

# **Work Stream 2 Implementation Summary Q3 2023 Quarterly Report**

*Enhancing ICANN Accountability*

30 September 2023

## Purpose of This Document

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

## Table of Contents

<b>Work Stream 2 Implementation</b>	<b>3</b>
<b>Status of Org Implementation</b>	<b>5</b>
Diversity	8
Framework of Interpretation – Human Rights Core Value	10
Jurisdiction	10
ICANN Office of the Ombuds	11
SO/AC Accountability	12
Staff Accountability	13
Transparency	13
Improving ICANN's Documentary Information Disclosure Policy	14
Documenting and Reporting on ICANN's Interactions with Governments	15
Improving Transparency of Board Deliberations	15
Improving ICANN's Anonymous Hotline (Whistleblower Protection)	16
<b>Status of Community Implementation</b>	<b>17</b>
Diversity	19
Guidelines for Good Faith	20
Human Rights Framework of Interpretation	21
SO/AC Accountability	22
<b><i>Appendix A: Background</i></b>	<b>24</b>
<b><i>Appendix B: Roles and Responsibilities</i></b>	<b>25</b>
<b><i>Appendix C: WS2 Recommendations</i></b>	<b>26</b>
<b><i>Appendix D: Scope of the WS2 Community Coordination Group</i></b>	<b>40</b>

## Work Stream 2 Implementation

As initial discussions of the Internet Assigned Numbers Authority (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.

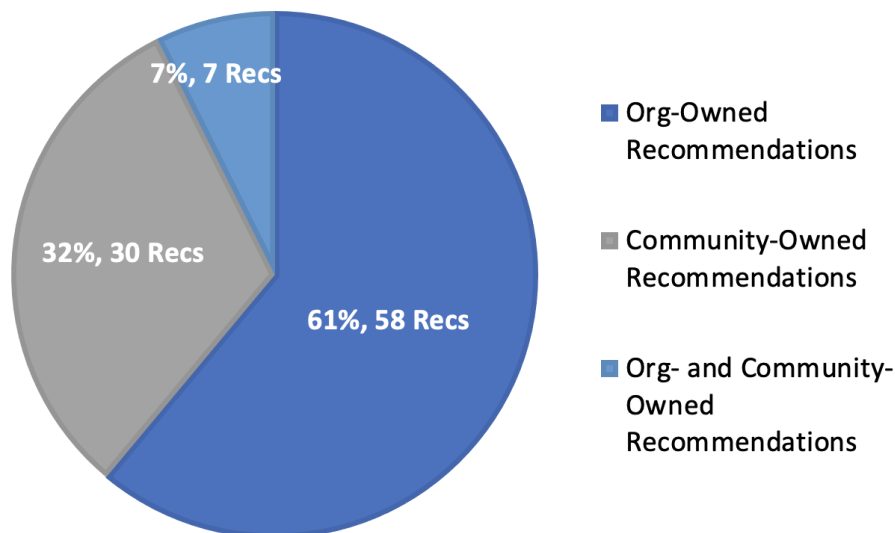
The work of the Cross-Community Working Group on Enhancing ICANN Accountability (CCWG-ACCT) was divided into two phases:

- 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, see [Appendix A: Background](#).

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: Roles and Responsibilities](#). WS2 implementation is an org priority for [Fiscal Year 2023](#) (FY23).

The [WS2 Final Report](#) contains 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 of WS2 recommendations.

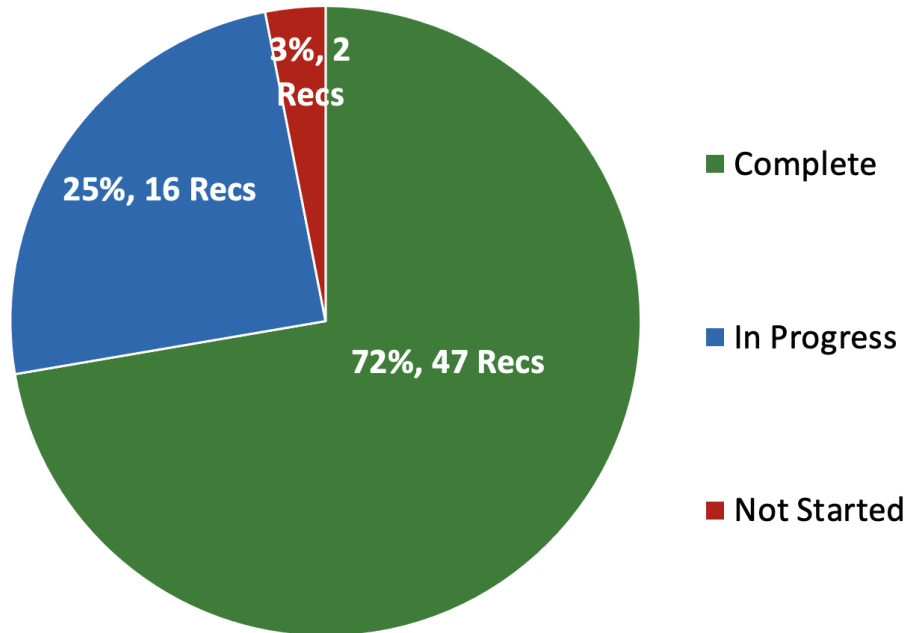
The org and community share ownership of the implementation of three topics and have seven recommendations in common (marked with an asterisk in the following table). [Appendix C: WS2 Recommendations](#) contains the recommendation text for full reference.

WS2 Topic	Responsibility <i>ICANN org provides support to the community in its implementation 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 (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 (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

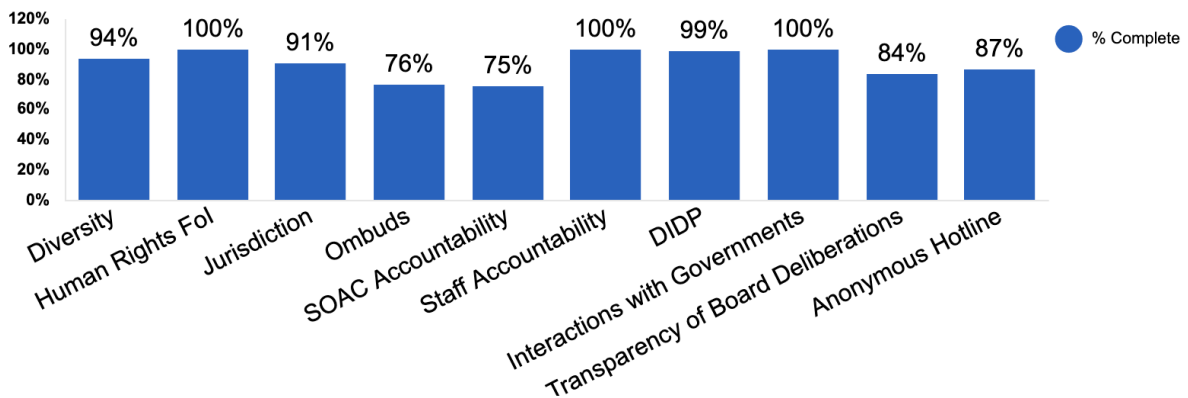
The WS2 Implementation Team (WS2-IT) is a group of former CCWG-ACCT members – more information can be found in [Appendix B: Roles and Responsibilities](#) and on the WS2-IT’s [dedicated workspace](#) – that remains available, upon request, to provide input and advice on any WS2 recommendation and implementation matters.

# Status of Org Implementation

WS2 implementation continues to be a priority for ICANN org.



Implementation Status of Org Recommendations (September 2023)



Implementation Progress Status by Topic<sup>1</sup> – Org Recommendations (September 2023)

Since [Q2 2023](#), ICANN org has moved one additional recommendation to “in progress”.

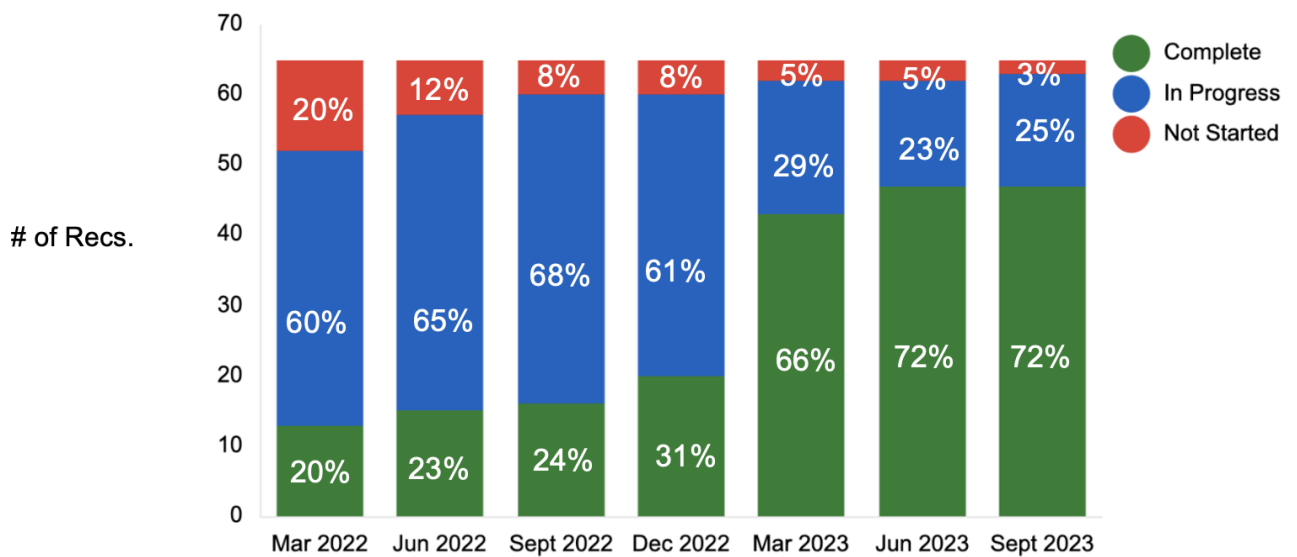
The quarters in the following table are calendar quarters.<sup>2</sup>

<sup>1</sup> This measures the percentage of effort toward completion of the recommendations.

<sup>2</sup> Q1 equals January–March; Q2 equals April–June; Q3 equals July–September; and Q4 equals October–December.

Implementation Status of 65 Org Recommendations - Q3 2023	Q1 2022	Q2 2022	Q3 2022	Q4 2022	Q1 2023	Q2 2023	Q3 2023
Implementation complete	13	15	16	20	43	47	47
Implementation in progress	39	42	44	40	19	15	16
Implementation not started	13	8	5	5	3	3	2

This translates into the following percentages:



WS2 Progress Over Time (September 2023)

The following table presents an overview of the recommendations and their status. [Appendix C: WS2 Recommendations](#) contains the recommendation text for full reference. At the time of writing this report, implementation has not started for two recommendations which are tied to the completion of another recommendation.

WS2 Implementation – Status of 65 Org Recommendations - Q3 2023	
<b>Complete (47 Recs.)</b>	<p><i>Diversity:</i> 1.1, 1.2, 1.3, 1.4, 1.5, 1.8</p> <p><i>Human Rights Framework of Interpretation:</i> 3.1</p> <p><i>Jurisdiction:</i> 4.1.1, 4.1.2, 4.2</p> <p><i>ICANN Office of the Ombuds (IOO):</i> 5.6, 5.7</p> <p><i>Staff Accountability:</i> 7.1.1, 7.1.2, 7.2.1, 7.2.2, 7.3</p> <p><i>Transparency:</i></p> <ul style="list-style-type: none"> <li><i>DIDP:</i> 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> </ul>

	<ul style="list-style-type: none"> <li>• <i>Documenting and Reporting on ICANN's Interactions with Governments</i>: 8.2</li> <li>• <i>Transparency of Board Deliberations</i>: 8.3.1, 8.3.2</li> <li>• <i>Improving ICANN's Anonymous Hotline (Whistleblower Protection)</i>: 8.4.1, 8.4.2, 8.4.3, 8.4.4, 8.4.5, 8.4.6, 8.4.7</li> </ul>
<b>In Progress (16 Recs.)</b>	<p><i>Diversity</i>: 1.6, 1.7</p> <p><i>Jurisdiction</i>: 4.1.3, 4.1.4</p> <p><i>IOO</i>: 5.1, 5.2, 5.4, 5.5, 5.9, 5.10, 5.11</p> <p><i>SO/AC Accountability</i>: 6.1.7, 6.3.6</p> <p><i>Transparency</i>:</p> <ul style="list-style-type: none"> <li>• <i>DIDP</i>: 8.1.16</li> <li>• <i>Transparency of Board Deliberations</i>: 8.3.3</li> <li>• <i>Improving ICANN's Anonymous Hotline</i>: 8.4.8</li> </ul>
<b>Not Started (2 Recs.)</b>	<p><u><i>Dependent on completion of a recommendation</i></u></p> <p style="text-align: right;"><i>IOO</i>: 5.3, 5.8</p>

This table presents an overview of the recommendations for which implementation is “in progress” or “not started” and the tentative date of completion.

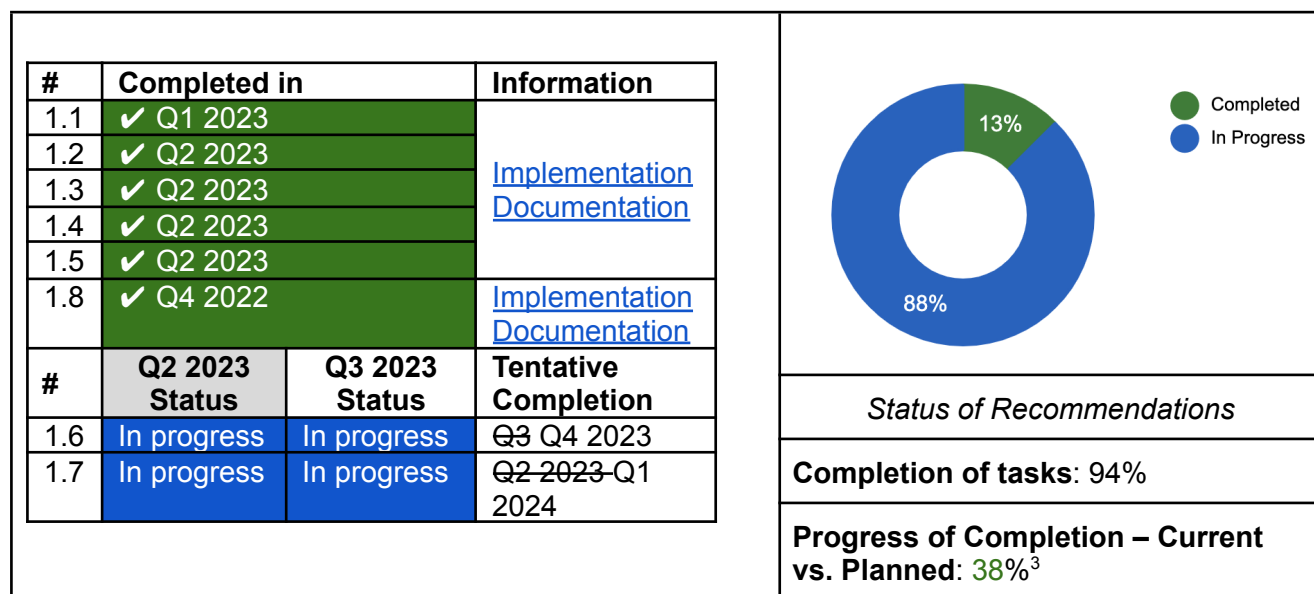
Topic	Rec.	Q2 2023 Status	Q3 2023 Status	Tentative Completion
<i>Diversity</i>	1.6	In progress	In progress	Q4 2023
<i>Diversity</i>	1.7	In progress	In progress	Q1 2024
<i>Jurisdiction</i>	4.1.3	In progress	In progress	Q4 2023
<i>Jurisdiction</i>	4.1.4	In progress	In progress	Q4 2023
<i>IOO</i>	5.1	In progress	In progress	Q2 2024
<i>IOO</i>	5.2	In progress	In progress	Q2 2024
<i>IOO</i>	5.3	Not started	Not started	Q2 2024
<i>IOO</i>	5.4	In progress	In progress	Q2 2024
<i>IOO</i>	5.5	In progress	In progress	Q2 2024
<i>IOO</i>	5.8*	Not started	Not started	Q4 2024
<i>IOO</i>	5.9	Not started	In progress	Q2 2024
<i>IOO</i>	5.10	In progress	In progress	Q2 2024
<i>IOO</i>	5.11	In progress	In progress	Q2 2024
<i>SO/AC Accountability</i>	6.1.7	In progress	In progress	Q4 2023
<i>SO/AC Accountability</i>	6.3.6	In progress	In progress	Q4 2023
<i>Transparency – DIDP</i>	8.1.16*	In progress	In progress	Q4 2023
<i>Transparency – Board Deliberations</i>	8.3.3*	In progress	In progress	Q4 2023
<i>Transparency – Anonymous Hotline</i>	8.4.8	In progress	In progress	Q4 2023

\* Implementation guidance provided by the CCWG-ACCT.

The following section provides more detailed information by topic. Any changes to the work plan are reflected through strikethrough.

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

## Diversity



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 seven diversity elements, 2) measuring and promoting diversity, and 3) providing 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>4</sup>, Nominating Committee (NomCom)<sup>5</sup>, and ICANN org. The community shares ownership with ICANN org on implementing diversity recommendations.

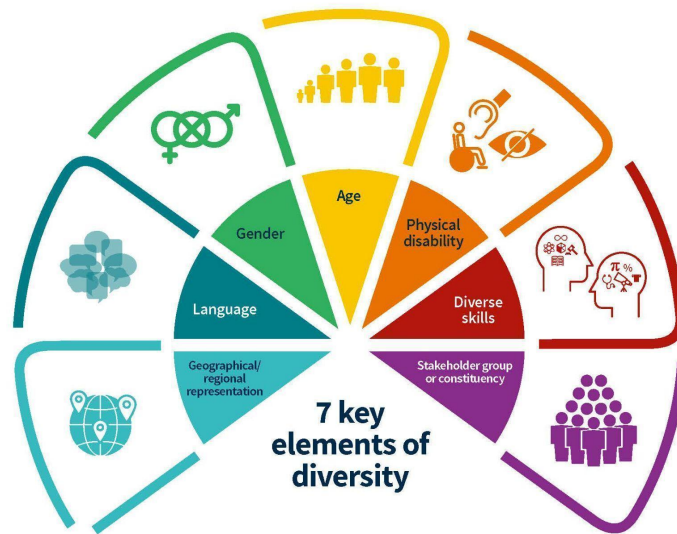
The CCWG-ACCT Recommendation 1.1 identified a list of seven diversity elements (geographic/regional representation, language, gender, age, physical disability, diverse skills, and stakeholder group/constituency) for which there is a need to establish a shared understanding to facilitate uniform data gathering and reporting.

<sup>3</sup> Progress of completion - current vs. planned is an indicator that measures “on-time delivery” by indicating whether the work is progressing according to the time frame set when the work plan was developed. This indicator is impacted by progress of the work as well as by changes to the work plan. The indicator shows negative if less work has been completed than originally planned. The indicator shows positive if the work completed is ahead of the original plan/schedule.

<sup>4</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>5</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.





*The CCWG-ACCT's Proposed Seven Diversity Elements<sup>6</sup>*

In Q1 2023, the WS2 Community Coordination Group agreed on an [Outcomes Report](#), which encapsulates the alignment reached by the community on the diversity elements. See [Diversity](#) under [Status of Community Implementation](#) for more information.

The implementation of Recommendations 1.1, 1.2, 1.3, 1.4 and 1.5 is considered complete for ICANN org as explained in the [implementation documentation](#).

Implementation of Recommendation 1.1 for the ICANN Board and NomCom is also complete as diversity elements are and will remain included in standard operating procedures to the extent possible in accordance with Bylaw and legal requirements. The Board's diversity is governed by the Bylaws, and is decided by its appointing bodies. The diversity of the Nominating Committee is also decided by its appointing bodies. However, the proposed charter for the NomCom Standing Committee that was submitted for [public comment](#) in April 2023 and approved by the Board on [10 September 2023](#) includes diversity considerations emerging from WS2. ICANN org will also work with the ICANN Board Governance Committee on ways to further incorporate consideration of diversity elements, as appropriate, into the Board's annual conversation with the NomCom.

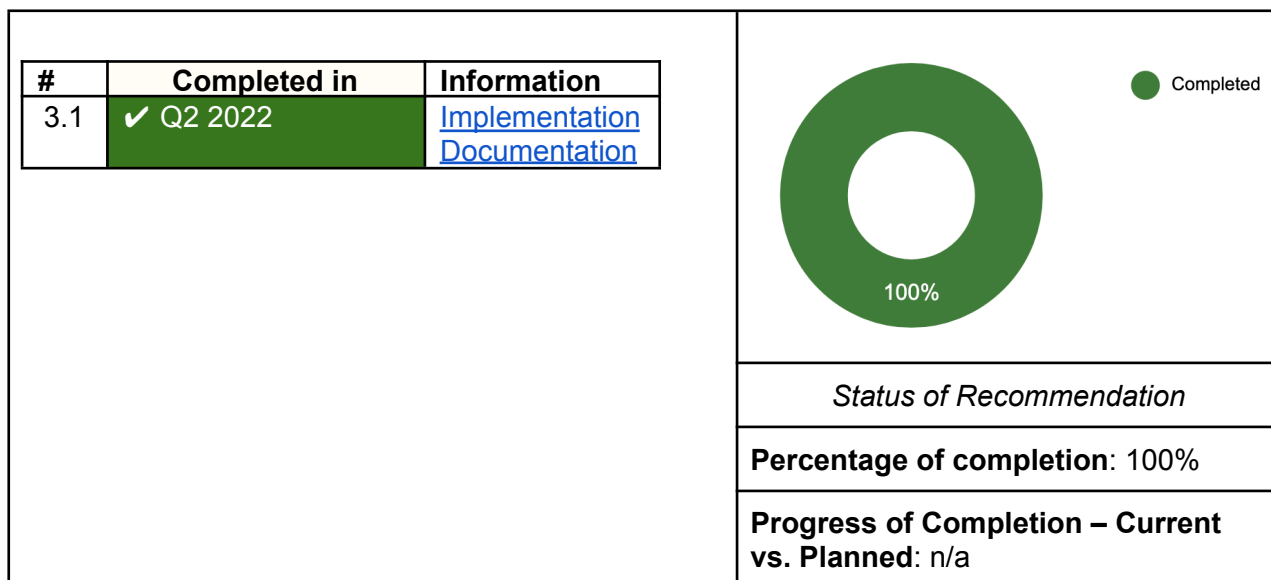
Work continues to assemble the practical toolkit (Recommendation 1.6) that will serve ICANN community groups in their diversity assessments (Recommendation 1.3), elaboration of diversity strategies and objectives (Recommendation 1.4), and associated reviews (Recommendation 1.5). The toolkit will comprise diversity survey templates, guidance on how to collect data in an inclusive way, examples of strategies to increase diversity and inclusion, and best practices. In Q3 2023, ICANN org completed the translations of two diversity surveys that reflect input received from the WS2 CCG during working sessions. The complete diversity toolkit is currently in production and will be delivered in Q4 2023.

In Q2 2023, ICANN org supported the WS2 CCG discussions on a process for dealing with diversity-related complaints and issues (Recommendation 1.7). To complement its [inventory of existing complaints](#), ICANN org assembled [considerations](#) to assist these discussions and

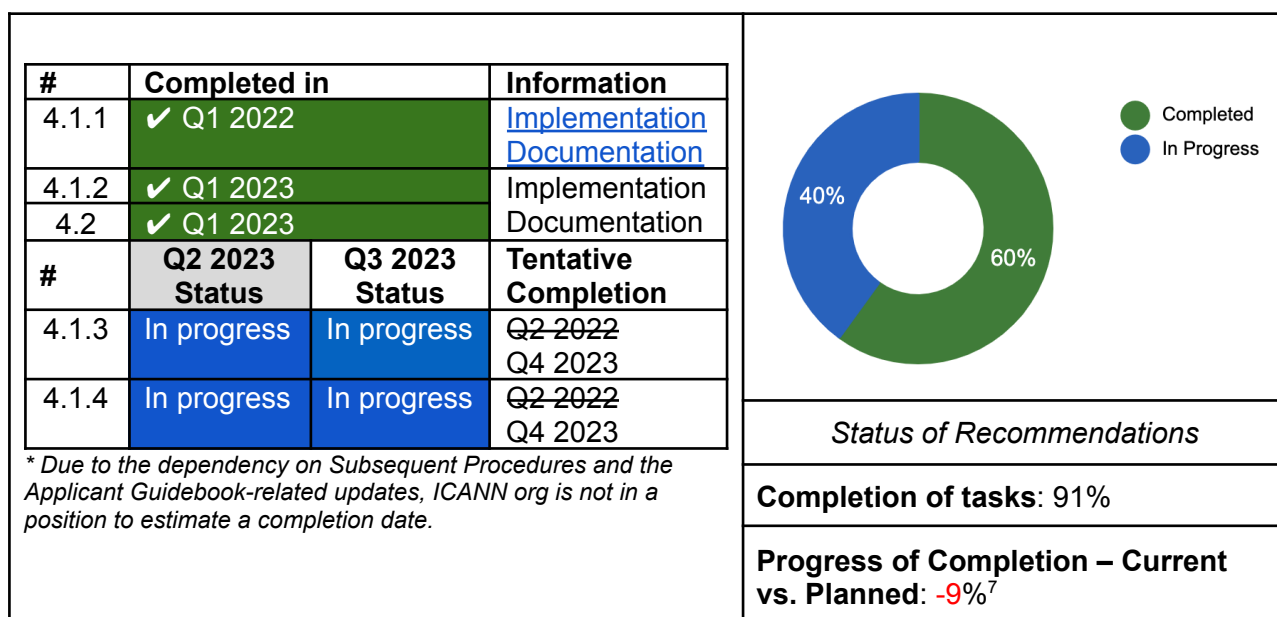
<sup>6</sup> See p.18 of the [CCWG-Accountability WS2 – Final Report](#).

organized a WS2 CCG discussion with the Ombuds Office and ICANN org’s Complaints Officer to inform these discussions.

## Framework of Interpretation – Human Rights Core Value



## Jurisdiction



Recommendation 4.1 and its components relate to the impact of trade regulations, such as those from the U.S. Government’s Office of Foreign Asset Control (OFAC), which impose restrictions on whom ICANN may provide with goods and services. Recommendation 4.2

<sup>7</sup> Progress of completion - current vs. planned is an indicator that measures “on-time delivery” by indicating whether the work is progressing according to the time frame set when the work plan was developed. This indicator is impacted by progress of the work as well as by changes to the work plan. The indicator shows negative if less work has been completed than originally planned. The indicator shows positive if the work completed is ahead of the original plan/schedule.

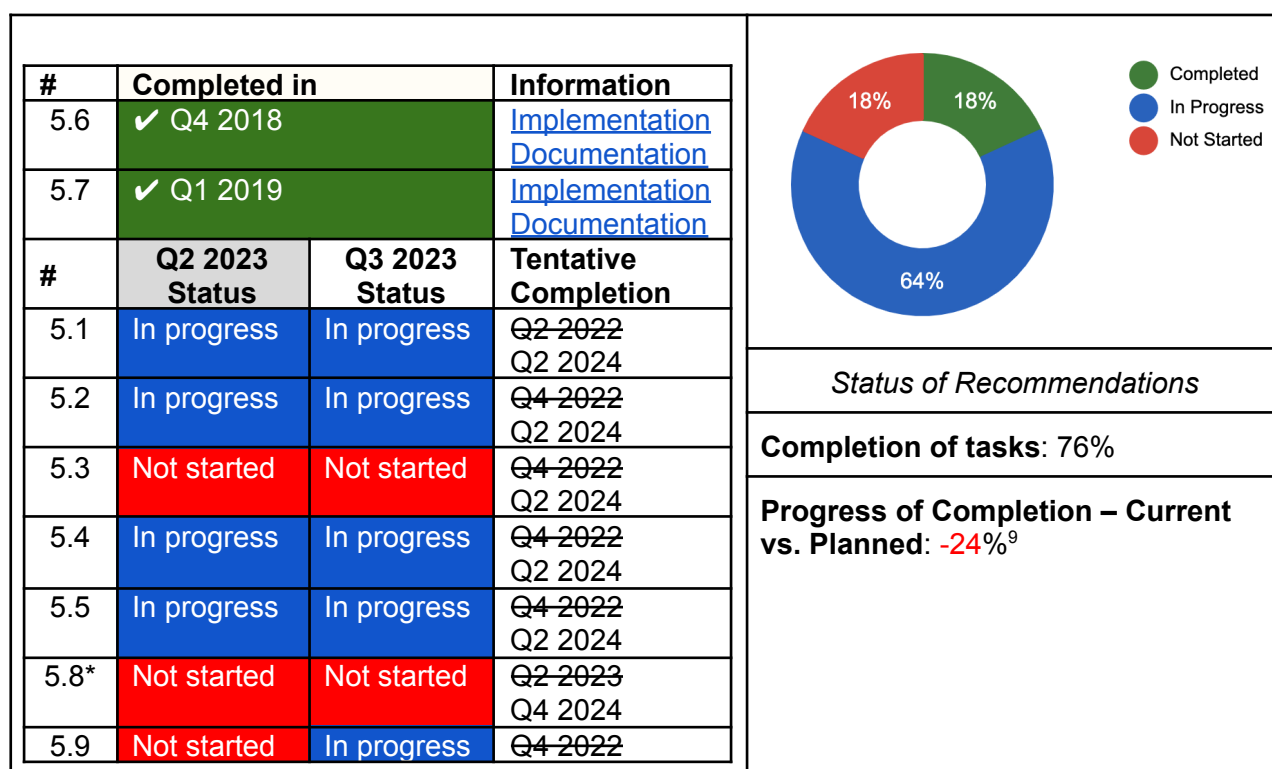
and its components relate to the Choice of Law and Choice of Venue provisions in ICANN Agreements.

Implementation of Recommendation 4.1.3 is now expected to conclude in Q4 2023. It entails updating the registrar accreditation information webpage 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.

The requested study of costs, benefits, timeline, and details of seeking general licenses (Recommendation 4.1.4) is in its final stages, and is scheduled to complete in Q4 2023. The Community should not rely on the ability to obtain global exemptions as contemplated by the WS2.

In Q1 2023 Recommendations 4.1.2 and 4.2 were marked complete as in March 2023 they were superseded by Board approval of recommendations for the next round of the New gTLD Program. Recommendation 4.1.2 required an update to the Applicant Guidebook<sup>8</sup> while Recommendation 4.2 is connected to Registry Agreement contract amendments required to be addressed in conjunction with Subsequent Procedures (SubPro). The recommendations will be addressed via the implementation of the [Board-approved](#) SubPro Final Report outputs. Implementation documentation is in production.

## ICANN Office of the Ombuds



<sup>8</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.

<sup>9</sup> Progress of completion - current vs. planned is an indicator that measures “on-time delivery” by indicating whether the work is progressing according to the time frame set when the work plan was developed. This indicator is impacted by progress of the work as well as by changes to the work plan. The indicator shows negative if less work has been completed than originally planned. The indicator shows positive if the work completed is ahead of the original plan/schedule.

			Q2 2024
5.10	In progress	In progress	<del>Q4 2022</del> Q2 2024
5.11	In progress	In progress	<del>Q2 2022</del> Q2 2024

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

ICANN org has been working on updating the Ombuds Framework to bring the requested strategic focus (Recommendation 5.1) to the ICANN Office of the Ombuds (IOO) while not requiring a change to the Bylaws. ICANN org is merging these efforts with implementation of Recommendations 5.2, 5.4, 5.5, and 5.10 on updating procedures (e.g., categories of complaints, timelines for response, timelines for handling complaints) and Recommendation 5.11 in documenting the process to add new responsibilities to the Ombuds' purview.

On [10 September 2023](#), the ICANN Board appointed an interim Ombuds, and announced the establishment of a temporary Board Committee to help facilitate the search for ICANN's next full-time Ombuds. The WS2 Ombuds Office recommendations will inform the Board Committee's work in redefining the search.

With this announcement, Recommendation 5.9 on amending IOO employment contracting terms moved to in progress. The new targeted completion date is Q2 2024, subject to change.

Work on relaunching (Recommendation 5.3) is tied to the search committee work and related framework improvements.

As it relates to delivering on implementation guidance provided by the CCWG-ACCT on the Ombuds Advisory Panel (Recommendation 5.8), work cannot proceed until the IOO has been relaunched (Recommendation 5.3). The tentative completion date has been adjusted to Q4 2024 accordingly and is subject to change.

## SO/AC Accountability

				<p>100%</p> <p><i>Status of Recommendations</i></p> <p><b>Completion of tasks: 75%</b></p> <p><b>Progress of Completion – Current vs.</b></p>
#	Q1 2023 Status	Q2 2023 Status	Tentative Completion	
6.1.7	In progress	In progress	<del>Q1 2022</del> Q4 2023	
6.3.6	In progress	In progress	<del>Q2 2022</del> Q4 2023	

Planned: -25%<sup>10</sup>

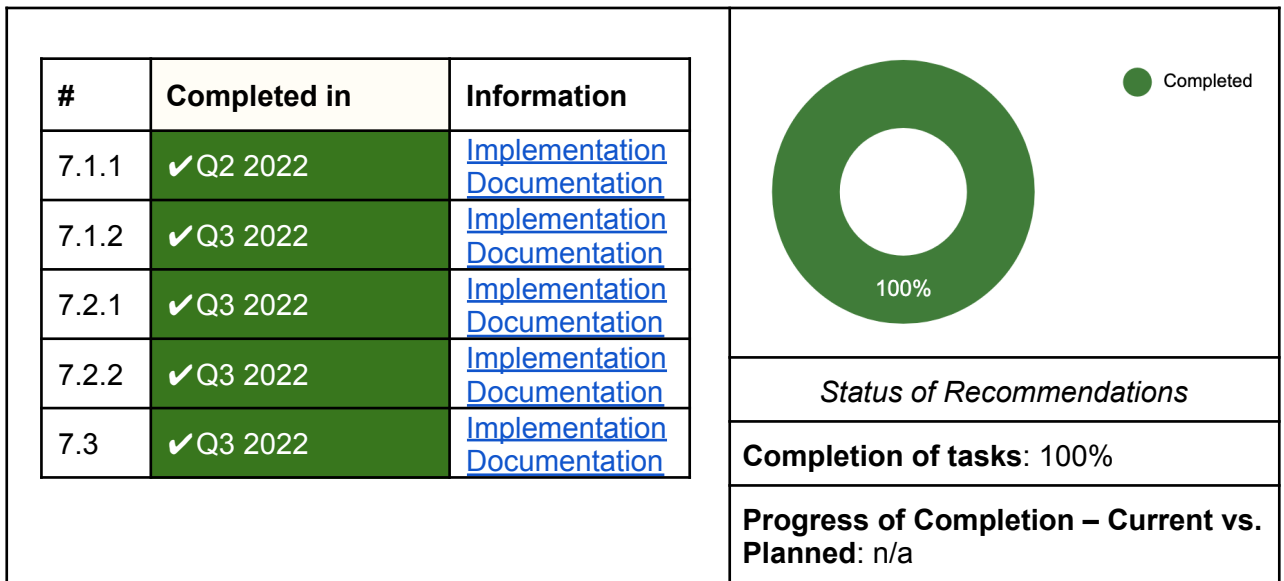
Recommendation 6.1.7 calls for the inclusion of links to SO/AC Accountability and Transparency on the ICANN org website. To address timeline challenges, ICANN org has changed the strategy to assemble this information on a wiki page that will be referenced on the ICANN.org website. This recommendation is tabled for completion in Q4 2023.

To address Recommendation 6.3.6, a new process will be published to accompany the Language Services Policy and Procedures (LSPP). The process includes:

- 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 a cost-benefit assessment);
- a detailed road map and staged process to add the new language;
- 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/ACs.

ICANN org is working towards finalizing the new process and now expects the recommendation to be completed in Q4 2023.

## Staff Accountability



## Transparency

The Transparency topics contain recommendations in four areas: 1) Improving ICANN’s Documentary Information Disclosure Policy (DIDP); 2) Documenting and Reporting on

<sup>10</sup> Progress of completion - current vs. planned is an indicator that measures “on-time delivery” by indicating whether the work is progressing according to the time frame set when the work plan was developed. This indicator is impacted by progress of the work as well as by changes to the work plan. The indicator shows negative if less work has been completed than originally planned. The indicator shows positive if the work completed is ahead of the original plan/schedule.

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

Rec	Completed in	Information	
8.1.1	✓ Q3 2022	<a href="#">Implementation Documentation</a>	
8.1.2	✓ Q3 2022		
8.1.2	✓ Q3 2022		
8.1.4	✓ Q3 2022		
8.1.5	✓ Q3 2022		
8.1.6	✓ Q3 2022		
8.1.7	✓ Q3 2022		
8.1.8	✓ Q3 2022		
8.1.9	✓ Q3 2022		
8.1.10	✓ Q3 2022		
8.1.11	✓ Q3 2022		
8.1.12	✓ Q3 2022		
8.1.13	✓ Q3 2022		
8.1.14	✓ Q3 2022		
8.1.15	✓ Q3 2022		
8.1.17	✓ Q3 2022		
8.1.18	✓ Q3 2022		
.			
8.1.19	✓ Q3 2022		
8.1.20	✓ Q3 2022		
8.1.21	✓ Q3 2022		
Rec.	Q2 2023 Status	Q3 2023 Status	Tentative Completion
8.1.16*	In progress	In progress	Q4 2022 Q4 2023

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

● Completed  
● In Progress

*Status of Recommendations*

**Completion of tasks: 99 %**

**Progress of Completion – Current vs. Planned: -1%<sup>11</sup>**

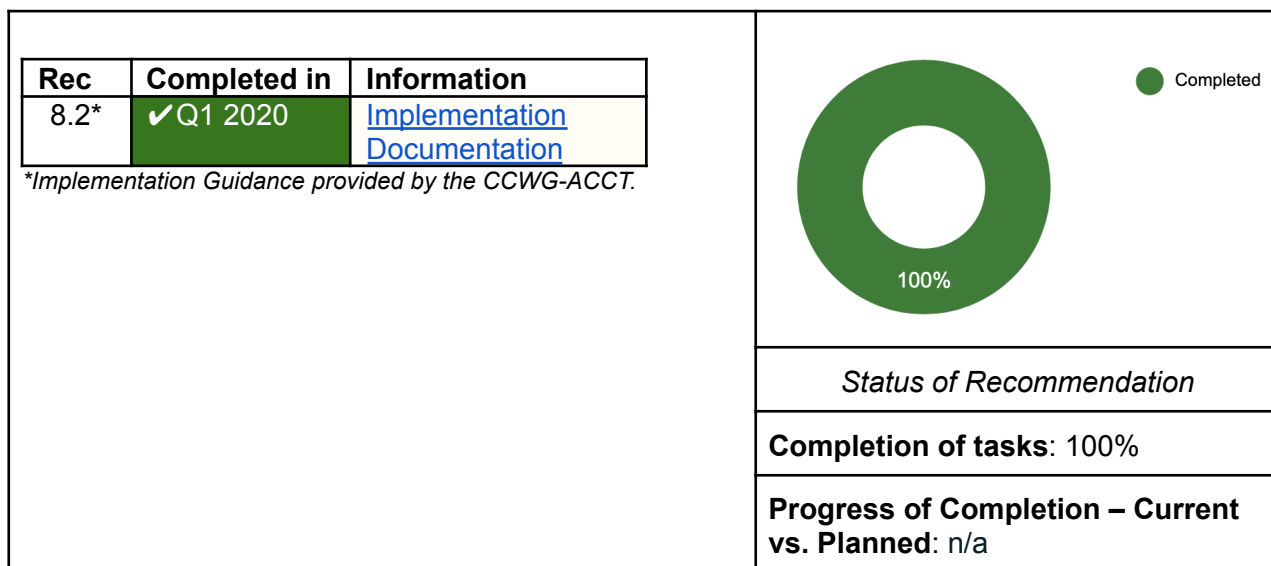
Work is in progress to address the CCWG-ACCT's implementation guidance on Recommendation 8.1.16, which regards making more information available on vendors with whom ICANN contracts. ICANN org has compiled the list of vendors to which ICANN paid more than US\$500K within FY2022, and is now preparing to release the information in Q4 2023. ICANN will be releasing vendor names associated with relevant ranges of payments. Future, yearly reporting will include the list of vendors from \$250K and above.

With regards to the portion of the Recommendation 8.1.16 that relates to the position on the limited use of non-disclosure agreements (NDAs), ICANN org has positioned its use of

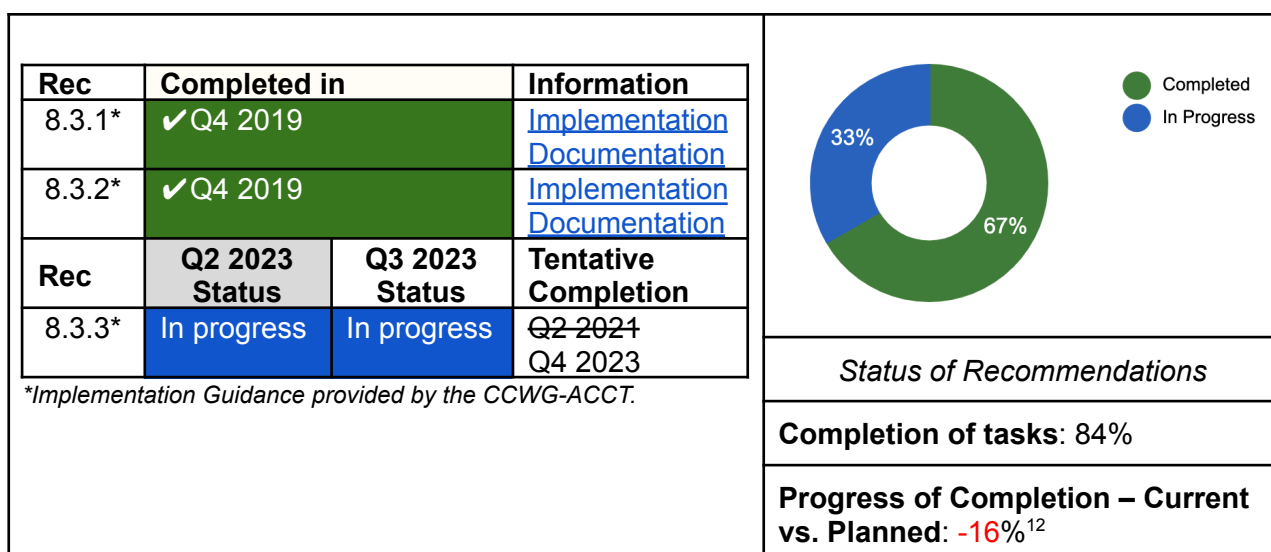
<sup>11</sup> Progress of completion - current vs. planned is an indicator that measures "on-time delivery" by indicating whether the work is progressing according to the time frame set when the work plan was developed. This indicator is impacted by progress of the work as well as by changes to the work plan. The indicator shows negative if less work has been completed than originally planned. The indicator shows positive if the work completed is ahead of the original plan/schedule.

NDA's according to the WS2 recommendations since 2016, with careful consideration of the necessity of NDAs, as opposed to blanket application of NDAs as a condition of contracting.

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



## Improving Transparency of Board Deliberations



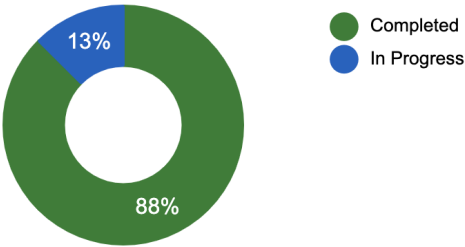
Work is ongoing to complete the final steps for addressing the implementation guidance the CCWG-ACCT produced on Recommendation 8.3.3. ICANN org has built in new systems and internal repositories to assure quicker, more streamlined, future annual review

<sup>12</sup> Progress of completion - current vs. planned is an indicator that measures “on-time delivery” by indicating whether the work is progressing according to the time frame set when the work plan was developed. This indicator is impacted by progress of the work as well as by changes to the work plan. The indicator shows negative if less work has been completed than originally planned. The indicator shows positive if the work completed is ahead of the original plan/schedule.

processes. ICANN org now expects to publish the results of the review, including releasing some previously redacted materials, in Q4 2023.

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

Rec	Completed in		Information
8.4.1	✓ Q4 2021		<a href="#">Implementation</a> <a href="#">Documentation</a>
8.4.2	✓ Q4 2021		<a href="#">Implementation</a> <a href="#">Documentation</a>
8.4.3	✓ Q4 2020		<a href="#">Implementation</a> <a href="#">Documentation</a>
8.4.4	n/a		<a href="#">Implementation</a> <a href="#">Documentation</a>
8.4.5	✓ Q1 2022		<a href="#">Implementation</a> <a href="#">Documentation</a>
8.4.6	✓ Q2 2021		<a href="#">Implementation</a> <a href="#">Documentation</a>
8.4.7	✓ Q4 2020		<a href="#">Implementation</a> <a href="#">Documentation</a>
#	Q2 2022 Status	Q3 2023 Status	Tentative Completion
8.4.8	In progress	In progress	Q2-2022 Q4 2023



**Status of Recommendations**

**Completion of tasks: 87%**

**Progress of Completion – Current vs. Planned: -13%<sup>13</sup>**

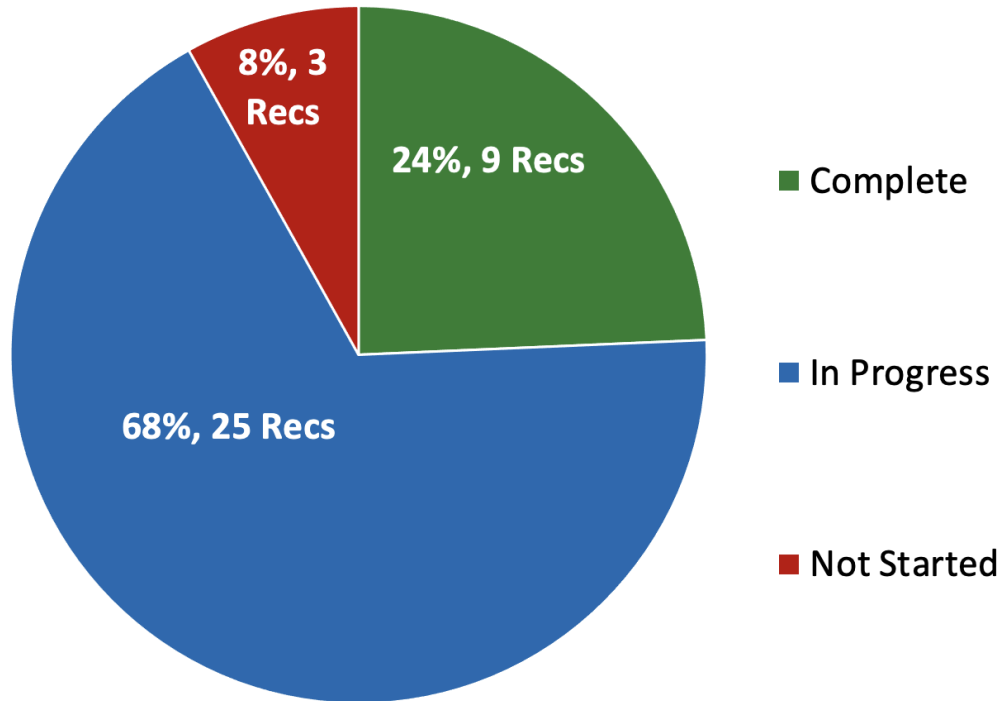
ICANN org selected a third party vendor to review ICANN org’s Hotline Policy and Procedures based on best practices, and to identify opportunities for improvement, where applicable. The selected third party’s review began in Q4 2022, and concluded in Q1 2023. ICANN org now plans to release the review results in Q4 2023 along with more information on subsequent studies of ICANN’s Hotline Policy and Procedures.

<sup>13</sup> Progress of completion - current vs. planned is an indicator that measures “on-time delivery” by indicating whether the work is progressing according to the time frame set when the work plan was developed. This indicator is impacted by progress of the work as well as by changes to the work plan. The indicator shows negative if less work has been completed than originally planned. The indicator shows positive if the work completed is ahead of the original plan/schedule.



## Status of Community Implementation

All community groups continue to implement the community-owned WS2 recommendations, some of which may result in amendments to group charters and operating procedures.



Status of 37 Community Recommendations (September 2023)

WS2 Implementation – Status of 37 Community Recommendations <i>*co-owned with ICANN org</i>		
<b>Complete (9 Recs.)</b>	SO/AC Accountability (9 recs): <ul style="list-style-type: none"> <li>• <u>Accountability</u>: <a href="#">6.1.6</a></li> <li>• <u>Transparency</u>: <a href="#">6.2.1</a>, <a href="#">6.2.2</a>, <a href="#">6.2.3</a>, <a href="#">6.2.6</a>, <a href="#">6.2.7</a></li> <li>• <u>Participation</u>: <a href="#">6.3.1</a>, <a href="#">6.3.2</a>, <a href="#">6.3.4</a></li> </ul>	
<b>In Progress (25 Recs.)</b>	Diversity (3 Recs.): 1.1*, 1.2*, 1.7*  Guidelines for Good Faith (3 Recs.): 2.1, 2.2, 2.3  Human Rights Framework of Interpretation (1 Rec.): 3.1*  SO/AC Accountability (18 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</li> <li>• <u>Transparency</u>: 6.2.4, 6.2.5</li> <li>• <u>Participation</u>: 6.3.3, 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>	
<b>Not Started (3 Recs.)</b>	<b>Will start after the completion of another WS2 recommendation</b>	Diversity: 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.

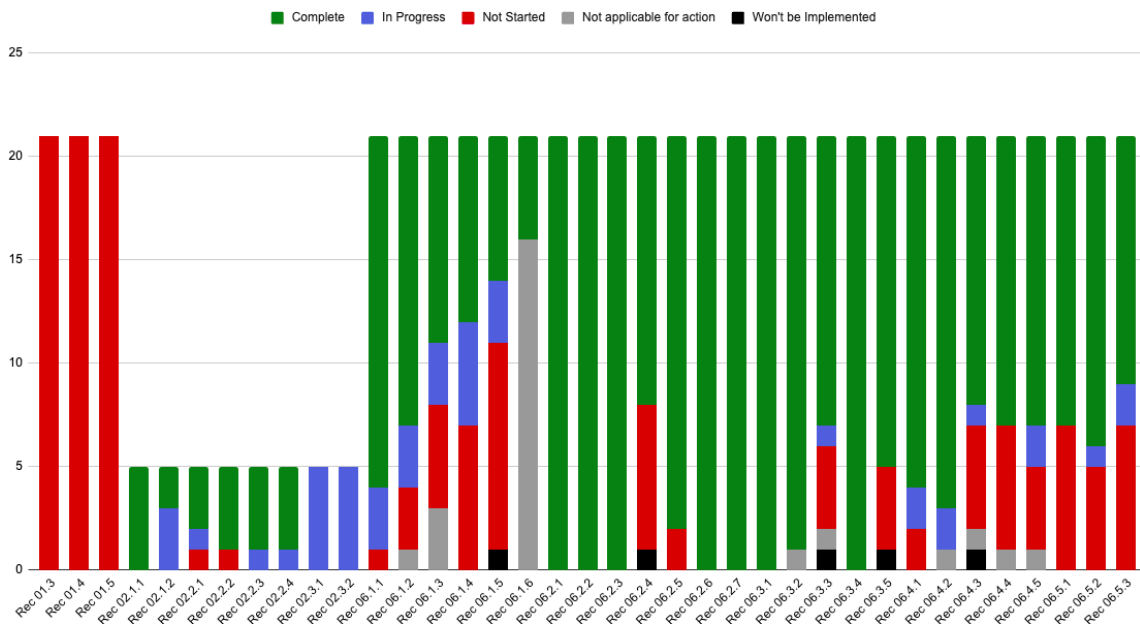
While some ICANN community groups have completed several recommendations, a given recommendation is marked “Complete” in the above table when all applicable ICANN Community groups have signed off on the recommendation in their respective structures. Refer to the chart below that explains the associated process.



After sign-off, implementation documentation is produced for each individual recommendation. The same process applies to the recommendations that are good practices and not mandatory for community groups. In case of a “no implementation” decision, a rationale for not implementing is included in the implementation documentation.

To assist community groups, ICANN org produced individual community [inventories](#)<sup>14</sup> of existing governance procedures and processes in relation to Recommendations 2.1, 2.2 on Guidelines for Standards of Conduct Presumed to Be in Good Faith, and Recommendation 6 on SO/AC Accountability in May 2021.

[Appendix C: WS2 Recommendations](#) contains the recommendation text for full reference.

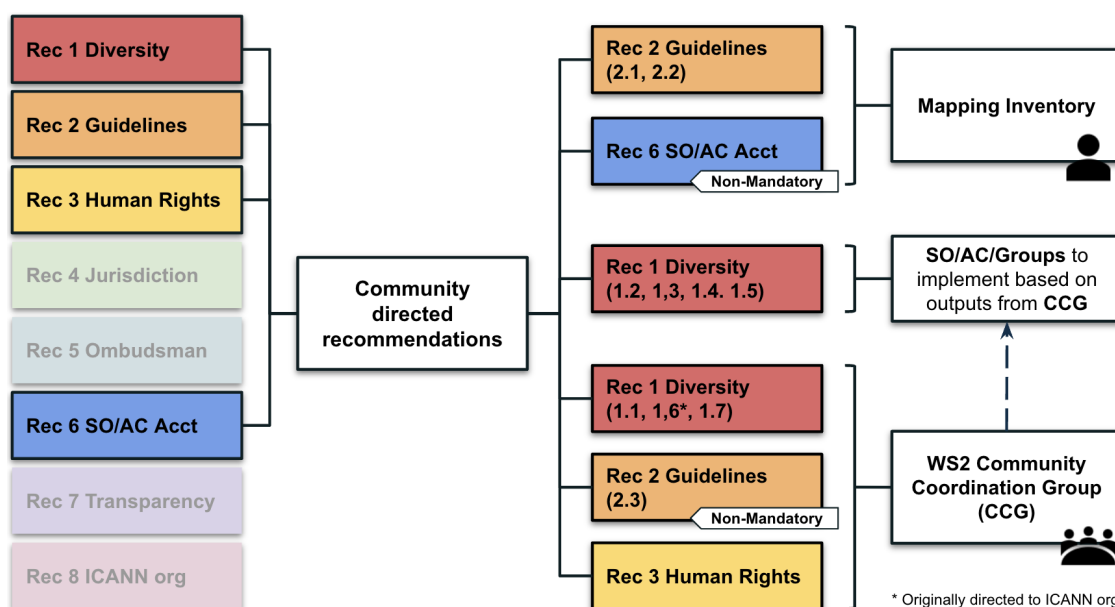


*Implementation Status of Individually Implemented Community Recommendations (September 2023)*

The WS2 Community Coordination Group (CCG), formed in February 2022, serves as a forum for coordinating, prioritizing (as applicable), updating, and reporting on each individual

<sup>14</sup> An individual inventory was developed for each individual Supporting Organization, Advisory Committee, Regional At-Large Organization, and Generic Names Supporting Organization Stakeholder Group and Constituency.

group’s implementation progress, including exchanging best practices, and coordinating community work on the set of recommendations that warrant a uniform, community-wide approach. This includes Diversity Recommendation 1.1 (seven proposed elements of diversity), Recommendation 1.7 (on a process for handling complaints about diversity), and Recommendation 2.3 (on a stand-alone framework for exercising Empowered Community powers). The CCG is also expected to share information on its member communities’ implementation efforts related to Recommendation 3.1 (Human Rights Framework).



See [Appendix D: Scope of the WS2 Community Coordination Group](#) for more information.

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

## Diversity

Diversity Recommendation	Venue	Q2 2023 Status	Q3 2023 Status
1.1	CCG + Individual Groups	In progress	In progress
1.2	CCG + Individual Groups	In progress	In progress
1.3	Individual Groups	Not Started	Not Started
1.4	Individual Groups	Not Started	Not Started
1.5	Individual Groups	Not Started	Not Started
1.7	CCG + Individual Groups	In progress	In progress

In January 2023, the WS2 CCG agreed on the [Outcomes Report](#), which encapsulates the community alignment reached on the diversity elements. WS2 CCG members agreed to share the report with their respective community groups and determined that a public comment forum on the outcomes report was unnecessary. Community implementation of Recommendation 1.1 will be marked complete upon the acknowledgement of the Outcomes Report by all community groups.

In Q3 2023, community groups continued work to review the WS2 CCG’s agreed-upon [Outcomes Report](#) on Diversity Elements (Recommendation 1.1) as well as work to formally

identify applicable diversity elements (Recommendation 1.2). To assist the groups in this effort, a compilation of existing, individual community groups' diversity information, ICANN org collated a [governance documentation](#).

The community, through the WS2 CCG has an agreed set of diversity surveys that will be components of the diversity toolkit (Recommendation 1.6). The collaboration with ICANN org on this contributed to ensuring surveys are adequate to the community's expectations.

The WS2 CCG discussions on a process for addressing diversity-related complaints and issues (Recommendation 1.7) are ongoing. In addition to an [inventory of existing complaints](#), ICANN org provided a [draft](#) to the WS2 CCG to assist these discussions and held discussions with the Ombuds Office and ICANN org's Complaints Officer to inform its deliberations.

Work on Recommendation 1.3 (initial assessment of diversity) is scheduled to begin as soon as the dependency on the identification of applicable criteria (Recommendation 1.2) has been addressed. Work on Recommendation 1.4 for defining and publishing diversity criteria, objectives, and strategies can commence as soon as community groups have completed their diversity assessments (Recommendation 1.3). Similarly, Recommendation 1.5 on updating diversity assessment against criteria and diversity objectives is tied to Recommendation 1.4.

## Guidelines for Good Faith

Guidelines for Good Faith Recommendation		Venue	Q2 2023 Status	Q3 2023 Status
2.1	1	Individual Groups	In progress	In progress
	2	Individual Groups		
2.2	1	Individual Groups	In progress	In progress
	2	Individual Groups		
	3	Individual Groups		
	4	Individual Groups		
2.3	1	CCG + Individual Groups	In progress	In progress
	2	CCG + Individual Groups		

The recommendations about “**Guidelines for Standards of Conduct Presumed to Be in Good Faith**” aim to support the ICANN Empowered Community’s<sup>15</sup> power to remove individual ICANN Board Directors. The recommendations reflect the CCWG-ACCT’s decision to adopt a minimalist approach to leave each SO and AC free to follow its own processes. The guidelines are intended to apply, whether the director in question is appointed by a SO or AC or the NomCom. Work by the Decisional Participants<sup>16</sup> in relation to Recommendations 2.1 and 2.2 began in late 2021.

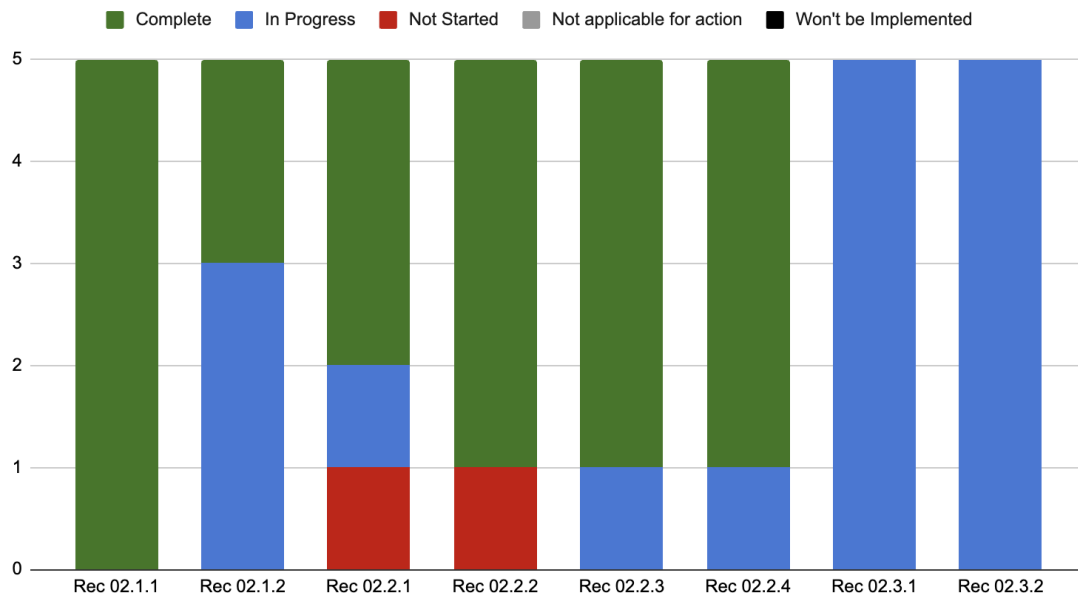
The CCWG-ACCT also proposed two stand-alone recommendation components to develop a standard framework for the Empowered Community beyond the power to remove an ICANN Board director. Unlike Recommendations 2.1 and 2.2, which can be addressed by each Decisional Participant on an individual basis, Recommendation 2.3 requires community

<sup>15</sup> The Empowered Community is the mechanism through which SOs and 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>16</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.

coordination and prioritization given its cross-community nature. Initial discussion began on Recommendation 2.3 during the WS2 CCG's September meeting.

The community groups that are represented in the Empowered Community mechanism are ALAC, ASO, ccNSO, GAC and GNSO. The chart below shows the cumulative progress of these 5 community groups for each recommendation and their components.



Implementation Status of Guidelines for Good Faith Recommendations (September 2023)

## Human Rights Framework of Interpretation

Human Rights FoI Recommendation	Venue	Q2 2023 Status	Q3 2023 Status
3.1	CCG + Individual Groups	In progress	In progress

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, this change came into effect when the Board approved the **Framework of Interpretation (FOI)** presented with the WS2 recommendations.

With ICANN org's 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 SOs and ACs are expected to consider implementation of Recommendation 3.1, and certain SOs and ACs already delegated this recommendation to relevant committees or working groups. For example, an analysis of recommendations and a path forward was presented to GNSO Council by the Council Committee for Overseeing and Implementing Continuous Improvement (CCOICI) and [the report](#) was adopted on 15 December 2022.

Additionally, the work in GAC for this recommendation was delegated to the GAC Working Group on Human Rights and International Law (HRILWG) which is currently discussing this recommendation.

Lastly, the WS2 CCG was used as a platform to share best practices during the community implementation of this recommendation. During the WS2 CCG September meeting, several groups shared their approach to this specific recommendation. Groups' approach to Human Rights Framework of Interpretation recommendation will be shared on the community wiki page, [The ICANN Community's Work on Human Rights](#).

## SO/AC Accountability

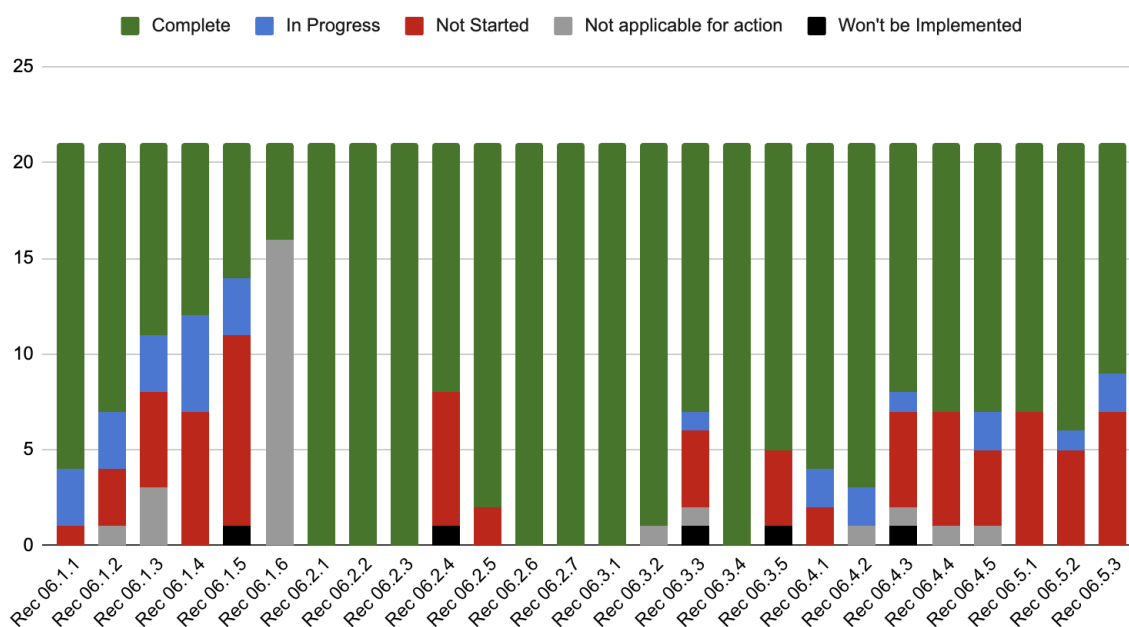
SO/AC Accountability Recommendation	Venue	Q2 2023 Status	Q3 2023 Status	Information
6.1.1	Individual Groups	In progress	In progress	N/A
6.1.2	Individual Groups	In progress	In progress	N/A
6.1.3	Individual Groups	In progress	In progress	N/A
6.1.4	Individual Groups	In progress	In progress	N/A
6.1.5	Individual Groups	In progress	In progress	N/A
6.1.6	Individual Groups	In progress	Complete	<a href="#">Implementation Documentation</a>
6.2.1	Individual Groups	In progress	Complete	<a href="#">Implementation Documentation</a>
6.2.2	Individual Groups	In progress	Complete	<a href="#">Implementation Documentation</a>
6.2.3	Individual Groups	In progress	Complete	<a href="#">Implementation Documentation</a>
6.2.4	Individual Groups	In progress	In progress	N/A
6.2.5	Individual Groups	In progress	In progress	N/A
6.2.6	Individual Groups	In progress	Complete	<a href="#">Implementation Documentation</a>
6.2.7	Individual Groups	In progress	Complete	<a href="#">Implementation Documentation</a>
6.3.1	Individual Groups	In progress	Complete	<a href="#">Implementation Documentation</a>
6.3.2	Individual Groups	In progress	Complete	<a href="#">Implementation Documentation</a>
6.3.3	Individual Groups	In progress	In progress	N/A
6.3.4	Individual Groups	In progress	Complete	<a href="#">Implementation Documentation</a>
6.3.5	Individual Groups	In progress	In progress	N/A
6.3.7	Individual Groups	In progress	In progress	N/A
6.4.1	Individual Groups	In progress	In progress	N/A
6.4.2	Individual Groups	In progress	In progress	N/A
6.4.3	Individual Groups	In progress	In progress	N/A
6.4.4	Individual Groups	In progress	In progress	N/A
6.4.5	Individual Groups	In progress	In progress	N/A
6.5.1	Individual Groups	In progress	In progress	N/A
6.5.2	Individual Groups	In progress	In progress	N/A
6.5.3	Individual Groups	In progress	In progress	N/A

Recommendations 6.1, 6.2, 6.3, 6.4, and 6.5, relating to **SO/AC Accountability**, aim to improve the groups' existing processes for accountability, transparency, participation, and outreach, including their documentation and publication, as well as regular reviews and updates of their policies and procedures. Two recommendations in this section are for

ICANN org to own and act on (see [SO/AC Accountability](#) under org implementation for more information).

All recommendations under SO/AC Accountability are good practices intended for the community, to be implemented by each SO/AC/Group individually. As mentioned in the previous sections of this report, ICANN org produced individual community [inventories](#) of existing governance procedures and processes for each SO/AC/Group. While implementation of some recommendations was meant to simply change certain practices, the implementation of others will require a change in the governance documents like Charter and Operating Standards. Additionally, it is important to note that different sets of recommendations were already implemented by some SO/AC/Groups prior to the start of this inventoring exercise.

These recommendations were directed to all SOs, ACs, GNSO Stakeholder Groups, GNSO Constituencies, and Regional At-Large Organizations, 21 in total. The chart below shows the progress of groups cumulatively for Recommendation 6 and its components.



*Implementation Status of SO/AC Recommendations/Best Practices (September 2023)*

## Appendix A: Background

On 14 March 2014, the U.S. Department of Commerce National Telecommunications and Information Administration (NTIA) announced its intent to transition 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. The IANA Stewardship Transition Coordination Group 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 (CCWG-ACCT) 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 9 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, as opposed to handling with WS2. By agreement with the CCWG-ACCT 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 on recommendations the Board identified as problematic in its 14 May 2018 letter to the CCWG-ACCT.

Following submission of the WS2 Final Report, ICANN org prepared the [WS2 Implementation Assessment Report](#) outlining the work required from the community, ICANN org, and Board to implement 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 and 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 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
<p>1.1 SO/AC/Groups should agree that the following seven key elements of diversity 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.</p>
<p>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.</p>
<p>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.</p>
<p>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.</p>
<p>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.</p>
<p>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.</p>
<p>1.7 ICANN staff should support SO/AC/Groups in developing and publishing a process for dealing with diversity-related complaints and issues.</p>
<p>1.8 ICANN staff should support the capture, analysis, and communication of diversity information, seeking external expertise if needed, in the following ways:</p> <ul style="list-style-type: none"> <li>1.8.1. Create a Diversity section on the ICANN website.</li> <li>1.8.2. Gather and maintain all relevant diversity information in one place.</li> <li>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.</li> <li>1.8.4. Include diversity information derived from the Annual Diversity Report in ICANN's Annual Report.</li> </ul>
2. Recommendations for Guidelines for Standards of Conduct Presumed to be in Good Faith Associated with Exercising Removal of Individual ICANN Board Directors
<p>2.1 Recommendations for guidelines with respect to Petitions for removal:</p>

- 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 advisors to the office.~~
- ~~● 5.8.4 Any such advisory panel would require the Ombuds to maintain its confidentiality engagements per the Bylaws.~~

CCWG-Accountability Implementation guidance: The Ombuds panel is not meant to be a decision-making body – it is only there to assist the Board or relevant Board Committee with the specific tasks enumerated in the recommendation. The Panel is specifically prohibited from getting involved in any matter before the Ombuds; the Ombuds shall not seek, even on anonymized terms, guidance from the Panel on any matter before the Ombuds. The Panel will only have the six specifically enumerated powers set out in the recommendation. In implementing the portion of the recommendation “recommend to the Board firing an Ombuds for cause” - because under the Bylaws only the Board has the power to fire the Ombuds, the CCWG advises that the Board should implement this recommendation by preparing and publishing information about the process any ICANN community participants can use to provide the Board with feedback about, or raise concerns regarding, the performance of the Ombuds. The Panel is welcome to offer feedback on the performance of the Ombuds but can only provide any feedback 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?

## 6. Recommendations to Increase SO/AC Accountability<sup>17</sup>

### 6.1 Accountability

6.1.1 SO/AC/Groups should document their decision-making methods, indicating any presiding officers, decision-making bodies, and whether decisions are binding or nonbinding.

6.1.2 SO/AC/Groups should document their procedures for members to challenge the process used for an election or formal decision.

6.1.3 SO/AC/Groups should document their procedures for non-members to challenge

<sup>17</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.

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> <li>● 6.2.4.2 Internal strategic planning whose disclosure would likely compromise the efficacy of the chosen course.</li> <li>● 6.2.4.3 Information whose disclosure would constitute an invasion of personal privacy, such as medical records.</li> <li>● 6.2.4.4 Information whose disclosure has the potential to harm the security and stability of the Internet.</li> <li>● 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.</li> </ul>
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.
<b>6.3 Participation</b>



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.
<b>6.4 Outreach</b>
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.
<b>6.5 Updates to Policies and Procedures</b>
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.
<b>7. Recommendations to Improve Staff Accountability</b>
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 judgment 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 members, 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

<p>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.</p>
<p>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.</p>
<p>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.”</p>
<p>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.</p>
<p>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.</p>
<p>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.”</p>
<p>8.1.15 ICANN should consider future processes to expand transparency at ICANN Legal, including through clarification of how attorney-client privilege is invoked.</p>
<p><del>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).</del></p> <p><u>CCWG-Accountability’s Implementation Guidance:</u> 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.</p> <p>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.</p> <p>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</p>
<p>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</p>

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.
<b>8.2 Documenting and Reporting on ICANN's Interactions with Governments</b>
<p><del>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:</del></p> <ul style="list-style-type: none"> <li><del>● 8.2.1.1 All expenditures on an itemized basis by ICANN both for outside contractors and internal personnel.</del></li> <li><del>● 8.2.1.2 All identities of those engaging in such activities, both internal and external, on behalf of ICANN.</del></li> <li><del>● 8.2.1.3 The type(s) of engagement used for such activities.</del></li> <li><del>● 8.2.1.4 To whom the engagement and supporting materials are targeted.</del></li> <li><del>● 8.2.1.5 The topic(s) discussed (with relative specificity).</del></li> </ul> <p><u>CCWG-Accountability Implementation Guidance</u>: Note - This recommendation needs to be consistent with DIDP exceptions, specifically the exception which states:</p> <p>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).</p> <p>The above discussion of DIDP policies is by way of explanation, and does not expand the application of this policy.</p> <p>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.</p> <p>As such any activities where ICANN is presenting information which is publicly available or</p>

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 at 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 on 15 December 2021

### Introduction

The 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 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 raise 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 and 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 most opportune timing for additional community consultations (as needed).
- How to reach broad community agreement on these recommendations.
- What each individual community group will need to carry out any agreed-upon 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 two 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.