaw to come into effect, a Framework of Interpretation (FOI) must be "approved for submission to the Board by the

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[3] The Empowered Community is the mechanism through which SO/ACs can organize under California law to legally enforce community powers. The community powers and rules that govern the Empowered Community are defined in the ICANN Articles of Incorporation and Bylaws.
[4] Decisional participants include the Address Supporting Organization (ASO), Country Code Names Supporting Organization (ccNSO), the Generic Names Supporting Organization (GNSO), the At-Large Advisory Committee (ALAC), the Governmental Advisory Committee (GAC).

CCWG-Accountability as a consensus recommendation in Work Stream 2". Through Board adoption of consensus recommendations embedded in the WS2 Final Report, implementation of recommendation 3.1 is partially complete.

As noted in ICANN org's Implementation Assessment Report to the Board in November 2019, the Board cannot be the sole arbiter of human rights: there is an obligation across all spheres of ICANN to consider human rights. This means that mechanisms need to be established for verifying that policy recommendations, policy advice, and other community-developed recommendations (e.g. Specific Reviews or Cross-Community Working Groups) do not violate the core value or human rights. The ICANN community carries the responsibility to factor human rights considerations into their work and to indicate if and how these considerations have been addressed in their formal advice and recommendations to the Board. Clear processes and procedures will need to be established to demonstrate how human rights considerations were identified and addressed through the lens of the FOI.

ICANN org will provide the necessary support to community groups to establish clear tools and processes in their work to demonstrate how human rights considerations were identified and addressed through the lens of the FOI.

ICANN org is also planning to build out a Human Rights related page where it will document internal governance, as appropriate, that demonstrates how the org upholds this core value.

Jurisdiction

Recommendation 4.1 and its components relate to the impact of trade regulations, such as those from the U.S. Government's Office of Foreign Asset Control (or OFAC), that impose restrictions on who ICANN may provide with goods and services. Recommendation 4.2, and its components, relate to the Choice of Law and Choice of Venue provisions in ICANN Agreements.

Jurisdiction recommendations 4.1.1, 4.1.3 and 4.2 suggest modifications to ICANN's applications and/or Registry and Registrar agreements, which creates a dependency on the launch of appropriate cycles. Mindful of community bandwidth challenges, and in an effort to identify opportunities to streamline areas of work, ICANN org believes it would be preferable to seek registries' input on whether to handle the relevant portions of those recommendations as part of the negotiations of changes to their agreements that are expected to be part of the implementation of the subsequent procedures PDP recommendations, as appropriate.

Implementing recommendation 4.1.2 requires an applicant guidebook update which creates a dependency on approval of Subsequent Procedures. Of note, ICANN already acts in accordance with the intent of the recommendations regarding when ICANN org will seek licences and how ICANN org will keep the impacted applicants updated, so much of this effort is further documentation of those practices.

Implementation of recommendation 4.1.4 has begun through the requested study of costs, benefits, timeline and details of seeking general licenses. As articulated in the recommendation, once the study is finalized, ICANN org will release the study and proceed to conversation with the community regarding the feasibility of those efforts. ICANN org is aiming for the public comment proceeding to be released by end of calendar year 2021. If the community conversation identifies that it is not feasible to seek a general license, ICANN will identify alternative paths forward.

Office of the Ombudsman

Recommendation 5.1 calls for the Ombuds' office to "have a more strategic focus", with enhanced procedures and documentation to accompany that focus. ICANN org is conducting a review of the Ombuds Framework to consider how to bring the requested strategic focus to the office while not requiring a change to the Bylaws. ICANN org is merging these efforts with implementation of Recommendation 5.11, in documenting the process to add new responsibilities to the Ombuds' purview. ICANN org will work with the Board on proposed amendments to the Framework, and then will consult with the community on the proposed changes.

The recommendations are cascading in nature - setting the strategic focus (5.1) is a key dependency for many of the other portions of the Ombuds' recommendations, including updating procedures (5.2, 5.4, 5.5, 5.10), a re-launch (5.3), and amending new contracting terms (5.9) which will require a change to ICANN Bylaws. Work towards delivering on implementation guidance provided by the CCWG-Accountability on the Ombuds Advisory Panel (5.8) cannot proceed until the Ombuds office has been re-launched (5.3).

Two recommendations embedded in this section were addressed: diversity of the Office was enhanced through the introduction of an adjunct officer (5.7), and the formal mediation training (5.6) was completed. Further implementation will assure that these practices are documented for continued implementation.

SO/AC Accountability

The CCWG-Accountability directed these recommendations to the SO/AC/Groups for their consideration as good practices to be adopted. Recommendations 6.1, 6.2, 6.3, 6.4, and 6.5 span suggestions aimed at improving SO/AC/Groups' existing processes for accountability, transparency, participation, and outreach, including their documentation and publication; as well as regular reviews and updates of groups' policies and procedures.

While ICANN org cannot own or drive community implementation of those parts of these recommendations that are directed at the community, ICANN org is responsible for providing suitable support to the community in its implementation work of WS2 recommendations.

Two recommendation components in this section are for the org to own and act on: one (6.1.7) was merged with work undertaken to address *Transparency* related recommendation 7.1.1 (see related section) while the other (6.3.6) will require an update to the org's Language Services policy to embed a new process.

To facilitate the community's discussions around whether and how to implement recommendations 6.1 through 6.5, ICANN org prepared an inventory of each community group's existing procedures, including a determination of how existing processes align with the recommendations and a categorization of each process as either already covering the scope or intention of the relevant recommendation or as requiring further decision on implementation or adequacy of the existing process. This gap analysis serves to narrow down the work that each SO/AC/Group may need to take on in order to complete implementation. ICANN org has engaged with all community groups to begin a review of this mapping/inventory to determine whether a group wishes to implement a particular recommendation, or if it considers either that implementation has been completed or that there is no need for further work.

Discussions with community groups indicate that a significant period of time may be needed to fully complete implementation of those recommendations that groups may decide they wish to pursue, given the number and extent of urgent policy issues the community is working on.

As it is unclear at this juncture whether and how community groups wish to address recommendations embedded in this section, determining resource needs to complete this set of recommendations is challenging.

Staff Accountability

Recommendation 7.1 calls for improved visibility and understanding of ICANN org's existing accountability processes. A large portion of the information is available on ICANN org or on other platforms such as the community wiki. To address 7.1.1, ICANN org is working on developing a new central landing page and in doing so, will address recommendations *SO/AC Accountability* recommendation 6.1.7, as well as *Transparency* recommendations 8.4.1-8.4.2. This one-stop shop webpage will house all relevant documentation. Its launch is a prerequisite for rolling out implementation of recommendation 7.1.2 which calls for improved awareness of accountability processes. A communications plan will be developed to address the need for increased visibility of accountability tools.

Recommendation 7.2 suggests that ICANN org enhance existing staff accountability mechanisms to include better overall performance assessment and appropriate accountability to relevant stakeholders. To address 7.2.1, ICANN org is planning to identify and compile a list of practices, procedures and controls, and to conduct an assessment and gap analysis to identify areas for improvement, and determine whether additional actions are needed. The community will then be engaged for input on the gap analysis. ICANN org plans to consider how existing practices, procedures and controls can be more effectively communicated, how education on how to use materials can be improved, and what kind of periodic review can be included so that these practices are continuously improved. Recognizing that there is a clear need for increased transparency on the existence of these processes, ICANN org plans to develop and improve communications to highlight the tools that are already available.

Recommendation 7.2.2 suggests: 1) publishing guidelines for appropriate timeframes for acknowledging community requests and for responding; 2) incorporating feedback from the community into ICANN org performance management processes. As it relates to the first recommendation objective, ICANN org has existing processes to track and manage responsiveness to community requests. In addressing the second portion of the recommendation, there are existing practices which can be used to capture timely feedback from the community on employee performance. A direct inclusion of community feedback into the performance management processes, however, could result in timing issues and misalignments with performance cycles. ICANN plans to summarize existing processes, and to identify and assess alternative approaches that can help meet the intent of this recommendation. Once refined, a clarification will be provided to the community.

Recommendation 7.3 calls for ICANN to work with the community to develop Service Level Agreement (SLA) targets and guidelines that clearly define the services provided by ICANN to the community. This includes prioritizing classes of services, and publishing SLA related information in a single area. There is a need to establish what areas of ICANN work outside of the existing Service Level Agreements (SLAs) this recommendation relates to. For instance, ICANN org has existing SLAs for its work conducted on behalf of contracted

parties. To implement recommendation 7.3, the org will conduct an assessment to identify the areas of ICANN work this recommendation relates to, while taking into account existing contracts and existing processes / policies that are already defined. ICANN org will seek community input to inform classes of service and how they should be prioritized. Finally, ICANN org will plan to publish SLAs related information in a single area on ICANN.org.

Transparency

The CCWG-Accountability produced recommendations on transparency in four areas: 1. Improving ICANN's Documentary Information Disclosure Policy (DIDP); 2. Documenting and Reporting on ICANN's Interactions with Governments. 3. Improving Transparency of Board Deliberations; 4 Improving ICANN's Anonymous Hotline (Whistleblower Protection).

Recommendations on the DIDP focus both on updating the DIDP with specific modifications, as well as procedural enhancements, and are intended to ensure that information contained in documents concerning ICANN's operational activities, and within ICANN's control, is made available to the public unless there is a compelling reason for confidentiality. ICANN org is refining proposed updates to the DIDP and is expected to publish them for public comment in October 2021. After public comment, the Board will have to consider and approve the DIDP enhancements before the updates become effective.

The CCWG-Accountability's Implementation Guidance on making more information available on vendors with whom ICANN contracts (8.1.16) is being addressed through coordination across ICANN org's Procurement, Finance, and Contracting teams. To address this, the plan in the first year of implementation is to publish the list of suppliers that ICANN pays $500K or more within the previous fiscal year. In the second year of implementation, the threshold for the published list will be $250K. This reporting is expected to be provided annually, coordinated at the same time as the annual financial reporting of the fiscal year just completed. The first year of reporting will be for the current fiscal year (FY22), i.e. the report is intended to be published in Q1 FY23.

ICANN org has addressed the implementation guidance provided by the CCWG-Accountability on recommendation 8.2. In addition to ICANN's one-year and five-year operating plan which includes details on the Government Engagement Strategy and the purpose of its interactions with governments, ICANN also publishes a tri-annual CEO Report to the Board, describing the details of the various functions, including its government engagement activities, to keep the community aware of the specific activities supporting the strategic plan. Additionally, every two months ICANN publishes on the Government Advisory Committee (GAC) website a report on government engagement activities and bilateral conversations by region. ICANN will continue to provide these reports on a regular cadence, as agreed with the GAC. Lastly, in 2020, ICANN began publishing a series of papers analyzing government activity relevant to the Internet Ecosystem and ICANN's mission. In parallel, ICANN org will continue to provide government and intergovernmental organization (IGO) representatives with technical briefings, publish papers and analysis of new legislation, policy initiatives and regulation relevant to ICANN's mission, and offer capacity building opportunities to governmental groups and GAC members. Two additional initiatives include informing the community of public comment opportunities involving new legislation and regulation relevant to ICANN's mission, as well as a proposal to hold a regular session at ICANN meetings for ICANN org to brief the community on geopolitical trends and initiatives.

As it relates to transparency of Board deliberations, ICANN org continues to work towards addressing the implementation guidance provided by the CCWG-Accountability. In addition

to an Alignment Document that was produced to provide transparency and consistency between DIDP and the basis for ICANN's redaction of Board Briefing Materials, a Redaction Register was also developed to track all instances of redactions from Board resolutions, minutes, and Board briefing materials from August 2016 to present. The Redaction Register is regularly updated. In parallel, the Guidelines for the Posting Board Briefing Materials now include more detailed information on how ICANN will review materials to remove redactions in the future. While 8.3.1 and 8.4.2 are considered complete, work is ongoing to complete final steps of 8.3.3.

In addressing 8.3.3 and related implementation guidance - the first annual review of redactions is nearly complete, and ICANN org expects to publish the results of the review, including releasing some previously redacted materials, for FY17, 18 and 19, by end of calendar year 2021. Initiating the annual review process is a significant implementation milestone for ICANN org, and we will update the community upon the first release. On a separate note, as part of the completion of the first annual review, ICANN org has also identified process improvements for swifter completion of annual reviews in coming years.

Recommendations on the Whistleblower Protection were informed by a third-party (NAVEX Global) review of ICANN's Anonymous Hotline.
- The policy and procedure documents were updated to address and complete implementation of recommendations 8.4.3, 8.4.6 and 8.4.7. This included language modification in the policy and procedure, distribution to and acknowledgement of receipt by staff.
- Progress was made in addressing recommendation 8.4.4: a potential case management software tool for tracking, documenting and reporting of issues raised via the Hotline Process was identified for review.
- Work is ongoing to engage a third-party auditor to identify gaps, timely corrections and provide best practices in addressing recommendation 8.4.8, including best practice on frequency of such reviews.
- Efforts to address recommendation 8.4.1 and 8.4.2 which related to the publishing of the whistleblower policy are being merged into recommendation 7.1.1 related work.
- As it relates to recommendation 8.4.5 and sharing information from the "Hotline" - including usage, frequency, types of incidents, ICANN org will continue using its existing mechanism for reporting statistics on usage of the Anonymous Hotline. Sharing information from the "Hotline" - could breach confidentiality and discourage use of the Hotline. Training is currently being developed on supporting and sustaining a safe environment where all staff feel comfortable and confident in the various methods of speaking up to raise concerns.

Appendix A: Background

On 14 March 2014 the National Telecommunications and Information Administration (NTIA) announced its intent to transition its stewardship of the Internet Assigned Numbers Authority (IANA) functions and related root zone management to the global multistakeholder community. NTIA asked ICANN to convene a multistakeholder process to develop a proposal for the transition. The IANA Stewardship Transition Coordination Group (ICG) was formed in July 2014 to assemble and deliver to NTIA, and through the ICANN Board, a transition proposal consistent with the key principles outlined in the NTIA announcement.

As initial discussions of the IANA Stewardship Transition were taking place, the ICANN community raised the broader topic of the impact of the transition on how to hold ICANN accountable. From this dialogue, the Enhancing ICANN Accountability process was developed to provide assurance that ICANN remains accountable in the absence of its historical contractual relationship with the U.S. Government, which has been perceived, since 1998. as a backstop with regard to ICANN's organization-wide accountability.

The ICANN community divided the work of the Cross Community Working Group on Enhancing ICANN Accountability into two phases:
- The first work stream (WS1) concluded in 2016 and developed consensus recommendations on accountability enhancements required for the IANA Stewardship Transition.
- The community also agreed to conduct a work stream (Work Stream 2, or WS2) through which the CCWG-ACCT would remain in place and develop recommendations for accountability topics for which a timeline for developing solutions and full implementation was not required for the successful IANA Stewardship Transition.

Section 27.1 of the Bylaws defines nine topics for inclusion within WS2. However, topic number 9, the Cooperative Engagement Process (CEP), was identified as better suited for coordination with the work on updating ICANN's Independent Review Process (the IRP-IOT), as opposed to handling with WS2. By agreement with the CCWG-Accountability and the community group supporting the updates to the Independent Review Process, the CEP was removed from WS2.

In July 2018, the CCWG-ACCT WS2 submitted its Final Report containing consensus recommendations (including implementation guidance on four of those recommendations) to the Chartering Organizations. Upon approval by the Chartering Organizations, the CCWG-ACCT Co-Chairs submitted the WS2 Final Report to the Board in November 2018. Annex 9 of the WS2 Final Report contains implementation guidance that provides further clarification on recommendations the Board identified as problematic in its 14 May 2018 letter to the CCWG-Accountability.

Following submission of the WS2 Final Report, ICANN org prepared the WS2 Implementation Assessment Report outlining the recommendations and considerations of effort required from the community, ICANN org and Board in the implementation of the WS2 recommendations.

In considering the WS2 Final Report, the Board confirmed that no recommendations within the report contradict any of the principles NTIA established for the transition, and resolved to adopt all recommendations in November 2019, including the implementation guidance contained in the WS2 Final Report and considerations identified in the WS2 Implementation Assessment Report.

Appendix B: Roles & Responsibilities

We all have a part to play	
ICANN org 1. Is responsible for the implementation of the WS2 recommendations not directed elsewhere by the Board, and is accountable to the Board. 2. Is responsible for monitoring, recording and reporting to the Board the status of all implementation activities carried out by org and the community. 3. Is responsible for identifying, analyzing and reporting to the Board any matter pertaining to the implementation of WS2 recommendations that it deems relevant for the Board to know and, as relevant, to take action on. 4. Is responsible for informing the public and the community of the status of WS2 implementation work. 5. Is responsible for providing suitable support to the community in its implementation work of WS2 recommendations. ICANN org does not direct and is not responsible for the implementation work carried out by the community. 6. Is responsible for soliciting advice and input from the WS2-IT as org deems it useful and appropriate.	**ICANN Board** 1. Is accountable to the community and public on the implementation of all WS2 recommendations. 2. Monitors implementation progress leveraging the monitoring oversight work performed by the WS2 Caucus Group and the Organizational Effectiveness Committee as appropriate; 3. Receives WS2-IT and community input and feedback on WS2 related topics. 4. Considers any subsequent Board action, as appropriate.
ICANN Community 1. Is responsible for implementing the recommendations specifically designated by the Board, with exclusive authority over the manner of implementation. 2. Is responsible for reporting to the Board how it decided to process and carry out, as appropriate, the implementation of the WS2 recommendations assigned by the Board to community implementation. 3. Provides input into community planning and prioritization, as agreed with/directed by SO/AC leadership.	**WS2-IT** 1. Is responsible for providing org input and advice on any WS2 recommendation and implementation matter as reasonably solicited by org. 2. Is consulted by the community organizations in charge of implementation for input and advice, as desired. 3. Is responsible for reporting to the Board any WS2 implementation matter that it deems relevant for the Board to know and, as appropriate, to act on.

Appendix C: Implementation Status of Recommendations

8 Complete: 8.2 - 8.3.1 - 8.3.2 - 5.6 - 5.7 - 8.4.3 - 8.4.6 - 8.4.7

30 Implementation Started: 4.1.4 - 5.1 - 5.11 - 6.1.7 - 7.1.1 - 8.1.1 through 8.1.15 - 8.1.17 through 8.1.21 - 8.3.3 - 8.4.1 - 8.4.2 - 8.4.4 - 8.4.8

27 Org Owned Recommendations: 1.1 - 1.2 - 1.3 - 1.4 - 1.5 - 1.6 - 1.7 - 1.8 - 3.1 - 4.1.1 - 4.1.2 - 4.1.3 - 4.2 - 5.2 - 5.4 - 5.3 - 5.5 - 5.10 - 5.8 - 5.9 - 6.3.6 - 7.1.2 - 7.2.1 - 7.2.2 - 7.3 - 8.1.16 - 8.4.5

- <u>9 Preparing to begin implementation</u>: 1.6 - 1.8 - 3.1 - 6.3.6 - 7.2.1 - 7.2.2 - 7.3 - 8.1.16 - 8.4.5

- <u>5 Requires community input to begin</u>: 1.1 - 1.7 - 4.1.1 - 4.1.3 - 4.2

- <u>12 Requires completion of a given recommendation</u>: 1.2 - 1.3 - 1.4 - 1.5 - 5.2 - 5.4 - 5.3 - 5.5 - 5.10 - 5.8 - 5.9 - 7.1.2

- <u>1 Dependent on ongoing community initiative</u>: 4.1.2

36 Community Owned Recommendations: 1.1 - 1.2 - 1.3 - 1.4 - 1.5 - 1.7 - 2.1 - 2.2 - 2.3 - 3.1 - 6.1.1 - 6.1.2 - 6.1.3 - 6.1.4 - 6.1.5 - 6.1.6 - 6.2.1 - 6.2.2 - 6.2.3 - 6.2.4 - 6.2.5 - 6.2.6 - 6.2.7 - 6.3.1 - 6.3.2 - 6.3.3 - 6.3.4 - 6.3.5 - 6.3.7 - 6.4.1 - 6.4.2 - 6.4.3 - 6.4.4 - 6.5.1 - 6.5.2 - 6.5.3 -

Org >< Community Co-Owned   1.1 - 1.2 - 1.3 - 1.4 - 1.5 - 1.7 - 3.1

Appendix D: Status of Implementation

1. Recommendations to Improve Diversity	Status
1.1 SO/AC/Groups should agree that the following seven key elements of diversity should be used as a common starting point for all diversity considerations within ICANN: * Geographic/Regional Representation * Language * Gender * Age * Physical Disability * Diverse skills * Stakeholder Group or Constituency.	Implementation design completed. Implementation on hold as requires community input on timing of consultation.
1.2 Each SO/AC/Group should identify which elements of diversity are mandated in their charters or ICANN Bylaws and any other elements that are relevant and applicable to each of its levels including leadership (Diversity Criteria) and publish the results of the exercise on their official websites.	Implementation design completed. Implementation on hold as requires completion of 1.1.
1.3 Each SO/AC/Group, supported by ICANN staff, should undertake an initial assessment of their diversity for all of their structures including leadership based on their Diversity Criteria and publish the results on their official website.	Implementation design completed. Implementation on hold as requires completion of 1.1 and 1.2.
1.4 Each SO/AC/Group should use the information from their initial assessment to define and publish on their official website their Diversity Criteria objectives and strategies for achieving these, as well as a timeline for doing so.	Implementation design completed. Implementation on hold as requires completion of 1.1 and 1.2.
1.5 Each SO/AC/Group, supported by ICANN staff, should undertake a regular update of their diversity assessment against their Diversity Criteria and objectives at all levels including leadership. Ideally this update should be carried out annually but not less than every three years. They should publish the results on their official website and use this information to review and update their objectives, strategies, and timelines.	
1.6 ICANN staff should provide support and tools for the SO/AC/Groups to assist them in assessing their diversity in an appropriate manner. ICANN should also identify staff or community resources that can assist SO/ACs or other components of the community with diversity-related activities and strategies.	Implementation design completed. Preparing to begin implementation.
1.7 ICANN staff should support SO/AC/Groups in developing and publishing a process for dealing with diversity-related complaints and issues.	Implementation design completed. Implementation on hold as requires community input on timing of consultation.
1.8 ICANN staff should support the capture, analysis, and communication of diversity information, seeking external expertise if needed, in the following ways: 1.8.1. Create a Diversity section on the ICANN website. 1.8.2. Gather and maintain all relevant diversity information in one place. 1.8.3. Produce an Annual Diversity Report for ICANN based on all the annual information and provide a global analysis of trends and	Implementation design completed. Preparing to begin implementation.

summarize SO/AC/Groups recommendations for improvement, where appropriate. This should also include some form of reporting on diversity complaints. 1.8.4. Include diversity information derived from the Annual Diversity Report in ICANN's Annual Report.	
2. Recommendations for Guidelines for Standards of Conduct Presumed to be in Good Faith Associated with Exercising Removal of Individual ICANN Board Directors	**Status**
2.1 Recommendations for guidelines with respect to Petitions for removal: 2.1.1 May for any reason; and 2.1.2 Must: 2.1.2.1 Be believed by the Indemnified Party to be true. 2.1.2.2 Be in writing. 2.1.2.3 Contain sufficient detail to verify facts; if verifiable facts are asserted. 2.1.2.4 Supply supporting evidence if available/applicable. 2.1.2.5 Include references to applicable by-laws and/or procedures if the assertion is that a specific by-law or procedure has been breached. 2.1.2.6 Be respectful and professional in tone.	Implementation design completed. Community review in progress.
2.2 Recommendations for guidelines with respect to procedures for consideration of board removal notices by SO/ACs to include: 2.2.1 Reasonable time frames for investigation by SO/AC councils or the equivalent decision-making structures if the SO/AC deems that an investigation is required. 2.2.2 Period of review by the entire membership of the SO/AC provided the SO/AC organizational structure customarily provides review for individual members; otherwise, period of review by those empowered to represent the SO/AC in decisions of this nature. 2.2.3 Consistent and transparent 40 voting method for accepting or rejecting a petition; such voting maybe be by the entire membership or those empowered to represent the SO/AC in decisions of this nature. 2.2.4 Documentation of the community process and how decisions are reached.	Implementation design completed. Community review in progress.
2.3 Standalone Recommendations In addition to the proposed guidelines which are intended to trigger the in demnity under ICANN Bylaws Article 20, Section 20.2, two other recommendations were developed that may be helpful to the community as standalone items 2.3.1 A standard framework be developed and used to raise the issue of Board removal to the respective body – either the specific SO/AC who appointed the member or the Decisional Participant in the case of a NomCom appointee. The framework would be in the context of developing a broader framework for implementing community powers and entering into the discussions contemplated by WS1. This framework could be developed by a new group specifically formed for that purpose. 2.3.2 Implement the guidelines as a community best practice to apply to all discussions even if not covered by the indemnities contemplated	Implementation design completed. Implementation on hold as requires completion of 2.1 and 2.3.

under Article 20. There may be discussions around rejecting a budget or rejecting a proposed standard Bylaw that would benefit from a good faith process. The guidelines for engaging discussions around Board removal could be adopted as a universal standard given that they are broad enough to encompass any discussion.	

3. Recommendation for a Framework of Interpretation for Human Rights	Status
3.1 The CCWG-Accountability WS2 recommends the adoption of the Framework of Interpretation it developed for the ICANN Bylaws dealing with Human Rights, which can be found in Annex 3.	Implementation partially completed through Board adoption of the CCWG-Accountability WS2 recommendations. Implementation design complete. Preparing to begin implementation. Community review in progress.

4. Recommendations on Jurisdiction	Status
4.1 Recommendations Relating to OFAC Sanctions and Related Sanctions Issues [...]	
4.1.1 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." This uncertainty could discourage residents of sanctioned countries from applying for accreditation. The sub-group 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.	Implementation design completed. Implementation on hold pending next major revision of the Registrar Accreditation Application. The intent of this recommendation is already in practice.
4.1.2 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 Applicant Guidebook (AGB) 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 sub-group recommends that ICANN should commit to applying for and using best efforts to secure an OFAC license for all such applicants if the applicant would otherwise be approved (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.	Already in practice. Implementation design completed for documentation of this commitment into future gTLD application round application materials. Implementation on hold as dependency on approval and implementation of Subsequent Procedures PDP recommendations .

4.1.3 Application of OFAC Limitations by Non-U.S. 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 so simply because they have 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. While ICANN cannot provide legal advice to registrars, it can bring awareness of these issues to registrars. The sub-group 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.	Implementation design completed. Implementation on hold pending next major revision of the Registrar Accreditation Application
4.1.4 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, such as registries and registrars entering into Registry Agreements (RAs) and Registrar Accreditation Agreements (RAAs), Privacy/Proxy Accreditation, support for ICANN-funded travelers, etc. This would enable individual transactions to proceed without the need for specific licenses. A general license would need to be developed in conjunction with the U.S. Department of the Treasury, which must amend OFAC regulations to include the new license. This regulatory process may be a significant undertaking. The sub-group 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.	Implementation design completed. Implementation started.
4.2 Recommendations relating to Choice of Law and Choice of Venue Provisions in ICANN Agreements [...]	
4.2.1 Choice of Law and Venue Provisions in the Registry Agreement The sub-group identified several alternative approaches for the RA, which could also apply to the RAA. The body of the report discusses the advantages and disadvantages of each approach. ● 4.2.1.1 Menu Approach. The sub-group 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 left to ICANN and the registries. The sub-group discussed a number of possible menus, which could include one country, or a small number of countries, from each ICANN geographic region, plus the status quo (no choice of law) and/or the registry's jurisdiction of incorporation and/or the countries in which ICANN has physical	Implementation design completed. Implementation on hold as requires contracted parties' input on whether to handle as part of the negotiations of changes to their agreements that are expected to be part of the implementation of the subsequent procedures PDP recommendations, as appropriate.

locations. The sub-group 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 sub-group recommends that the Registry choose from among the options on the menu (i.e., the choice would not be negotiated with ICANN). ● 4.2.1.2 "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. ● 4.2.1.3 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 either by the law of the registry's jurisdiction or by a jurisdiction chosen using the "Menu" approach. ● 4.2.1.4 Bespoke Approach. In the "Bespoke" approach, the governing law of the entire agreement is the governing law of the Registry Operator. ● 4.2.1.5 Status Quo Approach. A fifth possible approach is to retain the status quo, (i.e., have no "governing law" clause in the RAA). 4.2.2 Choice of Law Provisions in Registrar Accreditation Agreements The options for the RAA are essentially the same as for the RA. 4.2.3 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. The registry that enters into a registry agreement with ICANN could then choose which venue it prefers at or before the execution of the contract.	
5. Recommendations for Improving the ICANN Office of the Ombuds (IOO)	**Status**
5.1 The Ombuds Office should have a more strategic focus.	Implementation design completed. Implementation started.
5.11 The following points should be considered and clarified publicly when looking at the Ombuds' involvement in any non-complaints work: ● Whether there is unique value that the Ombuds can add through the proposed role or function? ● Whether the proposed reporting/accountability arrangements may compromise perceived independence? ● Whether the workload of the proposed role/function would limit the Ombuds ability to prioritize their complaints-related work? ● Whether any Ombuds' involvement with the design of new or revised policy or process, meets the requirement of not, in any way, creating a "stamp of approval"? ● Whether the proposed Ombuds input may be seen as a	

"short-cut" or substituting for full stakeholder consultation?	

5.2 The Ombuds office should include procedures that:
  ● 5.2.1 Distinguish between different categories of complaints and explains how each will be handled.
  ● 5.2.2 Set out the kinds of matters where the Ombuds will usually not intervene – and where these matters are likely to be referred to another channel (with the complainant's permission)
  ● 5.2.3 Provides illustrative examples to deepen understanding of the Ombuds' approach.
	Implementation design completed. Implementation on hold as requires completion of 5.1 and 5.11.

5.4 All relevant parts of ICANN should be required (should include the corporation, the Board and committees, and anybody or group with democratic or delegated authority) to respond within 90 days (or 120 days with reason) to a formal request or report from the Office of the Ombudsman. The response should indicate the substantive response along with reasons. Should the responding party not be able to meet the 120-day limit due to exceptional circumstances, that party can apply to the IOO to seek an additional extension prior to the expiration of the original 90-day delay. The application should be in writing, stating the nature of the exception and the expected time required to respond. The IOO will respond to such requests within a week.	
5.3 Once ICANN has agreed to a revised configuration for the Office of the Ombuds, a plan should be developed for a soft relaunch of the function, which should incorporate action to emphasis the importance of the Ombuds function by all relevant parts of ICANN, including: Board, CEO, Community Groups, Complaints Officer.	Implementation design completed. Implementation on hold as requires completion of 5.1, 5.11, 5.2, 5.2, 5.4, 5.10, 5.5.
5.5 The ICANN Office of the Ombuds should establish timelines for its own handling of complaints and report against these on a quarterly and annual basis.	Implementation design completed. Implementation on hold as requires completion of 5.1 and 5.11.
5.10 The Ombuds should have as part of their annual business plan, a communications plan – including the formal annual report – publishing reports on activity, collecting and publishing statistics and complaint trend information, collecting user satisfaction information, and publicizing systemic improvements arising from the Ombuds' work.	
5.6 The Office of the Ombuds should be configured so that it has formal mediation training and experience within its capabilities.	Implementation complete.
5.7 Ideally, the Office of the Ombuds should be configured so that it has gender and, if possible, other forms of diversity within its staff resources. (The primary objective of this recommendation is to ensure that the Community has choices as to whom in the IOO they can bring their complaints to and feel more comfortable doing so.)	Implementation complete.
5.8 ~~ICANN should establish an Ombuds Advisory Panel:~~ ● ~~5.8.1 Made up of five members to act as advisers, supporters, and wise counsel for the Ombuds and should be made up of a minimum of at least two members with Ombudsman experience and the remainder with extensive ICANN experience.~~	Implementation design completed. Implementation on hold as requires completion of of 5.3.

- ~~5.8.2 The Panel should be responsible for:~~
    - ~~5.8.2.1 Contributing to the selection process for new Ombuds, which would meet the various requirements of the Board and Community, including diversity~~
    - ~~5.8.2.2 Recommending candidates for the position of Ombuds to the Board.~~
    - ~~5.8.2.3 Recommending terms of probation to the Board for new Ombuds.~~
    - ~~5.8.2.4 Recommend to the Board firing an Ombuds for cause.~~
    - ~~5.8.2.5 Contribute to an external evaluation of the IOO every five years.~~
    - ~~5.8.2.6 Making recommendations regarding any potential involvement of the IOO in non-complaint work based on the criteria listed in Recommendation 11.~~
- ~~5.8.3 The Panel cannot be considered as being part of the Ombuds Office and cannot be considered additional Ombuds, but rather external advisors to the office.~~
- ~~5.8.4 Any such advisory panel would require the Ombuds to maintain its confidentiality engagements per the Bylaws.~~

CCWG-Accountability Implementation guidance: The Ombuds panel is not meant to be a decision-making body – it is only there to assist the Board or relevant Board Committee with the specific tasks enumerated in the recommendation. The Panel is specifically prohibited from getting involved in any matter before the Ombuds; the Ombuds shall not seek, even on anonymized terms, guidance from the Panel on any matter before the Ombuds. The Panel will only have the six specifically enumerated powers set out in the recommendation. In implementing the portion of the recommendation "recommend to the Board firing an Ombuds for cause" - because under the Bylaws only the Board has the power to fire the Ombuds, the CCWG advises that the Board should implement this recommendation by preparing and publishing information about the process any ICANN community participants can use to provide the Board with feedback about, or raise concerns regarding, the performance of the Ombuds. The Panel is welcome to offer feedback on the performance of the Ombuds but can only provide any feedback though this process (aside from the regular external evaluation). The CCWG suggests this clarification to preserve the right of the Panel to raise any concerns with the performance of the Ombuds function while not interfering with the Board's responsibilities in managing the engagement of the Ombuds and considering concerns raised in an appropriate way. In implementing the portion of the recommendation "Make recommendations regarding any potential involvement of the IOO in noncompliant work based on the criteria listed in recommendation 11", this should only occur at the request of the Board. Finally, a formal process to select the panel members should be created. This should ensure that candidates have extensive ICANN and/or ombuds experience, and also have complete independence from the SO/ACs. The selection process may be designed in any appropriate means to achieve independence, such as by selection by the Board, an independent recruitment firm, or other appropriate process. Regardless of the process which is selected the ICANN Board should post details

regarding the process that will be utilized.	
5.9 The Ombuds employment contracts should be revised to strengthen independence by allowing for a: ● 5.9.1 Five-year fixed term (including a 12-month probationary period) and permitting only one extension of up to three years (the extension should be subject to a community-based feedback mechanism to the Advisory Panel covering Ombuds performance over the previous years). ● 5.9.2 The Ombuds should only be able to be terminated with cause.	Implementation design completed. Implementation on hold as requires completion of of 5.1 and 5.11
6. Recommendations to Increase SO/AC Accountability	**Status**
6.1 Accountability 6.1.1 SO/AC/Groups should document their decision-making methods, indicating any presiding officers, decision-making bodies, and whether decisions are binding or nonbinding. 6.1.2 SO/AC/Groups should document their procedures for members to challenge the process used for an election or formal decision. 6.1.3 SO/AC/Groups should document their procedures for non-members to challenge decisions regarding their eligibility to become a member. 6.1.4 SO/AC/Groups should document unwritten procedures and customs that have been developed in the course of practice, and make them part of their procedural operation documents, charters, and/or bylaws. 6.1.5 Each year, SO/AC/Groups should publish a brief report on what they have done during the prior year to improve accountability, transparency, and participation, describe where they might have fallen short, and any plans for future improvements. 6.1.6 Each Empowered Community (EC) Decisional Participant should publicly disclose any decision it submits to the EC. Publication should include description of processes followed to reach the decision. 6.2 Transparency 6.2.1 Charter and operating guidelines should be published on a public webpage and updated whenever changes are made. 6.2.2 Members of the SO/AC/Group should be listed on a public webpage. 6.2.3 Officers of the SO/AC/Group should be listed on a public webpage. 6.2.4 Meetings and calls of SO/AC/Groups should normally be open to public observation. When a meeting is determined to be members-only, that should be explained publicly, giving specific reasons for holding a closed meeting. Examples of appropriate reasons include discussion of confidential topics such as: ● 6.2.4.1 Trade secrets or sensitive commercial information whose disclosure would cause harm to a person or organization's	Implementation design completed. Community review in progress.

       legitimate commercial or financial interests or competitive position.
- 6.2.4.2 Internal strategic planning whose disclosure would likely compromise the efficacy of the chosen course.
- 6.2.4.3 Information whose disclosure would constitute an invasion of personal privacy, such as medical records.
- 6.2.4.4 Information whose disclosure has the potential to harm the security and stability of the Internet.
- 6.2.4.5 Information that, if disclosed, would be likely to endanger the life, health, or safety of any individual or materially prejudice the administration of justice.

6.2.5 Records of open meetings should be made publicly available. Records include notes, minutes, recordings, transcripts, and chat, as applicable.

6.2.6 Records of closed meetings should be made available to members, and may be made publicly available at the discretion of the AC/SO/Group. Records include notes, minutes, recordings, transcripts, and chat, as applicable.

6.2.7 Filed comments and correspondence with ICANN should be published and publicly available.

6.3 Participation

6.3.1 Rules of eligibility and criteria for membership should be clearly outlined in the bylaws or in operational procedures.

6.3.2 Where membership must be applied for, the process of application and eligibility criteria should be publicly available.

6.3.3 Where membership must be applied for, there should be a process of appeal when application for membership is rejected.

6.3.4 An SO/AC/Group that elects its officers should consider term limits.

6.3.5 A publicly visible mailing list should be in place.

6.3.7 A glossary for explaining acronyms used by SO/AC/Groups is recommended.

6.4 Outreach

6.4.1 Each SO/AC/Group should publish newsletters or other communications that can help eligible non-members to understand the benefits and process of becoming a member.

6.4.2 Each SO/AC/Group should maintain a publicly accessible website/wiki page to advertise their outreach events and opportunities.

6.4.3 Each SO/AC/Group should create a committee (of appropriate size) to manage outreach programs to attract additional eligible members, particularly from parts of their targeted community that may not be adequately participating. 6.4.4 Outreach objectives and potential activities should be mentioned in SO/AC/Group bylaws, charter, or procedures. 6.4.5 Each SO/AC/Group should have a strategy for outreach to parts of their targeted community that may not be significantly participating at the time, while also seeking diversity within membership.

6.5 Updates to Policies and Procedures

6.5.1 Each SO/AC/Group should review its policies and procedures at regular intervals and make changes to operational procedures and charter as indicated by the review. 6.5.2 Members of SO/AC/Groups should be involved in reviews of policies and procedures, and should approve any revisions. 6.5.3 Internal reviews of SO/AC/Group policies and procedures should not be prolonged for more than one year, and temporary measures should be considered if the review extends longer.	
6.1.7 Links to SO/AC transparency and accountability (policies, procedures, and documented practices) should be available from ICANN's main website, under "accountability." ICANN staff would have the responsibility to maintain those links on the ICANN website.	Implementation design completed. Implementation started (addressed through 7.1.1)
6.3.6 if ICANN were to expand the list of languages that it supports, this support should also be made available to SO/AC/Groups.	Implementation design completed. Preparing to begin implementation.
7. Recommendations to Improve Staff Accountability	**Status**
7.1 To address the lack of understanding of the existence and/or nature of existing staff accountability , the following actions should be taken: 7.1.1 The ICANN organization should improve visibility and transparency of the organization's existing accountability mechanisms, by posting on icann.org in one dedicated area the following: ● 7.1.1.1 Description of the organization's performance management system and process. ● 7.1.1.2 Description of how departmental goals map to ICANN's strategic goals and objectives. ● 7.1.1.3 Description of the Complaints Office and how it relates to the Ombuds Office. ● 7.1.1.4 Organization policies shared with the CCWG-Accountability during the course of the WS2 work. ● 7.1.1.5 ICANN Organization Delegations document. ● 7.1.1.6 The roles descriptions included in this overall report. ● 7.1.1.7 Expectations and guidelines regarding the development of staff reports for Public Comments, or staff response to Community correspondence.	Implementation design completed. Implementation started.
7.1.2 The ICANN organization should also evaluate what other communication mechanisms should be utilized to further increase awareness and understanding of these existing and new accountability mechanisms.	Implementation design completed. Requires completion of 7.1.1.
7.2 To address the lack of clearly defined, or broadly understood, mechanisms to address accountability concerns between community members and staff members regarding accountability or behavior: 7.2.1 The ICANN organization should enhance existing accountability mechanisms to include: ● 7.2.1.1 A regular information acquisition mechanism (which might include surveys, focus groups, reports from the Complaints	Implementation design completed. Preparing to begin implementation.

Office) to allow the ICANN organization to better ascertain its overall performance and accountability to relevant stakeholders.
    ○ 7.2.1.1.1 The group notes that several new mechanisms are now established, but have not yet been exercised enough to determine effectiveness or potential adjustments. The evaluation mechanism proposed here would be helpful in determining effectiveness of these recent mechanisms before creating yet more mechanisms that may turn out to be duplicative or confusing for the organization and community.
   ● 7.2.1.2 Results of these evaluations should be made available to the Community.
 	
7.2.2 Consistent with common best practices in services organizations, standardize and publish guidelines for appropriate timeframes for acknowledging requests made by the community, and for responding with a resolution or updated timeframe for when a full response can be delivered. The ICANN organization should include language in the performance management guidelines for managers that recommends people managers of community-facing staff seek input from the appropriate community members during the organization's performance reviews. Identification of appropriate community members, frequency of outreach to solicit input, and how to incorporate positive and constructive feedback into the overall performance review should be at the discretion and judgement of the personnel manager, with appropriate guidance from HR as necessary. Such a feedback mechanism should be supplemental to the existing mechanisms available to the community to provide input on ICANN staff performance, including direct communication to specific staff member, their personnel managers, senior executive staff, Board Directors, and the Complaints Officer.	

7.3 The ICANN Organization should work with the community to develop and publish service level targets and guidelines (similar to the Service Level Agreement for the IANA Numbering Services) that clearly define the services provided by ICANN to the community as well as the service level target for each service. In this context: 7.3.1 ICANN should work with the community to identify and prioritize the classes of services for which service level targets and guidelines will be implemented, and to define how service level targets and guidelines will be defined. 7.3.2 Develop clear and reasonable guidelines for expected behavior between the ICANN organization and the community for those newly identified activities. 7.3.3 Develop and publish the resulting service levels, targets, and guidelines in a single area on icann.org. These targets and guidelines should also inform any regular information acquisition mechanism described in Recommendation 2 of this report.	Implementation design completed. Preparing to begin implementation.
8. Recommendations to Improve ICANN Transparency	**Status**

8.1 Improving ICANN's Documentary Information Disclosure Policy (DIDP)	
8.1.1 The caveat that the DIDP applies only to "operational activities" should be deleted. 8.1.2 The DIDP should include a documentation rule whereby, if significant elements of a decision-making process take place orally, or otherwise without a lasting papertrail, the participants in that decision-making process should be required to document the substance of the conversation, and include it alongside other documentation related to this decision-making process. 8.1.3 The DIDP should be expanded to include clearly defined procedures for lodging requests for information, including requirements that requesters should only have to provide the details necessary to identify and deliver the information. 8.1.4 The DIDP should impose clear guidelines on ICANN for how to process requests, including delegating a specific employee or employees 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. 8.1.5 The DIDP should commit to complying with requesters' reasonable preferences regarding the form in which they wish to receive 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. 8.1.6 The DIDP should specify that requests should receive a response "as soon as reasonably possible" and should cap timeline extensions to an additional 30 days. 8.1.7 The phrase "to the extent feasible, to reasonable requests" should be deleted from the provision on Responding to Information Requests. 8.1.8 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. 8.1.9 The exception for information "that relates in any way to the security and stability of the Internet, including the operation of the L Root or any changes, modifications, or additions to the root zone" should be amended so that it only applies to information whose disclosure would be harmful to the security and stability of the Internet, including the operation of the L Root or any changes, modifications, or additions to the root zone. 8.1.10 The exception for "drafts of all correspondence, reports, documents, agreements, contracts, emails, or any other forms of	Implementation design completed. Implementation started.

communication" should be amended to clarify that this information should be disclosed unless it would be harmful to an ongoing deliberative or decision-making process.

8.1.11 The exceptions for "trade secrets and commercial and financial information not publicly disclosed by ICANN" and for "confidential business information and/or internal policies and procedures" should be replaced with an exception for "material whose disclosure would materially harm ICANN's financial or business interests or the commercial interests of its stake-holders who have those interests."

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

8.1.13 The exception for information requests which are "not reasonable, excessive or overly burdensome, not feasible, abusive or vexatious or made by a vexatious or querulous individual" should be amended so that either the Ombudsman or the Complaints Officer automatically reviews any decision to use this exception.

8.1.14 The following sentence should be deleted: "Further, ICANN reserves the right to deny disclosure of information under conditions not designated above if ICANN determines that the harm in disclosing the information outweighs the public interest in disclosing the information."

8.1.15 ICANN should consider future processes to expand transparency at ICANN Legal, including through clarification of how attorney-client privilege is invoked.

8.1.17 The DIDP should include a severability clause, whereby in cases where information under request includes material subject to an exception to disclosure, rather than refusing the request outright, the information should still be disclosed with the sensitive aspects severed, or redacted, if this is possible.

8.1.18 Where an information request is refused, or the information is provided in a redacted or severed form, the DIDP should require that ICANN's response include the rationale underlying the decision, by reference to the specific exception(s) invoked, as well as information about appeal processes that are available.

8.1.19 The Ombudsman's mandate regarding transparency should be boosted to grant the office a stronger promotional role, including by integrating understanding of transparency and the DIDP into ICANN's broader outreach efforts, by publishing a list of the categories of information ICANN holds.

8.1.20 Either the Ombudsman or the Complaints Officer should be tasked with carrying out reasonable monitoring and evaluation procedures, such as publishing the number of requests received, the proportion which were denied, in whole or in part, the average time taken to respond, and so on.

8.1.21 ICANN should commit to reviewing the DIDP every five years.	
8.1.16 ~~Wherever possible, ICANN's contracts should either be proactively disclosed 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).~~ CCWG-Accountability's Implementation Guidance: As the recommendation starts with the language "wherever possible" we would recommend that ICANN publish a document clearly stating its position on the limited use of NDAs and documenting the information that will make available on its contracted relationships, as discussed below. In the first year of implementation ICANN should publish a register of all suppliers (name of supplier, country or origin and actual annual amount) it pays 500,000$US or more per fiscal year broken down by categories (e.g., computer equipment, software, telecommunication services, contracting etc.). Starting in the second year of implementation ICANN should lower this threshold to 250,000$US. The Board should review this threshold amount on a regular basis to effectively ensure transparency. In scoping ATRT4 or future ATRT reviews SO/ACs should consider if the information provided in the above Register meets their requirements. Should they feel the need for adjustments they should request the review consider this.	Implementation design completed. Preparing to begin implementation.
8.2 Documenting and Reporting on ICANN's Interactions with Governments	

8.2 ~~In the interest of providing the community greater clarity with regard to how ICANN engages government stakeholders7 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 publicly the following (notwithstanding any contractual confidentiality provisions) on at least a yearly (but no more than quarterly) basis with regard to expenditures over $20,000 per year devoted to "political activities",8 both in the U.S. and abroad:~~
   ● ~~All expenditures on an itemized basis by ICANN both for outside contractors and internal personnel.~~
   ● ~~All identities of those engaging in such activities, both internal and external, on behalf of ICANN.~~
   ● ~~The type(s) of engagement used for such activities.~~
   ● ~~To whom the engagement and supporting materials are targeted.~~
   ● ~~The topic(s) discussed (with relative specificity).~~
 	
CCWG-Accountability Implementation Guidance: Note - This recommendation needs to be consistent with DIDP exceptions, specifically the exception which states:
	Implementation complete.

Information provided by or to a government or international organization, or any form of recitation of such information, in the expectation that the information will be kept confidential and/or would or likely would materially prejudice ICANN's relationship with that party (note - the WS2 Transparency recommendations for DIDP did not mention or modify this exception which is currently included in the DIDP and as such it would be expected to stand). The above discussion of DIDP policies is by way of explanation, and does not expand the application of this policy. Overall one must recognize that ICANN is a critical actor in the DNS and has significant expertise in the area. ICANN's corporate objectives include a number of activities and programs to share this expertise with all interested parties including governments. As such any activities where ICANN is presenting information which is publicly available or which is part of formally published ICANN position on a subject through training programs, conferences or individual meetings should not be required to be disclosed beyond the reports which are currently published by ICANN and reports regarding bilateral conversations with governments. Note: Reporting on bilateral conversations can be found in the ICANN Quarterly Reports. Additional information on specifics of these reports can be requested via the DIDP subject to the stated exceptions. An example of such a report can be found at https://www.icann.org/en/system/files/files/quarterly-report-08may18-en.pdf page 29. To further facilitate the community's understanding of ICANN's objectives in discussions with governments it should publish an annual Government Engagement Strategy which should describe the focus of its interactions with governments for the coming year. This document should be derived from existing documentation including but not limited to annual planning, CEO reports to the Board and correspondence with the GAC.	
8.3 Transparency of Board Deliberations	
8.3.1 ~~The DIDP exception for deliberative processes should not apply to any factual information, technical reports, or reports on the performance or effectiveness of a particular body or strategy, as well as any guideline or reasons for a decision which has already been taken or where the material has already been disclosed to a third party.~~ CCWG-Accountability Implementation Guidance: For the sake of greater clarity, current publications of Board Briefing Materials appear to fulfil this requirement Note: As ICANN organization points out, documents/information already provided to a third party (without obligation to keep as confidential) should not be withheld simply because of a deliberative process exception.	Implementation complete.
8.3.2 ~~The Bylaws should be revised so that material may only be~~	Implementation complete.

~~removed from the minutes of Board meetings where it would be subject to a DIDP exception. Decisions to remove material from the minutes of Board meetings should be subject to IRP appeal.~~ CCWG-Accountability Implementation Guidance: The basis for redaction of Board minutes and withholding information from a DIDP request should be substantially consistent. For the most part this would seem to be the case including if the CCWG-Accountability recommendations which apply to the DIDP are implemented. As such ICANN should publish a register of all redaction of Board minutes explaining the basis for the redaction. Additionally, the register should explain how the basis for this redaction aligns with the DIDP exceptions and if it does not align with such an exception explain why. Note: Re IRP appeal – this is currently in the Bylaws	
8.3.3 ~~Where material is removed from the minutes of Board meetings, the default should be to allow for its release after a particular period of time, once the potential for harm has dissipated.~~ CCWG-Accountability Implementation Guidance: When redacting any information, the Board should identify if the redacted information can eventually be released or not (ICANN should publish the list of the classes of information which can never be disclosed by law, or other reasons, such as staff employment matters etc.). If redacted information is identified as eventually being subject to release it should identify the conditions which would allow the release (this information should be included in the above-mentioned Register). The CEO (or his/her designee) would annually review redacted information which is noted as being conditionally subject to release to see if the conditions for release are met and shall release all appropriate information and update the Register accordingly. For all redactions (other than those that are part of a category that can never be disclosed), the redacted material should be disclosed during the annual Register review process in the 15th year after the redaction was first entered onto the Register.	Implementation design completed. Implementation started.
8.4 Improving ICANN's Anonymous Hotline (Whistleblower Protection)	
8.4.1 The policy should be clearly posted as "Employee Hotline Policy and Procedures" on the ICANN public website under the "Who we Are" or "Accountability and Transparency" portions as soon as possible.	Implementation design completed. Implementation started (addressed through 7.1.1).
8.4.2 Related to the above, the term "whistleblower" should be included in introductory text explaining the policy so that an ICANN community member – who may not know that the policy is called a "Hotline Policy" – may easily locate it using "whistleblower" as the search term. For example: "The following outlines elements of ICANN's Hotline Policy and Procedures. Some organizations refer to this as "whistleblower protections."	Implementation design completed. Implementation started (addressed through 7.1.1).
8.4.3 The definition of incidents reported should be broadened from "serious issues" to encourage the report of all issues and concerns related to behavior that may violate local laws and conflict with	Implementation complete.

organizational standards of behavior. Furthermore, the policy should provide specific examples of such violations to guide a potential reporter.	
8.4.4 ICANN need to improve internal administration of the Hotline process by employing case management software to better enable tracking, documenting, reporting, and anticipating potential problem areas.	Implementation completed. Implementation started.
8.4.5 ICANN should regularly provide employees with data about use of the Hotline, that details not only the frequency of use but also the types of incidents reported.	Implementation design completed.
8.4.6 ICANN should not prioritize receipt of reports as "urgent" and "non-urgent," but treat every report as a priority warranting formal acknowledgment of receipt of a report within 48 hours at the latest.	Implementation completed.
8.4.7 ICANN needs to more effectively address potential fear of retaliation against the reporter by stating unequivocally that alleged retaliation will be investigated with the same level of rigor as alleged wrongdoing. ICANN should also guarantee remedy for reporters who suffer from retaliation as well as clarify that good-faith reporting of suspected wrong-doing will be protected from liability.	Implementation completed.
8.4.8 ICANN's Hotline Policy and Procedures should undergo a third-party audit least every two years to help identify gaps and enable timely corrections. The audit, in turn, should be posted on the public website.	Implementation design completed. Implementation started.