

# Q1 2022 - Work Stream 2 Implementation Quarterly report

*Enhancing ICANN Accountability*

31 March 2022

## Purpose of This Document

The purpose of this summary is to provide an update on progress made on Work Stream 2 (WS2) implementation as of the date of this document.

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## Work Stream 2 Implementation

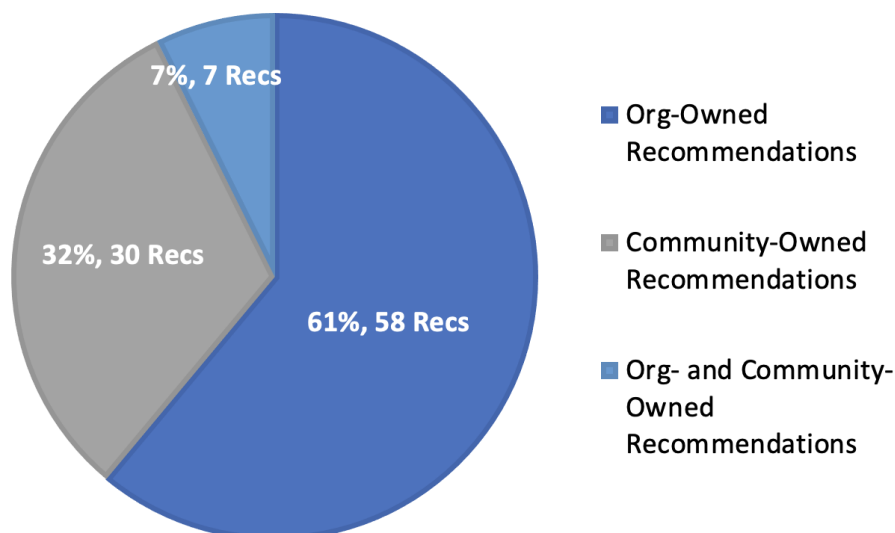
As initial discussions of the IANA stewardship transition were taking place, the ICANN community raised the broader topic of the impact of the transition on ICANN accountability. The [Enhancing ICANN Accountability process](#) was developed to provide assurance that ICANN remains accountable in the absence of any contractual relationship with the U.S. Government.

The work of the Cross Community Working Group on Enhancing ICANN Accountability (CCWG-ACCT) was divided 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 second Work Stream (WS2) focused on accountability topics to be addressed beyond the IANA stewardship transition.

The CCWG-ACCT co-chairs submitted the [WS2 Final Report](#) to the ICANN Board in November 2018 upon approval by the Chartering Organizations. In November 2019, the Board [approved](#) the [WS2 Final Report](#), inclusive of implementation guidance. For more information, please refer to Appendix A.

The [WS2 Final Report](#) includes a set of consensus-based accountability and transparency-related improvements to which the ICANN Board, organization (org), and community are all contributing, as documented in Appendix B. While ICANN's [Fiscal Year 22-26 Operating and Financial Plan and Fiscal Year 22 Operating Plan and Budget](#) refer to 116 recommendations spread across eight topics, the total number of recommendations turned out slightly different at the end of the implementation design phase. Consequently, there are 95 recommendations: 58 org-owned recommendations, 30 community-owned recommendations and seven recommendations co-owned by the org and community. The overview of the recommendations for org and community implementation is presented below:



*Ownership of 95 WS2 Recommendations*

ICANN org provides support to the community in its implementation work of WS2 recommendations.

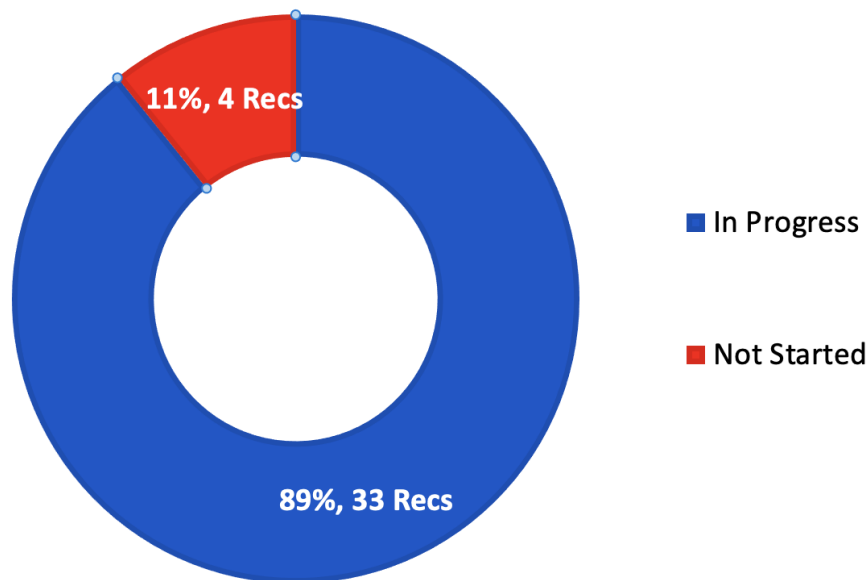
The org and community share ownership in implementation of three topics and have seven recommendations in common, which are marked with an asterisk in the following table. Appendix C contains recommendation text for full reference.

WS2 Topic	Responsibility <i>ICANN org provides support to the community in its implementation work of WS2 recommendations.</i>
<b>Diversity (8 recs.)</b>	<u>org (8 recs.):</u> 1.1*, 1.2*, 1.3*, 1.4*, 1.5*, 1.6, 1.7*, 1.8 <u>community (6 recs.):</u> 1.1*, 1.2*, 1.3*, 1.4*, 1.5*, 1.7*
<b>Guidelines for Good Faith (3 recs.)</b>	<u>community:</u> 2.1, 2.2, 2.3
<b>Human Rights Framework of Interpretation (HR-FOI) (1 rec.)</b>	<u>org (1 rec.):</u> 3.1* <u>community (1 rec.):</u> 3.1*
<b>Jurisdiction (5 recs.)</b>	<u>org:</u> 4.1.1, 4.1.2, 4.1.3, 4.1.4, 4.2
<b>ICANN Office of the Ombuds (IOO) (11 recs.)</b>	<u>org:</u> 5.1, 5.2, 5.3, 5.4, 5.5, 5.6, 5.7, 5.8, 5.9, 5.10, 5.11
<b>SO/AC Accountability (29 recs.)</b>	<u>org (2 recs.):</u> 6.1.7, 6.3.6 <u>community (27 recs.):</u> 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, 6.4.5, 6.5.1, 6.5.2, 6.5.3
<b>Staff Accountability (5 recs.)</b>	<u>org:</u> 7.1.1, 7.1.2, 7.2.1, 7.2.2, 7.3
<b>Transparency (33 recs.)</b> <ul style="list-style-type: none"> <li>● ICANN's Documentary Information Disclosure Policy (DIDP)</li> <li>● Documenting and Reporting on ICANN's Interactions with Governments</li> <li>● Transparency of Board Deliberations</li> <li>● Improving ICANN's Anonymous Hotline (Whistleblower Protection)</li> </ul>	<u>org:</u> 8.1.1, 8.1.2, 8.1.3, 8.1.4, 8.1.5, 8.1.6, 8.1.7, 8.1.8, 8.1.9, 8.1.10, 8.1.11, 8.1.12, 8.1.13, 8.1.14, 8.1.15, 8.1.16, 8.1.17, 8.1.18, 8.1.19, 8.1.20, 8.1.21, 8.2, 8.3.1, 8.3.2, 8.3.3, 8.4.1, 8.4.2, 8.4.3, 8.4.4, 8.4.5, 8.4.6, 8.4.7, 8.4.8

The WS2 Implementation Team (WS2-IT) is a group of former CCWG-ACCT members who remain available upon request to provide input/advice on any WS2 recommendation and implementation matters. More information can be found in Appendix B or on the WS2-IT's [dedicated wiki space](#).

## Status of Community Implementation

All community groups continue to implement the community-directed WS2 recommendations, some of which may result in amendments to group charters and operating procedures<sup>1</sup>.



Status of 37 Community Recommendations (March 2022)

WS2 Implementation – Status of 37 Community Recommendations <i>*co-owned with ICANN org</i>		
In Progress (33 Recs.)	Diversity (2 Recs.): 1.1* - 1.7*	
	Guidelines for Good Faith (3 Recs.): 2.1, 2.2, 2.3	
Not Started (4 Recs.)	Human Rights Framework of Interpretation (1 Rec.): 3.1*	
	SO/AC Accountability (27 Recs.)	
	<ul style="list-style-type: none"> <li>• <u>Accountability</u>: 6.1.1, 6.1.2, 6.1.3, 6.1.4, 6.1.5, 6.1.6</li> <li>• <u>Transparency</u>: 6.2.1, 6.2.2, 6.2.3, 6.2.4, 6.2.5, 6.2.6, 6.2.7</li> <li>• <u>Participation</u>: 6.3.1, 6.3.2, 6.3.3, 6.3.4, 6.3.5, 6.3.7</li> <li>• <u>Outreach</u>: 6.4.1, 6.4.2, 6.4.3, 6.4.4, 6.4.5</li> <li>• <u>Update to Policies and Procedures</u>: 6.5.1, 6.5.2, 6.5.3</li> </ul>	
	Will start after the completion of another WS2 recommendation (4 Recs.)	Diversity: 1.2* - 1.3* - 1.4* - 1.5*

All recommendations listed in the table above are intended for and owned by the community, with ICANN org's support:

<sup>1</sup> In Q3 of 2021, ICANN org produced individual community inventories of existing governance procedures and processes in relation to WS2 recommendations 2.1, 2.2, and 6. An inventory was developed for each individual Supporting Organization, Advisory Committee, Regional At-Large Organization, and Generic Names Supporting Organization Stakeholder Group and Constituency.

- The objective of the **Diversity** recommendations and their components is to ensure comprehensive representation of the global Internet community and an extensive range of skills and expertise across ICANN. There are three focus areas: 1) agreeing on elements of diversity; 2) measuring and promoting diversity; and 3) ongoing support for assessing and reporting on diversity. The CCWG-ACCT noted that these recommendations apply to Supporting Organizations (SOs), Advisory Committees (ACs), Generic Names Supporting Organization (GNSO) Stakeholder Groups and Constituencies (SGs/Cs), and Regional At-Large Organizations (RALOs), in addition to the ICANN Board<sup>2</sup>, Nominating Committee (NomCom)<sup>3</sup>, and ICANN org. The community shares ownership with ICANN org on implementing diversity recommendations.

While work has begun to address Recommendations 1.7 and 1.1 (see the ICANN org section below for more information on implementation), work on Recommendations 1.2, 1.3, 1.4, and 1.5 has not started yet due to dependencies<sup>4</sup>:

- Work on Recommendations 1.2 (identifying elements of diversity) and 1.3 (initial assessment of diversity) can begin as soon as the dependency on the agreed diversity elements (Recommendation 1.1) is addressed.
  - Similarly, work on Recommendation 1.4 in relation to defining and publishing diversity criteria, objectives, and strategies can commence as soon as community groups have completed their diversity assessments (Recommendation 1.3).
  - Additionally, ICANN org’s tool kit (Recommendation 1.6) will be an essential resource to support community groups in the implementation of Recommendations 1.4 and 1.5 (update diversity assessment against criteria and objectives).
- The **Guidelines for Standards of Conduct Presumed to be in Good Faith** recommendations aim to set guidelines to facilitate the ICANN Empowered Community<sup>5</sup>’s exercise of its power to remove individual ICANN Board Directors. The recommendations reflect the CCWG-ACCT’s decision to adopt a minimalist approach to leave each SO/AC free to follow its own processes. The guidelines are intended to apply whether the Director in question is appointed by an SO/AC or the NomCom. Work by the Decisional Participants<sup>6</sup> in relation to Recommendations 2.1 and 2.2 began in late 2021.

The CCWG-ACCT also proposed two stand-alone recommendation components to develop a standard framework for the Empowered Community powers beyond the power to remove an ICANN Board Director. Unlike Recommendations 2.1 and 2.2, which can be addressed by each Decisional Participant on an individual basis, Recommendation 2.3 requires community coordination and prioritization given the cross-community nature of this proposal. Implementing 2.3 is anticipated to be a

<sup>2</sup> 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.

<sup>3</sup> 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.

<sup>4</sup> A precondition that needs to be fulfilled to allow work to begin.

<sup>5</sup> The Empowered Community is the mechanism through which SO/ACs can legally enforce community powers according to California law. The community powers and rules that govern the Empowered Community are defined in the ICANN Articles of Incorporation and Bylaws.

<sup>6</sup> Decisional Participants include the Address Supporting Organization, the Country Code Names Supporting Organization, the Generic Names Supporting Organization, the At-Large Advisory Committee, and the Governmental Advisory Committee.

substantial effort that will likely not commence until each relevant community group has completed its work on Recommendations 2.1 and 2.2.

- With the 2016 Bylaws change prompted by the implementation of WS1, a human rights core value was added to the [Bylaws](#). As outlined in Section 27.2 of ICANN's Bylaws, for this bylaw change to come into effect, a **Framework of Interpretation (FOI)** must be "approved for submission to the Board by the CCWG-Accountability as a consensus recommendation in Work Stream 2". With ICANN org support, clear processes and procedures need to be established to demonstrate how human rights considerations were identified and addressed through the lens of the FOI. The seven SO/ACs are expected to consider implementation of Recommendation 3.1 as part of their WS2 implementation work.
- The recommendations relating to **SO/AC Accountability** are good practices for each SO/AC/Group consideration. 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. Two recommendation components in this section are for ICANN org to own and act on (see update on pages 16-17). The community groups have begun considering these recommendations, using an initial Mapping Inventory compiled for each group by ICANN org.

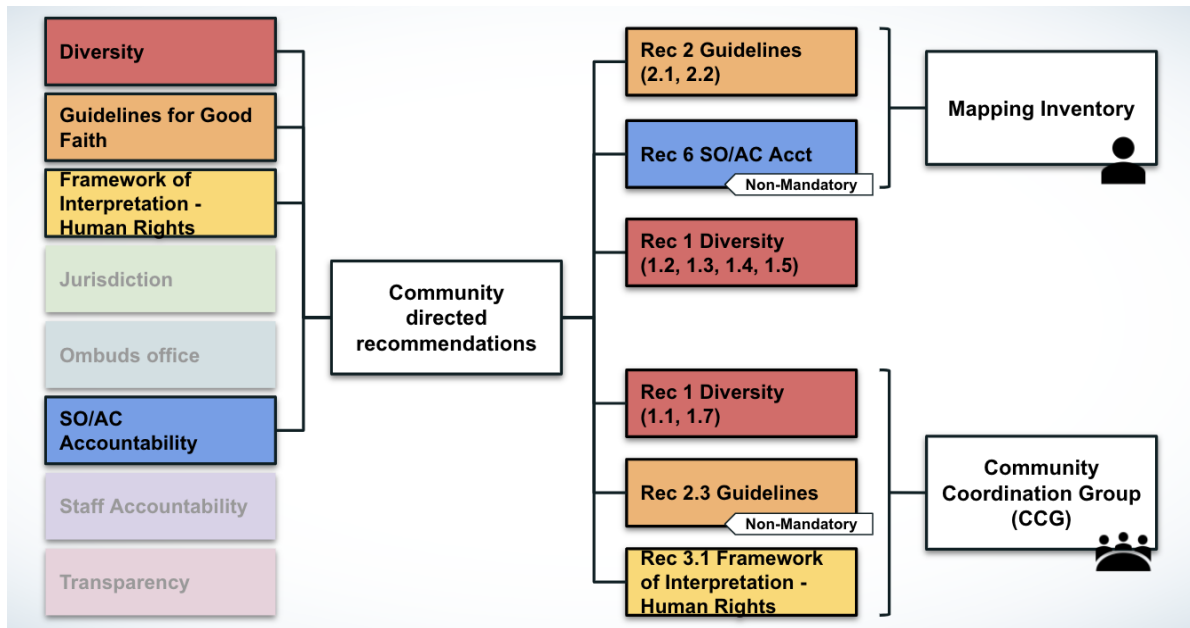
There are several recommendations for which the seven SO/AC Chairs agreed that community coordination and information sharing will be necessary. A lightweight Community Coordination Group (CCG) was formed to serve as a forum for:

- Coordinating, prioritizing (as applicable), updating, and reporting on each individual group's implementation progress, including exchanging best practices.
- Coordinating community work on a set of recommendations that warrant a uniform community-wide approach. This includes Recommendation 1.1 (seven proposed elements of diversity), Recommendation 1.7 (on a process for handling complaints about diversity)<sup>7</sup>, and Recommendation 2.3 (on a stand-alone framework for exercising Empowered Community powers). The CCG is also expected to share information on their respective community's implementation efforts related to Recommendation 3.1 (Human Rights Framework).

The CCG is not a decision-making body. It is expected to hold its first meeting in early April 2022 and records of its deliberations will be published on its [wiki space](#).

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<sup>7</sup> To facilitate the diversity-related WS2 recommendations, ICANN org will provide diversity, equity, and inclusion consulting services to the CCG to help with the implementation of Recommendation 1.1 and Recommendation 1.7. Refer to the section on Diversity on pages 11-13 of this report for more information.



Refer to Appendix D – WS2 Community Coordination Group Scope for more information.

More information on the implementation of community-directed recommendations is available at <https://community.icann.org/display/WEIA/Community+WS2+Implementation>.

## Status of Org Implementation

WS2 implementation is an org priority of Fiscal Year 2022 (FY22) – see [FY22-26 Operating and Financial Plan and FY22 Operating Plan and Budget](#) – and will remain a priority throughout FY23.

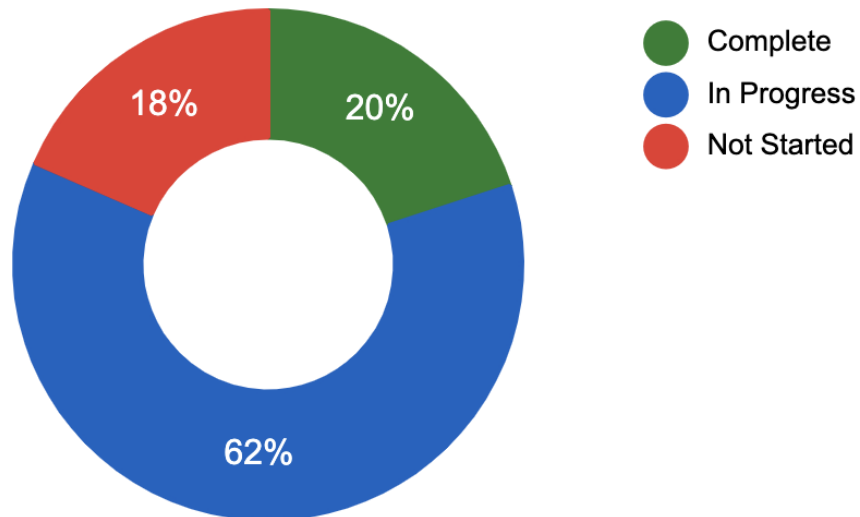
As announced in the WS2 implementation summary that ICANN org released in the fourth quarter of 2021 (hereafter [Q4 2021](#)), implementation design of WS2 is complete. Implementation design is the preparatory phase for implementation during which a cross-functional project team develops a handbook for implementation. The identification of deliverables, teams that need to be involved, assessment of risks, inventory of existing work, as well as costing out of resources result in an internal implementation handbook that guides the multiple org functions working on implementation.

Since the release of the [Q4 2021](#) WS2 implementation summary, the org has:

- Completed the implementation of five additional recommendations, raising the number of complete recommendations to 13.
- Started work on an additional set of recommendations, increasing the total number of recommendations in progress to 39.
- Reduced recommendations for which implementation has not started yet to 13, 12 of which are tied to a specific dependency.

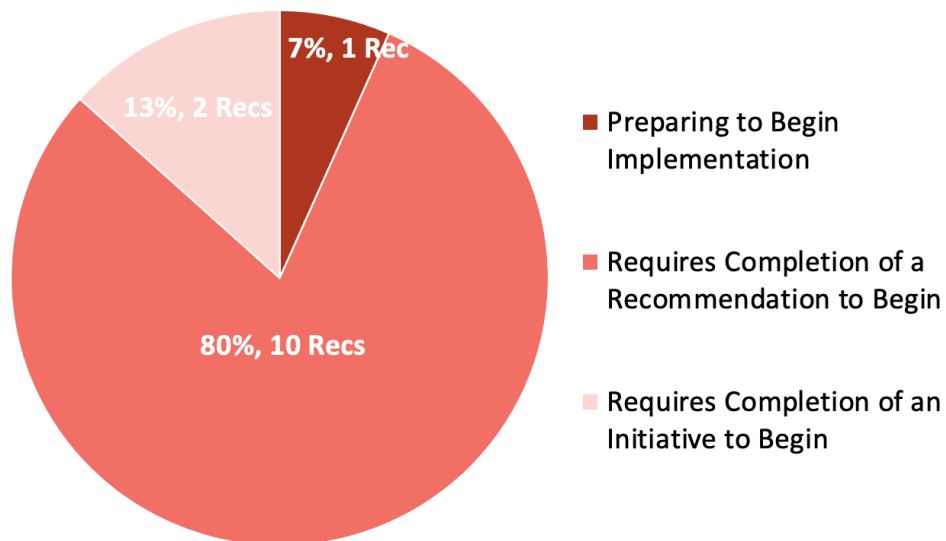


Implementation Status of 65 Org Recommendations	Q4 2021	Q1 2022
Implementation complete	8	13
Implementation in progress	30	39
Implementation not started	27	13



*Status of 65 Org Recommendations (March 2022)*

While work is about to begin on one recommendation, there currently are two recommendations that require completion of another initiative and 10 that are tied to completion of another recommendation.

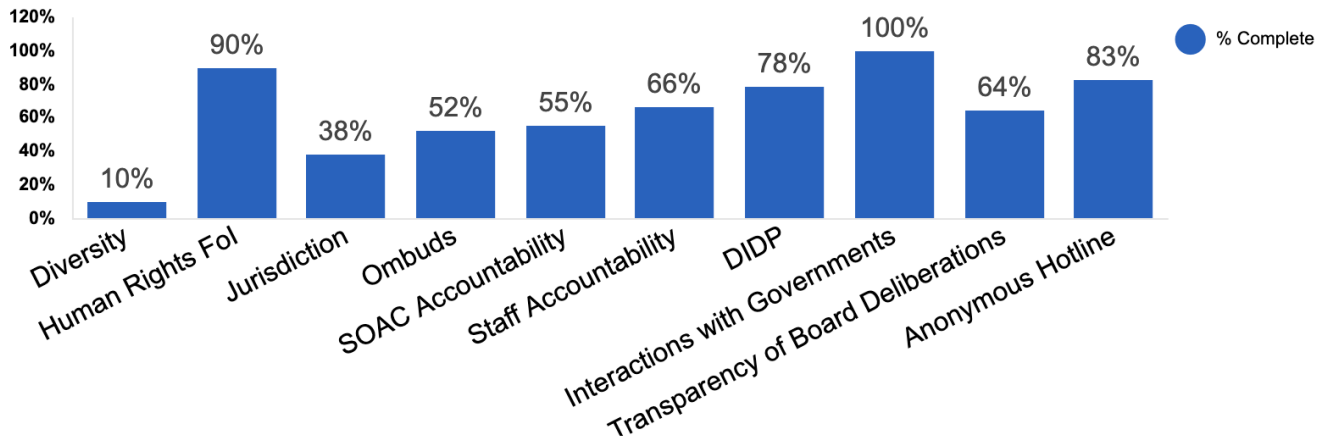


*Status of Not Started – Org Recommendations (March 2022)*

The following table offers a deep dive into the topics and recommendations under the various statuses of completion. Appendix C contains the recommendation text for full reference.

WS2 Implementation – Status of 65 Org Recommendations		
<b>Complete (13 Recs.)</b>	<p>Jurisdiction: 4.1.1</p> <p>Ombuds (IOO Office): 5.6, 5.7</p> <p>Documenting and Reporting on ICANN’s Interactions with Governments: 8.2</p> <p>Transparency of Board Deliberations: 8.3.1, 8.3.2</p> <p>Improving ICANN’s Anonymous Hotline (Whistleblower Protection): 8.4.1, 8.4.2, 8.4.3, 8.4.4, 8.4.5, 8.4.6, 8.4.7</p>	
<b>In Progress (39 Recs.)</b>	<p>Diversity: 1.1, 1.2, 1.6, 1.7, 1.8</p> <p>Human Rights Framework of Interpretation: 3.1</p> <p>Jurisdiction: 4.1.4</p> <p>Ombuds (IOO Office): 5.1, 5.11</p> <p>SO/AC Accountability: 6.1.7, 6.3.6</p> <p>Staff Accountability: 7.1.1, 7.1.2, 7.2.1, 7.2.2, 7.3</p> <p>Transparency</p> <ul style="list-style-type: none"> <li>• DIDP: 8.1.1, 8.1.2, 8.1.3, 8.1.4, 8.1.5, 8.1.6, 8.1.7, 8.1.8, 8.1.9, 8.1.10, 8.1.11, 8.1.12, 8.1.13, 8.1.14, 8.1.15, 8.1.16, 8.1.17, 8.1.18, 8.1.19, 8.1.20, 8.1.21</li> <li>• Transparency of Board Deliberations: 8.3.3</li> <li>• Improving ICANN’s Anonymous Hotline: 8.4.8</li> </ul>	
<b>Not Started (13 Recs.)</b>	<p><b>Preparing to begin implementation (1 Rec.)</b></p>	Jurisdiction: 4.1.3
	<p><b>Dependent on completion of a recommendation to begin (10 Recs.)</b></p>	<p>Diversity: 1.3, 1.4, 1.5</p> <p>Ombuds Office: 5.2, 5.3, 5.4, 5.5, 5.8, 5.9, 5.10</p>
	<p><b>Requires completion of an initiative to begin (2 Recs.)</b></p>	Jurisdiction: 4.1.2, 4.2

The following section provides more detailed information by topic, including the expected completion of the implementation of the recommendations.



Implementation Progress Status by Topic – Org Recommendations (March 2022)

Progress of Org implementation is available at <https://community.icann.org/display/WEIA/Org+WS2+Implementation+At+A+Glance>.

## Diversity

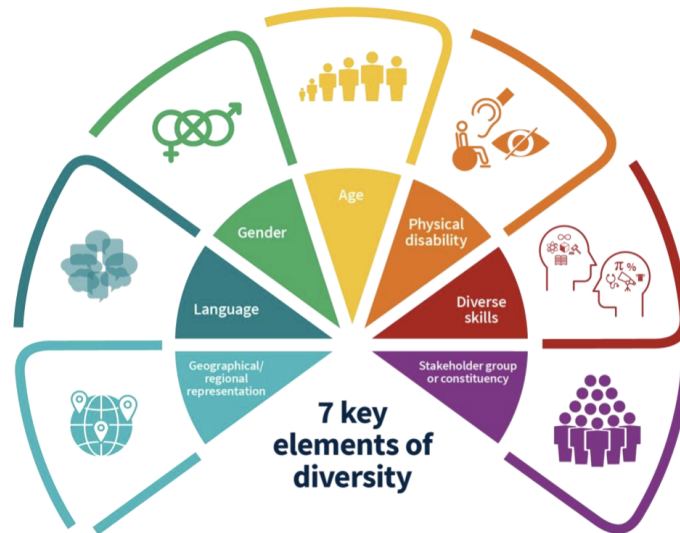
#	Q4 2021 Status	Q1 2022 Status	Tentative Completion
1.1	Not started	In progress	Q2 2023
1.2	Not started	In progress	Q4 2023
1.3	Not started	Not started	Q2 2024
1.4	Not started	Not started	Q2 2024
1.5	Not started	Not started	Q2 2024
1.6	Not started	In progress	Q3 2023
1.7	Not started	In progress	Q2 2023
1.8	Not started	In progress	Q4 2022

**Status of Recommendations**

Completion of tasks: 10%

Progress of Completion – Current vs. Planned: 0%

The CCWG-ACCT Recommendation 1.1 identified a list of seven diversity elements (“geographic/regional representation, language, gender, age, physical disability, diverse skills, stakeholder group/constituency”) for which there is a need to establish a shared understanding to facilitate uniform data gathering and reporting. Cross-community collaboration and dialogue are essential to reach alignment on the diversity elements given the nature and intent of this recommendation.



CCWG-ACCT's Proposed Seven Diversity Elements<sup>8</sup>

As noted in the Q4 2021 report, given the sensitivities around diversity discussions, it was determined during implementation design that the hiring of a consultant with topic knowledge and best practices expertise would be desirable to assist ICANN org in supporting this discussion. Additionally, using consulting services would contribute to addressing community bandwidth issues.

Therefore, in [January 2022](#), ICANN org [solicited](#) proposals to identify a provider of diversity, equity, and inclusion (DEI) consulting services to help support the community work on diversity elements. With the release of the DEI consulting services Request for Proposals , three recommendations moved into the “in progress” status.

The selected DEI vendor is scheduled to start work in April 2022. Based on the WS2 CCG’s input, the vendor will draft a shared understanding document of uniform definitions. The Board resolution on setting common diversity elements is currently tabled for Q2 of 2023 as a placeholder subject to change. The timeline for completion of this recommendation depends on the priorities and schedule established by the WS2 Community Coordination Group.

In addition, the selected vendor will be entrusted with two additional tasks:

- In addressing Recommendation 1.6, which calls for ICANN org to provide support and tools to SO/AC/Groups to assist them in their diversity related work, the scope of the selected provider includes drafting the practical diversity tool kit that will serve ICANN community groups in their assessment (Recommendation 1.3), elaboration of diversity strategies and objectives (Recommendation 1.4), and associated reviews (Recommendation 1.5). ICANN org envisions the tool kit to comprise diversity survey templates, guidance on how to collect data in an inclusive way, examples of strategies to increase diversity and inclusion, best practices, as well as case studies. The preliminary draft of the tool kit is expected for delivery in December 2022.
- In addressing Recommendation 1.7, the selected provider will also assist in developing a process for dealing with diversity-related complaints and issues. This is an area of work envisioned for the WS2 Community Coordination Group to discuss.

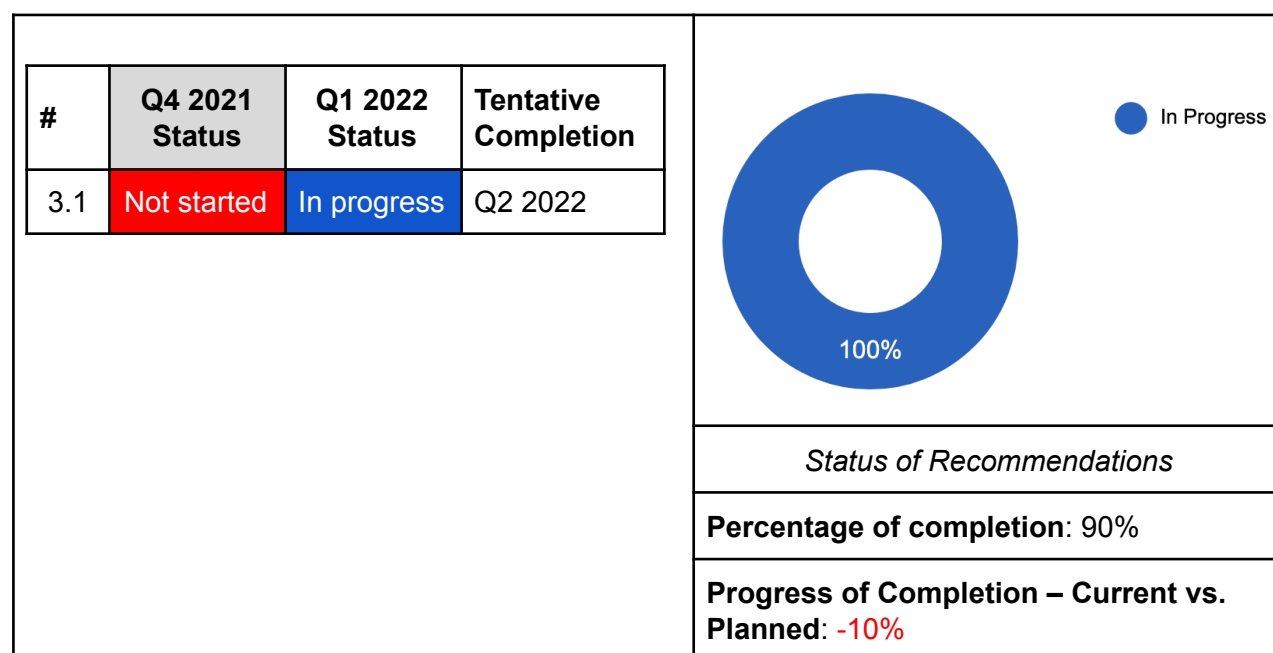
<sup>8</sup> See p.18 of the [CCWG-Accountability WS2 – Final Report](#).

To inform the community in its determination of whether existing tools can be leveraged, the selected provider will compile existing methods that can be used to lodge a complaint at ICANN in a report due January 2023. Based on discussions, the selected provider will then be expected to draft an initial process for discussion with the community, followed by a final draft.

To address Recommendation 1.8, ICANN org will publish a repository of diversity-related information on icann.org in Q3 2022. 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 resources and reduce the number of reports being published, ICANN org will incorporate the data of the *Annual Diversity Report* into the [ICANN Annual Report](#). Completion of this recommendation portion is targeted for Q4 2022 in alignment with the *Annual Diversity Report* release date.

While agreement on diversity definitions (1.1) cascades down to other recommendations, ICANN org will unlock recommendations where possible. Work, for instance, has begun to address Recommendation 1.2 on identifying applicable criteria.

## Framework of Interpretation – Human Rights Core Value



In addition to supporting community groups as documented on pages 5-8 of this report, ICANN org is developing a web page with documents relating to ICANN and the ICANN community’s work on human rights.

There is an obligation across all of ICANN to consider human rights. Therefore, 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) are taken in consideration of the core value of human rights. The ICANN community carries the responsibility to factor human rights considerations into its work and to indicate if and how these considerations have been addressed in its formal advice and recommendations to the Board.

## Jurisdiction

#	Q4 2021 Status	Q1 2022 Status	Completed on/ Tentative Completion
4.1.1	Not started	Complete	✓ Q1 2022
4.1.2	Not started	Not started	n/a*
4.1.3	Not started	Not started	Q2 2022
4.1.4	In progress	In progress	Q2 2022
4.2	Not started	Not started	n/a*

\* Due to the dependency on Subsequent Procedures and the Applicant Guidebook related updates, ICANN org is not in a position to estimate a completion date.

**Status of Recommendations**

**Completion of tasks: 38%**

**Progress of Completion – Current vs. Planned: -55%**  
*(The absence of completion dates for 4.1.2 and 4.2 has an impact on the current vs. planned progress of completion.)*

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 (OFAC), that impose restrictions on whom 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.

ICANN org previously indicated that portions of Recommendations 4.1.1 and 4.1.3 required additional, internal planning for implementation and identified longer implementation estimates. Over the past quarter, ICANN org refined the implementation design to allow for changes to be made in more direct fashion, removing potential dependencies on items such as Subsequent Procedures<sup>9</sup> related implementation. As a result:

- Implementation of Recommendation 4.1.1 was completed through an update made to page 30 of the [ICANN REGISTRAR ACCREDITATION APPLICATION FORM](#) in February 2022.
- Implementation of 4.1.3 is scheduled to be launched and to conclude in Q2 2022. It will entail updating the Registrar Accreditation information web page to explain how registrars can identify the laws applicable to their operations, and that those laws may be different from the laws with which ICANN must comply.

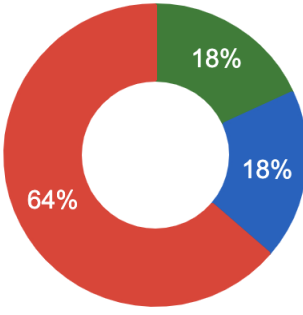
Implementation of Recommendation 4.1.4 is in progress. The requested study of costs, benefits, timeline, and details of seeking general licenses is in its final stages, with a tentative release of the results for a Public Comment proceeding in April 2022 and an agreed decision tabled for end of Q2 2022.

<sup>9</sup> More information on the New Generic Top-Level Domain (gTLD) Subsequent Procedures may be found at: <https://gns0.icann.org/en/group-activities/active/new-gtld-subsequent-procedures>.

Implementation of 4.1.2 remains tied to Subsequent Procedures as it requires an update to the Applicant Guidebook<sup>10</sup>. Similarly, Recommendation 4.2 is also connected to the Subsequent Procedures, as its implementation would fold into Registry Agreement contract amendments required to be addressed in conjunction with Subsequent Procedures. ICANN org is coordinating internally to make sure that the recommended updates to the Applicant Guidebook and the potential areas for contractual negotiation to Registry Agreements are taken into account by the team members responsible for the implementation of the Subsequent Procedures recommendations once approved.

## Office of the Ombudsman

#	Q4 2021 Status	Q1 2022 Status	Completed on/ Tentative Completion
5.1	In progress	In progress	Q2-2022 Q3 2022
5.2	Not started	Not started	Q4-2022 Q1 2023
5.3	Not started	Not started	Q4-2022 Q1 2023
5.4	Not started	Not started	Q4-2022 Q1 2023
5.5	Not started	Not started	Q4-2022 Q1 2023
5.6	Complete	Complete	✓ Q4 2018
5.7	Complete	Complete	✓ Q1 2019
5.8*	Not started	Not started	Q2 2023
5.9	Not started	Not started	Q4-2022 Q1 2023
5.10	Not started	Not started	Q4-2022 Q1 2023
5.11	In progress	In progress	Q2-2022 Q3 2022



- Completed
- In Progress
- Not Started

*Status of Recommendations*

**Completion of tasks: 51%**

**Progress of Completion – Current vs. Planned: -23%**

\*Implementation Guidance provided by the CCWG-ACCT.

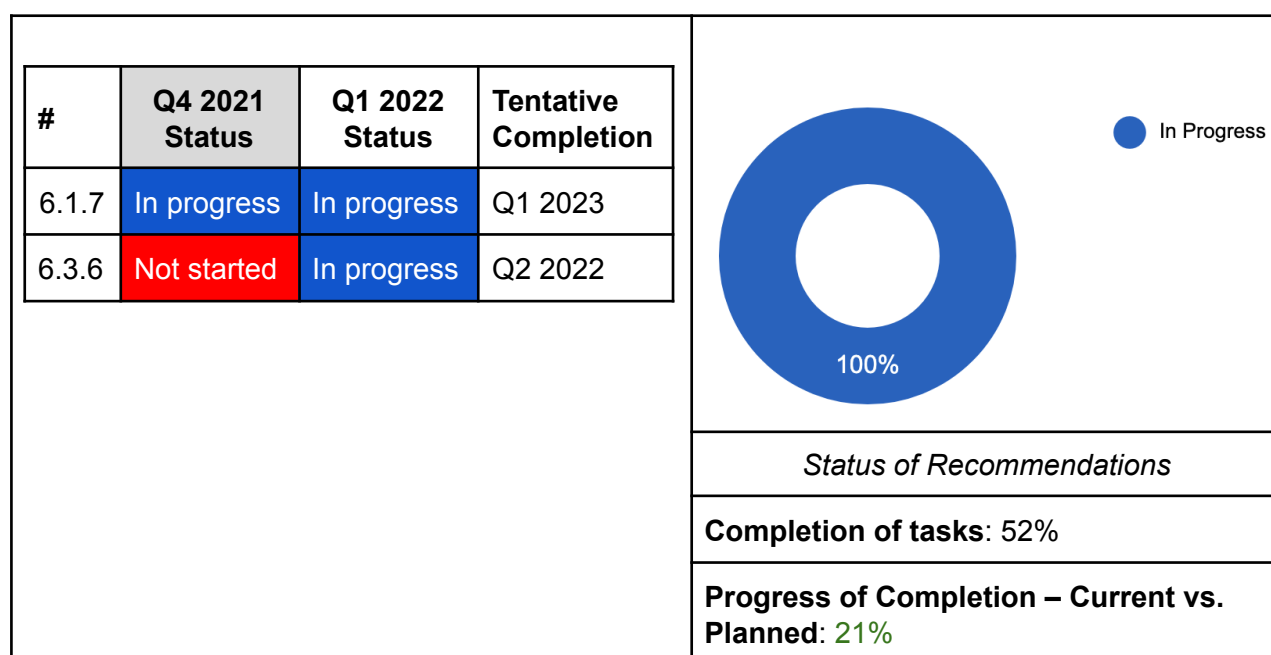
<sup>10</sup> The Applicant Guidebook provides a step-by-step procedure for new gTLD applicants. It specifies what documents and information are required to apply, the financial and legal commitments of operating a new gTLD, and what to expect during the application and evaluation periods.

Recommendation 5.1 calls for the ICANN Office of the Ombuds (IOO) to “have a more strategic focus,” with enhanced procedures and documentation. ICANN org is conducting a review of the Ombuds Framework 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 targeted completion date for 5.1 and 5.11 is Q3 2022.

The recommendations are cascading in nature – setting the strategic focus (5.1) is a key dependency for many other portions of the Ombuds’ recommendations, including updating procedures (5.2, 5.4, 5.5, and 5.10), a re-launch (5.3), and amending new contracting terms (5.9), which will require a change to the ICANN Bylaws. Work toward delivering on implementation guidance provided by the CCWG-ACCT on the Ombuds Advisory Panel (5.8) cannot proceed until the IOO office has been re-launched (5.3), currently tabled for Q1 2023. While updating the procedures is not yet complete, the IOO has demonstrated high levels of responsiveness to community complaints.

Two recommendations embedded in this section are complete: diversity of the IOO was enhanced through the introduction of an adjunct officer (5.7) in Q1 2019, and the formal mediation training (5.6) was launched in Q4 2018. These practices are documented for continued implementation. As part of the IOO’s continuing efforts, the Ombuds and the adjunct regularly attend training programs on topics such as online dispute resolution and the trainings offered through international ombuds associations. The IOO also participates in diversity, equity, and inclusion efforts within ombuds associations.

## SO/AC Accountability





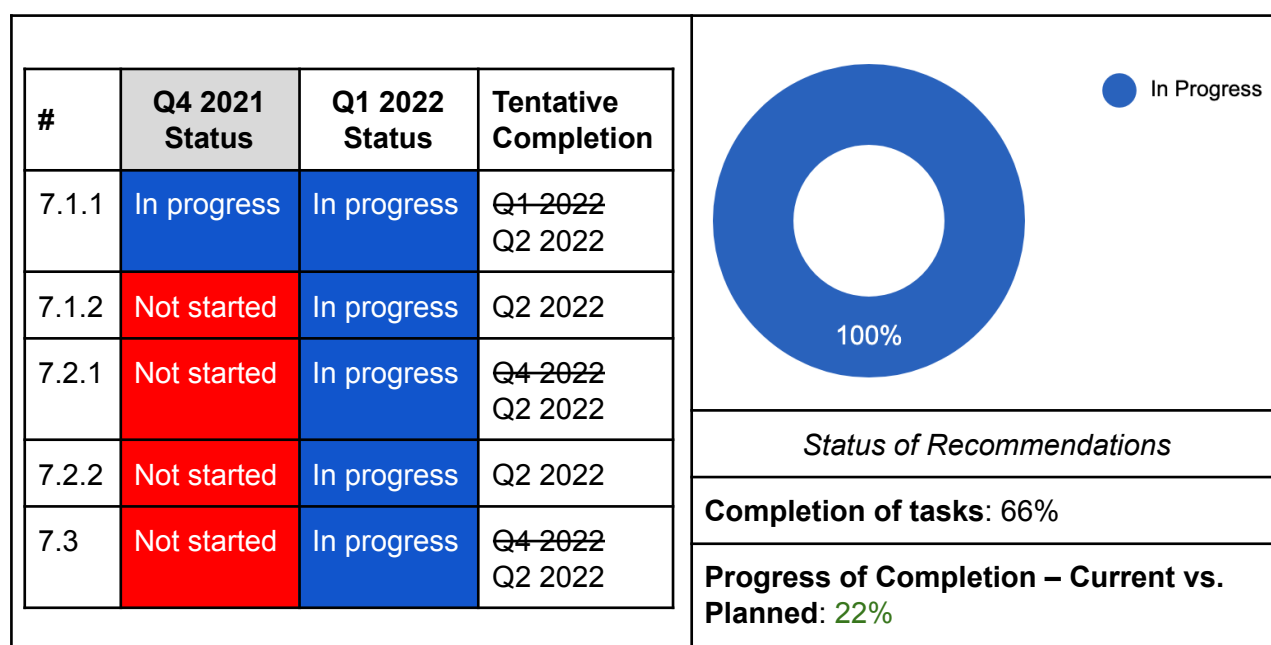
Recommendation 6.1.7 calls for inclusion of links to SO/AC Accountability and Transparency on the ICANN org website. This work is being merged with work undertaken to address Staff Accountability-related Recommendation 7.1.1 (see below). The information – when available – will be located on the central landing page.

Implementation of Recommendation 6.3.6 requires an update to org’s Language Services Policy and Procedures (LSPP) to embed a new process. Plans to address this recommendation include modifying the LSPP to describe and document:

1. The criteria that would warrant the addition of new languages (i.e community demand, percentage of population worldwide that speaks the language, percentage of community that would benefit from this addition, and cost/benefit assessment).
2. A detailed road map and staged process to add the new language.
3. The creation of an internal Working Group – ICANN Policy Development Support and ICANN Language Services – to identify how, in its support to the community, these expanded services will impact the ICANN SO/AC groups.

This recommendation is anticipated to complete in Q2 2022.

## Staff Accountability



Work is in progress to address Recommendation 7.1.1 on designing a central landing page for information on tools and practices. ICANN org is in the process of refining the final draft and is aiming for a release in Q2 2022.

Given the advanced status of 7.1.1 implementation, ICANN org has begun implementation of Recommendation 7.1.2 and is in the process of drafting a communications plan to address the need for increased visibility and awareness of these tools and practices.

In Q1 2022, ICANN org also initiated the implementation of Recommendations 7.2 and 7.3. This implementation involves work across ICANN functions to improve information about existing processes for collecting community feedback on ICANN org’s work (i.e. surveys,

questionnaires, etc.), existing services that ICANN org provides to the community, and service-level targets, where applicable.

To date, ICANN org has executed a pilot exercise that resulted in a tool to collect information across ICANN org functions. The pilot was conducted to identify opportunities for improvement as part of the continuous improvement of ICANN org's accountability. ICANN org is now applying lessons learned from participants in the pilot exercise to more effectively execute the implementation of these recommendations as part of the continuous improvement of ICANN org's transparency:

- Recommendation 7.2.1 asks for a regular process that allows ICANN org to collect community input on how ICANN org is doing (via satisfaction surveys, focus groups, etc.) in order to better ascertain its overall performance and accountability to relevant stakeholders. The recommendation acknowledges that some mechanisms already exist and should be taken into consideration before new mechanisms are developed. In the current information gathering phase, ICANN org is working across functions to 1) identify existing information acquisition mechanisms already in place and 2) identify new opportunities to improve existing tools or create new ones to help ICANN acquire input from the community on the effectiveness of its work.
- The related portion of Recommendation 7.2.2 asks ICANN org to standardize and publish guidelines for 1) appropriate time frames for acknowledging requests made by the community, and 2) for responding with a resolution or updated time frame for when a full response can be delivered. ICANN org is currently working with different functions to identify reasonable response times for the different facets of their work. This information will help ICANN org understand how to standardize and publish guidelines.
- Recommendation 7.3 asks ICANN to develop and publish service-level targets and guidelines that clearly define the services provided by ICANN to the community as well as the service-level target for each service. ICANN is currently working to identify the different services it provides to the community and develop service-level targets. The process through which ICANN will engage and consult with the community in the implementation of this recommendation is described in more detail below.

ICANN org has modified the original implementation design in connection with community consultation and engagement. ICANN org will publish several documents, brief the Board on a regular basis, and engage in consultation with the community to discuss their input on the planned improvements. Instead of engaging the community using a Public Comment proceeding, ICANN org plans to use interactive community engagement approaches that allow for dialogue and the exchange of ideas. This revised approach to community consultation will allow ICANN org and the community to better work together to continuously improve staff accountability mechanisms and ensure that ICANN org meets the evolving needs of the community.

Originally, ICANN org had planned to publish findings in a Gap Report, as noted in the Q4 2021 update. After considering specific use cases, ICANN org determined that a Gap Report would not be applicable. In order for a Gap Report to be produced, one needs a clear assessment of the current state, which ICANN org has developed, and a clear understanding of what the desired state would be, which was not defined by the WS2 recommendations. More rapid progress can be made by evolving the ICANN org approach. Therefore, ICANN org has already started the work across functions to take a direct step toward implementing improvements from the current state. It is also important to note that

the current state includes improvements that ICANN org makes on a routine basis as part of its continuous improvement mindset. Instead of publishing a Gap Report, ICANN org will publish:

- Existing information acquisition mechanisms already in place and plans for improvement.
- Guidelines for responses to community requests.
- Service-level targets.

Since this work is part of the ICANN org’s continuous improvement effort on staff accountability, some deliverables will be accomplished by the target due date (Q2 2022), while others will continue on as ongoing activities.

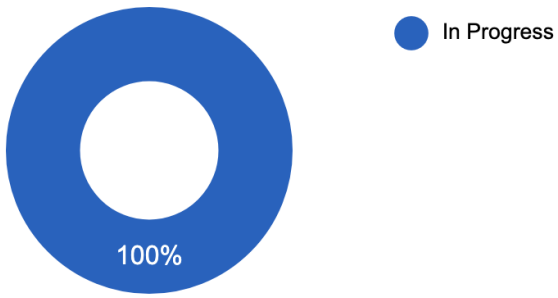
As it relates to the portion of Recommendation 7.2.2 on including language in the performance management guidelines, as noted in the Q4 2021, a direct inclusion of community feedback into the performance management processes could result in timing issues and misalignments with performance cycles. ICANN has summarized existing processes and drafted a clarification that will be made available on the tools and practices pages being developed as part of implementation of Recommendation 7.1.1.

## Transparency

The Transparency topics contains recommendations 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; and 4) Improving ICANN’s Anonymous Hotline (Whistleblower Protection).

### Improving ICANN’s Documentary Information Disclosure Policy (DIDP)

#	Q4 2021 Status	Q1 2022 Status	Tentative Completion
8.1.1	In progress	In progress	Q3 2022 Q4 2022
8.1.2	In progress	In progress	Q3 2022 Q4 2022
8.1.2	In progress	In progress	Q3 2022 Q4 2022
8.1.4	In progress	In progress	Q3 2022 Q4 2022
8.1.5	In progress	In progress	Q3 2022 Q4 2022
8.1.6	In progress	In progress	Q3 2022 Q4 2022



**Status of Recommendations**

**Completion of tasks: 78%**

**Progress of Completion – Current vs. Planned: 6 %**

8.1.7	In progress	In progress	Q3 2022 Q4 2022
8.1.8	In progress	In progress	Q3 2022 Q4 2022
8.1.9	In progress	In progress	Q3 2022 Q4 2022
8.1.10	In progress	In progress	Q3 2022 Q4 2022
8.1.11	In progress	In progress	Q3 2022 Q4 2022
8.1.12	In progress	In progress	Q3 2022 Q4 2022
8.1.13	In progress	In progress	Q3 2022 Q4 2022
8.1.14	In progress	In progress	Q3 2022 Q4 2022
8.1.15	In progress	In progress	Q3 2022 Q4 2022
8.1.16 *	Not started	In progress	Q4 2022
8.1.17	In progress	In progress	Q3 2022 Q4 2022
8.1.18	In progress	In progress	Q3 2022 Q4 2022
8.1.19	In progress	In progress	Q3 2022 Q4 2022
8.1.20	In progress	In progress	Q3 2022 Q4 2022
8.1.21	In progress	In progress	Q3 2022 Q4 2022

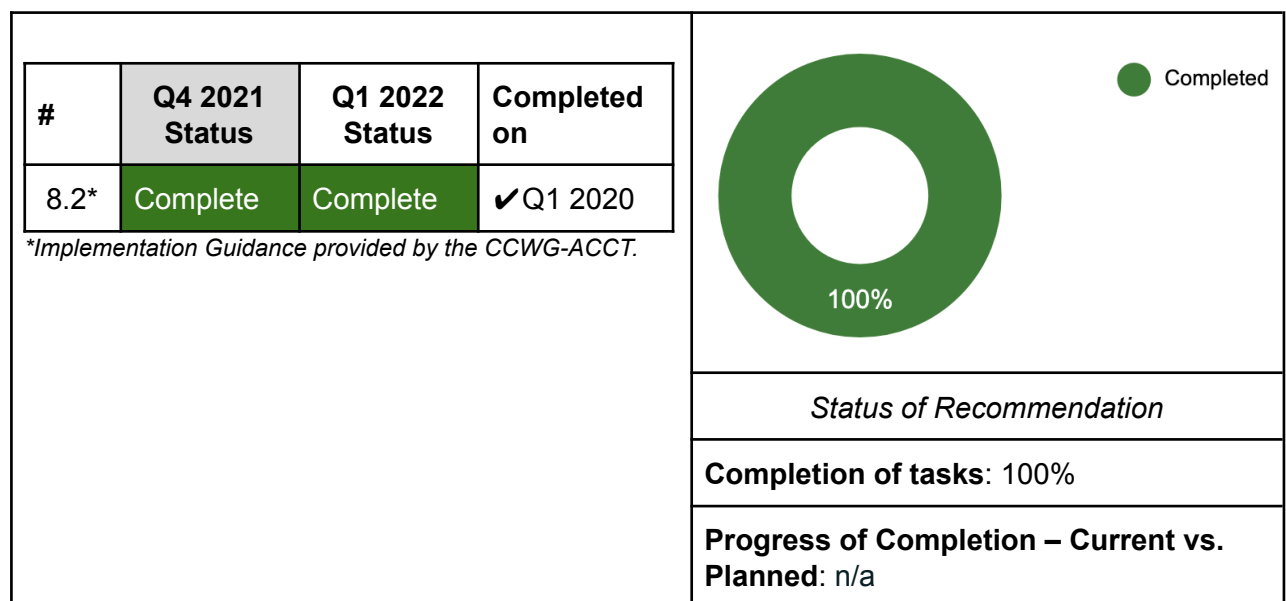
*\*Implementation Guidance provided by the CCWG-ACCT.*

Recommendations on the DIDP focus 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. In addressing implementation of Recommendations 8.1.1–8.1.15 and 8.1.17–8.1.21, ICANN org released amendments in a [Public Comment proceeding](#) in October 2021. The call for comment

yielded a total of seven comments (see the [report](#)). The Board action on amendments to the DIDP is currently tabled for Q2 2022, but it is estimated that this set of recommendations will complete in Q4 2022 through the establishment of the monitoring and reporting of updates.

Work has begun to address the CCWG-ACCT’s implementation guidance 8.1.16 on making more information available on vendors with whom ICANN contracts. ICANN org is on track to publish the list of suppliers that ICANN paid \$500K or more. As this reporting is expected to be provided annually, coordinated at the same time as the annual financial reporting of the fiscal year just completed, ICANN org plans to release this information in Q4 2022. The reporting will be at the \$250K and above level from the second year of implementation and will continue on an annual basis, included within the standard operating process of the annual financial reporting. With regards to the portion of the guidance that relates to the position on the limited use of Non-Disclosure Agreements (NDAs), since 2016 ICANN org has positioned its use of NDAs according to the WS2 recommendations, with careful consideration of the necessity of NDAs as opposed to blanket application of NDAs as a condition of contracting. ICANN org plans to complete documentation of this in Q2 2022.

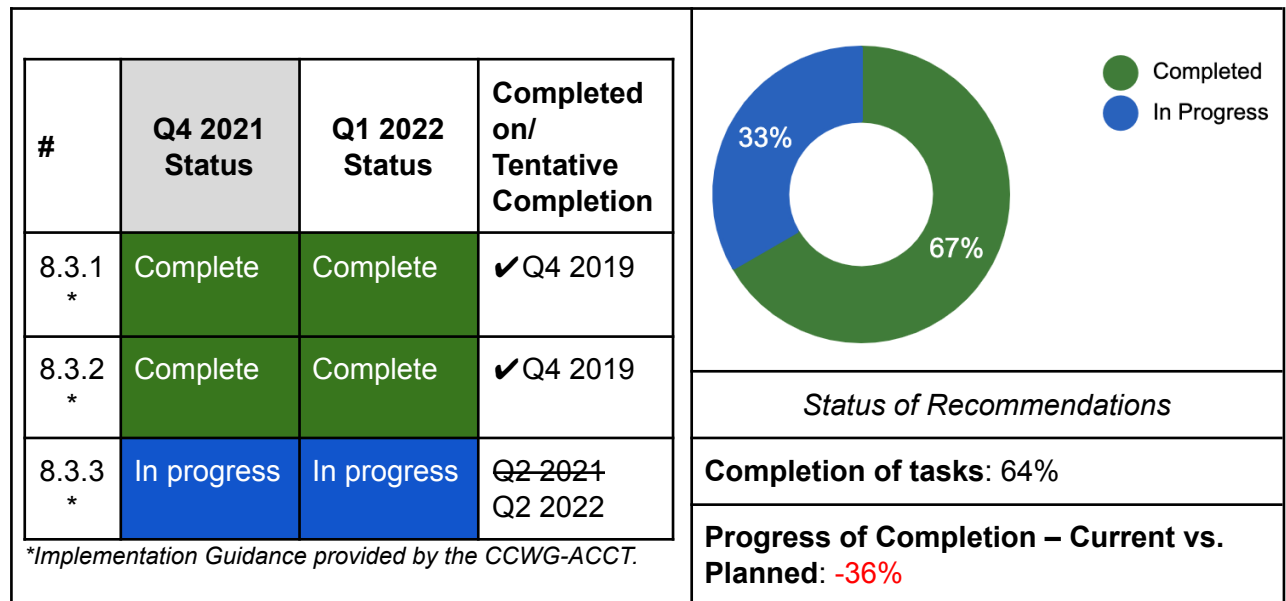
## Documenting and Reporting on ICANN’s Interactions with Governments



ICANN org has addressed the implementation guidance provided by the CCWG-ACCT 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 triannual *CEO Report to the Board*, describing the work and 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

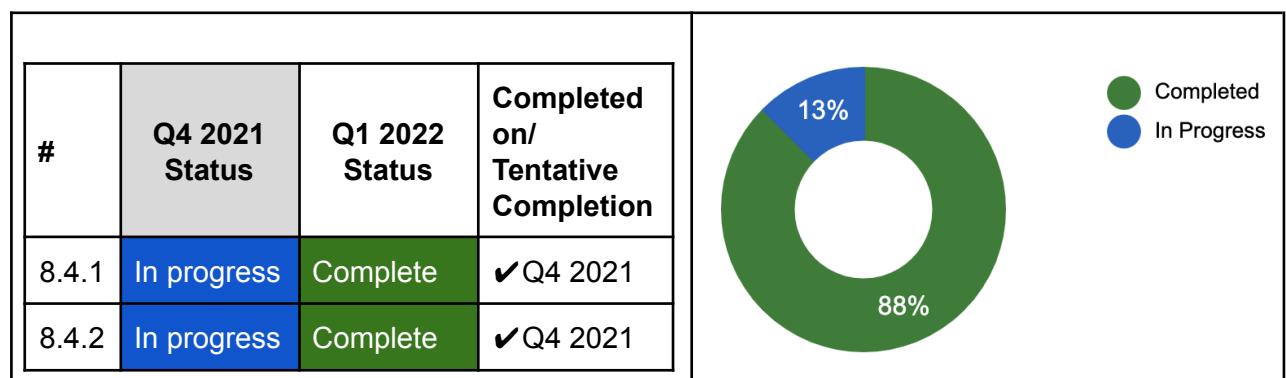
with technical briefings, publish papers and analysis of new legislation, policy initiatives and regulation relevant to ICANN's mission, and offer capacity-building opportunities to governmental groups and GAC members. Two additional initiatives in this area include informing the community of Public Comment opportunities involving new legislation and regulation relevant to ICANN's mission, as well as holding a regular session at ICANN meetings for ICANN org to brief the community on geopolitical legislative and regulatory developments, the first of which occurred at [ICANN73](#).

### Improving Transparency of Board Deliberations



Work is ongoing to complete the final steps for addressing the implementation guidance the CCWG-ACCT produced on 8.3.3. Initiating the annual review process is a significant implementation milestone for ICANN org, as it required extensive resources. As part of the design of the first review, ICANN org has built in new systems and internal repositories to assure quicker, more streamlined future annual review processes. ICANN org expects to publish the results of the review, including releasing some previously redacted materials for FY17, 18, 19, and 20, in Q2 2022.

### Improving ICANN's Anonymous Hotline (Whistleblower Protection)



8.4.3	Complete	Complete	✓ Q4 2020	<p style="text-align: center;"><i>Status of Recommendations</i></p> <p><b>Completion of tasks: 83%</b></p> <p><b>Progress of Completion – Current vs. Planned: -11%</b></p>
8.4.4	In progress	Complete	N/a	
8.4.5	Not started	Complete	✓ Q1 2022	
8.4.6	Complete	Complete	✓ Q4 2020	
8.4.7	Complete	Complete	✓ Q4 2020	
8.4.8	In progress	In progress	Q2-2022 Q4 2022	

In addition to updating the Whistleblower policy and procedures to address Recommendations 8.4.3, 8.4.6, and 8.4.7, ICANN org released a copy of the policy on the ICANN org website, including the procedures for handling reports in November 2021 – see <https://www.icann.org/employee-anonymous-hotline-policy-procedures-whistleblower>. This documentation will be featured on the tools and practices page being deployed to address Staff Accountability Recommendation 7.1.1 (see pages 19-21 for more information).

As indicated in Q4 2021, sharing data from the “Hotline” could breach confidentiality and discourage use of the Hotline. Therefore, ICANN org developed training, in addressing Recommendation 8.4.5, to support and sustain a safe environment where all staff feel comfortable and confident in the various methods of speaking up to raise concerns. In Q1 2022, all staff completed the required training that served to highlight existing mechanisms to share feedback, concerns, and suggestions, in addition to raising awareness of the formal policies in place to maintain the highest standards of ethical, moral, and legal business conduct. This included the Whistleblower Protection, but also policies such as the Open Door, Prohibition of Harassment and Fraud prevention training, and ability to raise a concern with direct management or Human Resources Business Partner. Moving forward, this will be an ongoing organizational initiative. ICANN org will continue this initiative through open discussions, training and webinars, and annual policy acknowledgments, and will maintain open lines of communication and reinforce the commitment made to foster an environment where staff feel comfortable speaking up.

While it was noted in Q4 2021 that progress was made in addressing Recommendation 8.4.4 on the “case management software” to better enable tracking, documenting, reporting, and anticipating potential problem areas raised through the Hotline, ICANN org wishes to rectify this statement to note that it already utilizes, and will continue to utilize, an independent third party’s confidential case management software to record actions, engage anonymously with complainants (as appropriate), and document outcomes.

Work is ongoing to engage a third-party auditor to identify gaps, timely corrections, and best practices in addressing Recommendation 8.4.8, including best practices on the frequency of such reviews. ICANN org is in the process of selecting a vendor. It is anticipated that this recommendation will close in Q4 2022.

## 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	
<p><b>ICANN org</b></p> <ol style="list-style-type: none"> <li>1. Is responsible for the implementation of the WS2 recommendations not directed elsewhere by the Board, and is accountable to the Board.</li> <li>2. Is responsible for monitoring, recording and reporting to the Board the status of all implementation activities carried out by org and the community.</li> <li>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.</li> <li>4. Is responsible for informing the public and the community of the status of WS2 implementation work.</li> <li>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.</li> <li>6. Is responsible for soliciting advice and input from the WS2-IT as org deems it useful and appropriate.</li> </ol>	<p><b>ICANN Board</b></p> <ol style="list-style-type: none"> <li>1. Is accountable to the community and public on the implementation of all WS2 recommendations.</li> <li>2. Monitors implementation progress leveraging the monitoring oversight work performed by the WS2 Caucus Group and the Organizational Effectiveness Committee as appropriate;</li> <li>3. Receives WS2-IT and community input and feedback on WS2 related topics.</li> <li>4. Considers any subsequent Board action, as appropriate.</li> </ol>
<p><b>ICANN Community</b></p> <ol style="list-style-type: none"> <li>1. Is responsible for implementing the recommendations specifically designated by the Board, with exclusive authority over the manner of implementation.</li> <li>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.</li> <li>3. Provides input into community planning and prioritization, as agreed with/directed by SO/AC leadership.</li> </ol>	<p><b>WS2-IT</b></p> <ol style="list-style-type: none"> <li>1. Is responsible for providing org input and advice on any WS2 recommendation and implementation matter as reasonably solicited by org.</li> <li>2. Is consulted by the community organizations in charge of implementation for input and advice, as desired.</li> <li>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.</li> </ol>

## Appendix C: WS2 Recommendations

### 1. Recommendations to Improve Diversity

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.

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.

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.

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.

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.

1.7 ICANN staff should support SO/AC/Groups in developing and publishing a process for dealing with diversity-related complaints and issues.

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 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

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.

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.

2.3 Standalone Recommendations In addition to the proposed guidelines which are intended to trigger the indemnity 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 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

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.

## 4. Recommendations on Jurisdiction

## 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.

### 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.

### 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.

### 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.

## 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 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)

5.1 The Ombuds Office should have a more strategic focus.

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.

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 emphasize the importance of the Ombuds function by all relevant parts of ICANN, including: Board, CEO, Community Groups, Complaints Officer.

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.

5.5 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.

5.6 The Office of the Ombuds should be configured so that it has formal mediation training and experience within its capabilities.

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.)

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.~~
- ~~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 advisers 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 through 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.

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.

5.11 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?
<b>6. Recommendations to Increase SO/AC Accountability<sup>11</sup></b>
<b>6.1 Accountability</b>
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.
6.1.7 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.
<b>6.2 Transparency</b>
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: <ul style="list-style-type: none"> <li>6.2.4.1 Trade secrets or sensitive commercial information whose disclosure would cause harm to a person or organization's legitimate commercial or financial interests or competitive position.</li> </ul>

<sup>11</sup> Per the CCWG-ACCT's conclusions and recommendation language, Recommendations 6.6 on the Mutual Accountability Roundtable and 6.7 on IRP and SO/AC activities do not require action by org or community and are considered n/a.

- 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.

6.3.6 if ICANN were to expand the list of languages that it supports, this support should also be made available to SO/AC/Groups.

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.

## 7. Recommendations to Improve Staff Accountability

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.

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.

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 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.

## 8. Recommendations to Improve ICANN Transparency

### 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 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.

8.1.16 ~~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

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.

## **8.2 Documenting and Reporting on ICANN's Interactions with Governments**

~~8.2.1 In the interest of providing the community greater clarity with regard to how ICANN engages government stakeholders<sup>7</sup> 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",<sup>8</sup> both in the U.S. and abroad:~~

- ~~● 8.2.1.1 All expenditures on an itemized basis by ICANN both for outside contractors and internal personnel.~~
- ~~● 8.2.1.2 All identities of those engaging in such activities, both internal and external, on behalf of ICANN.~~
- ~~● 8.2.1.3 The type(s) of engagement used for such activities.~~
- ~~● 8.2.1.4 To whom the engagement and supporting materials are targeted.~~
- ~~● 8.2.1.5 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:

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.

~~8.3.2 The Bylaws should be revised so that material may only be 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.

#### **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.

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.”



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 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.

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.

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.

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.

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.

# Appendix D: Scope of the WS2 Community Coordination Group

## SUMMARY OF PROPOSAL FOR A WORK STREAM 2 COMMUNITY COORDINATION GROUP

Updated following SOAC Chairs Roundtable of 15 December 2021

### Introduction

The community's implementation work on those Cross Community Working Group on Enhancing ICANN Accountability (CCWG-Accountability) Work Stream 2 (WS2) recommendations that are directed at the community will require implementation by and within individual community groups, as well as a collective focus to address a few specific items that require coordination and collaboration across the community.

As an action item from the SOAC Chairs Roundtable call on 4 October 2021, ICANN org put together this summary of the expected role and scope of responsibilities for a proposed WS2 Community Coordination Group. Based on additional discussions during the SOAC Chairs Roundtable on 15 December 2021, ICANN org has updated this summary for the community's reference.

### Status (as of 15 December 2021)

There was general agreement that a coordination and information sharing mechanism will be useful. The SOAC Chairs agreed in principle to proceed with forming a lightweight coordination group in line with the scope as described in this summary, subject to further review of specific details such as composition. The SOAC Chairs' suggestions for a few specific items have been incorporated into this updated summary.

### Next Steps

The SOAC Chairs will circulate this updated summary to their groups for information and feedback. ICANN org suggests that each group raises its specific concerns (if any) with the items described in this summary through its respective SOAC Chair by end-January 2022. This will allow ICANN org to follow up with the groups to seek appointments to the WS2 Community Coordination Group in February 2022, with the aim to conduct a first meeting in late February or shortly after ICANN73.

### Purpose of the WS2 Community Coordination Group

As individual community structures continue to consider and address the [recommendations](#) applicable to each group from the CCWG-Accountability, the WS2 Community Coordination Group is intended to serve as a forum to exchange best practices, lessons learned, as well as for sharing information and progress. The WS2 Community Coordination Group will also be where the WS2 recommendations or topics that can benefit from a uniform, community-wide approach will be identified and addressed. Specifically, the CCWG recommendations that appear to benefit from community coordination are [Recommendation 1.1](#) (on seven proposed elements of diversity), [Recommendation 1.7](#) (on a process for handling complaints about diversity), and [Recommendation 2.3](#) (on a standalone framework for exercising Empowered Community powers).

In addressing community-wide implementation of Recommendations 1.1, 1.7, and 2.3, the WS2 Community Coordination Group is expected to discuss:

- The relevant priority of these recommendations in the context of other WS2 recommendations implementation and overall community workload
- The scope of and opportune timing for additional community consultations (as needed)
- How to reach broad community agreement on these recommendations; and
- What each individual community group will need to carry out any agreed implementation.

The WS2 Community Coordination Group is an experience-sharing and information forum and is not intended to be a decision-making body. In limited circumstances, it may present a joint proposal for discussion by the SOAC Chairs (see further below).

### **Composition**

It is envisioned that the WS2 Community Coordination Group will be populated by volunteers from each SO and AC involved in the WS2 implementation work. Given the WS2 Community Coordination Group's purpose and to ensure inclusivity while keeping the group sufficiently small to allow for meaningful discussions, each Supporting Organization, Advisory Committee, GNSO Stakeholder Group, and Regional At-Large Organization will appoint one (1) representative to the Group.

To ensure continuity and to facilitate uninterrupted participation by each appointing community group, each Supporting Organization, Advisory Committee, GNSO Stakeholder Group and Regional At-Large Organization may appoint a secondary representative (or "alternate") to the WS2 Community Coordination Group.

In addition, all Supporting Organizations, Advisory Committees, GNSO Stakeholder Groups, Regional At-Large Organizations and GNSO Constituencies can appoint up to [INSERT NUMBER] Observers to the Group. Observers will be subscribed to the Group's mailing list (on a "read-only" basis) and may attend calls and meetings but may not participate in the WS2 Community Coordination Group's discussions.

### **No Decision-Making Authority**

The WS2 Community Coordination Group does not operate as a decision-making body. Rather, it is a central point for discussion where each community group's views and progress are shared, where coordination of prioritization for community-wide implementation of WS2 recommendations takes place, as appropriate, and where information about best practices and tools used can be exchanged. Each SO and AC is entirely independent in determining whether and how to implement WS2 recommendations. Members of the WS2 Community Coordination Group will therefore be expected to report back to their communities on relevant and useful points discussed in the coordination group and to voice their community's views and decisions into the WS2 Community Coordination Group as relevant and appropriate.

Where, as a result of the information sharing and discussions within the WS2 Community Coordination Group, the WS2 Community Coordination Group believes that certain outcomes or uniform solutions can apply to several or all community organizations, the

members of the WS2 Community Coordination Group should each first communicate the proposals back to their individual SOAC groups for review. Any final WS2 Community Coordination Group proposal for a community-wide approach must be made based on all the feedback received from each SOAC group. The WS2 Community Coordination Group should then share such proposed outcomes or solutions with the SOAC Chairs for their review and consideration of next steps, including the appropriate community structure(s) for any required decision making.

The participation of each WS2 Community Coordination Group member and their input or contribution to the Group does not commit any SO or AC to any position or otherwise bind them to any specific action or decision, for which they remain entirely independently authoritative.

Non-participation by a community structure in the WS2 Community Coordination Group does not imply acceptance or approval of any outputs from the Group. Any and all WS2 implementation proposals developed as a result of the coordination work performed by the Group must be shared promptly with all Supporting Organizations, Advisory Committees, GNSO Stakeholder Groups and Constituencies, and Regional At-Large Organizations, to ensure that every ICANN community structure has the opportunity to provide input and feedback through the SOAC Chairs.

### **Transparency; Review**

The WS2 Community Consultation Group will operate in a transparent fashion. All discussions, proposals, and documents of the WS2 Community Coordination Group should be recorded and published. A wiki page will be set up by ICANN org to support document sharing and provide the transparency necessary to its activities.

To document the Group's discussions, and record decisions needed, including outcomes, a rapporteur will need to be selected by and from amongst the volunteers of the WS2 Community Coordination Group. ICANN org supporting the WS2 Community Coordination Group may assist the designated Rapporteur in maintaining the records and ensuring uniformity of reporting.

At its first meeting, the Group will discuss and determine the frequency of its meetings, which is suggested to be bi-monthly (once every 2 months) as a starting point.

At the end of one year following its first meeting, the SOAC Chairs shall review the composition, progress, and effectiveness of the Group. Based on that review, the Group may be asked to continue its work, or be reconstituted and reformed according to new criteria, or disbanded.

### **Org Support**

Facilitation of the WS2 Community Consultation Group discussions, including preparation involving but not limited to drafting agendas and briefings, will primarily be handled by ICANN org's Policy Team with ICANN org's Implementation Operations assistance, as appropriate. Where needed, other ICANN org functions may attend activities to support the WS2 Community Coordination Group's discussions.