

To: Cross-Community Working Group on Auction Proceeds
From: Samantha Eisner, Deputy General Counsel, ICANN
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Following on from the discussion within the CCWG-AP on the practice of and feasibility of building in a simple yet direct appeal mechanism for individual applicants to challenge a decision on their application, we have collected a few examples of such processes. They are each very simple, and have similar premises:

- Appeals are not available to question the individual judgment of a panel because applicant is dissatisfied with the decision.
- Appeals are to challenge issues of fairness or propriety of process.
- Appropriate grounds seem to be considerations such as:
 - o Decisions taken outside of process (improper criteria, lack of compliance with published processes, etc.);
 - o Potential undisclosed conflicts of interest; and
 - o Decisions based upon erroneous information provided by someone other than the applicant.

These are the types of appeal programs that can be built during implementation into the selected mechanism, that would allow for meaningful opportunity to question decisions under appropriate circumstances, while not relying on invocation of ICANN's accountability mechanisms to address these individual situations.

Examples of individual appeal processes in grant making are provided below:

<https://www.hrb.ie/funding/funding-schemes/before-you-apply/all-grant-policies/hrb-policy-on-appealing-funding-decisions/>

Grounds for appeal

The aim of the HRB's appeals procedure is to ensure that the grant review process was conducted fairly. The Board bases its funding decision on the independent judgement of a panel and this decision is not open to appeal. However, applicants may appeal if they consider that the process was not adhered to or that it was not conducted fairly.

Appeal Procedure

All appeals must be initiated within six weeks of notification of the outcome of an application process to fall under this policy. The appeal procedure at the HRB has three stages:

1. Contact with relevant Programme Manager or Head of Pre-Award

Applicants whose proposals have been turned down for funding, and who are concerned about any aspect of the process, are encouraged in the first instance to talk to the relevant

Programme Manager or Head of Pre-Award in the HRB, who may be able to provide additional information.

2. Review of the appeal by the Director of Research Strategy and Funding

If the applicant is not satisfied with the response received from the Programme Manager or Head of Pre-Award, s/he should submit a written request for a review to the Director of Research Strategy and Funding. The request should state clearly the grounds for the appeal and must be endorsed by the Research office of the Host Institution. The Director will review the steps taken in the review process and issue a report within 30 days. The report will be sent to the applicant and copied to the Research Office of the Host Institution.

3. Further review by the CEO

If still not satisfied, the Host Institution may request a further review by the CEO of the HRB. The request must be in writing and must be signed by the President/Provost/Chief Executive Officer of the Host Institution and by the applicant. The request should explain why the institution is not satisfied with the review of the process conducted by the Director. The CEO will review this request and provide a written response to the Host Institution within 30 days. A third party expert may be invited to examine the case and make a recommendation, at the discretion of the CEO.

The decision made by the CEO is final.

<https://www.sfartscommission.org/content/grant-appeals>

The appeals procedure allows for a review of the implementation of the decision-making process concerning a grant proposal. It is not intended to impose a different panel's choices over the original panel's decision. Instead, it provides an opportunity to ensure that the decision was reached in a manner consistent with the applicable review guidelines.

Dissatisfaction with the denial or amount of a grant is not sufficient grounds for an appeal.

Grounds for appeal are evidence of at least one of the following:

1. The proposal was reviewed on the basis of criteria other than those appearing in the relevant published guidelines.
2. The panel was influenced willfully or unwillfully by members who failed to disclose conflicts of interest.
3. Erroneous information was knowingly provided to the panel during its review of proposals.

There is a 30-day window to appeal

http://www.arts.virginia.gov/grants_guidelines.html

- **Appeals Process for Grant Applicants**

Applicants who believe their applications for funding were rejected for any of the following three reasons may appeal to the Commission for reconsideration:

1. The application was declined on the basis of review criteria other than those appearing in the guidelines;
2. The application was declined due to influence of advisory panel or Commission members who willfully failed to disclose conflicts of interest; or
3. The application was declined because erroneous information was provided by the staff, panelists, or Commission board members at the time of review, despite the fact that the applicant provided accurate and complete information on regulation forms as part of the standard application process. Incomplete applications are specifically denied any appeals process.

Dissatisfaction with the denial of an award or the amount of a grant award is not grounds for appeal. Requests of appeals must be received, in writing, at the Commission office within 30 days of the applicant's notification of a funding award decision. The board of the Commission will review and act upon the appeal at its next regularly scheduled meeting. If the board of the Commission changes a funding decision as a result of an appeal, the timing of the payment of the grant will be at the discretion of the agency's Executive Director.

<https://www.australiacouncil.gov.au/funding/appealing-a-grant-decision/>

If you have reason to believe that one of the below events has occurred in relation to your grant application you can ask for the funding decision to be reviewed.

1. The preparation of your application was adversely affected by incorrect advice or information given to you by an Australia Council official prior to submitting your application; or
2. Based on publicly available information, or feedback we provide you after your application has been assessed, you believe your application was not assessed in accordance with the published assessment process or criteria for the grant category you applied to.

Your request for a review of the decision-making process can be made in writing to the Australia Council's General Counsel via email at: feedback@australiacouncil.gov.au . Your request must be received within 28 days from the date of the letter notifying you of the

decision about your application or proposal or within 28 days from the date you receive feedback about your application.

To be eligible, your request must state the ground(s) on which you believe your application or proposal has been adversely affected and give your reasons for claiming that ground. General Counsel will consider the request to ensure it meets one or both of the above mandatory reasons for a request for review. For your request to be eligible, the reason/s you state must be relevant to the ground/s for review that you have claimed. General Counsel does not decide the merits of the request. If your request is found to be ineligible General Counsel will advise you in writing of the reasons for that decision.

If your request, and grounds for the request, supports one of the above reasons, the request will be forwarded to the Decisions Review Committee to make a determination. The Decisions Review Committee is made up of a minimum of three Australia Council Board members. The Australia Council's Decisions Review Committee's function is to review the decision-making process for a particular funding decision to ensure that correct procedures and due process have been followed, not to reconsider the artistic merits of an application.

If your matter is referred to the Decisions Review Committee you will be advised in writing, within 28 days of their meeting, of the outcome.

Alternatively if you wish to provide feedback to the Australia Council on the grant assessment process please refer to our [Feedback Management Policy](#).

<http://www.trdrp.org/funding-opportunities/review-process/appeals-procedure.html>

The only basis on which an appeal regarding a decision concerning the funding of a grant application will be considered is in the case of an alleged error in, or violation of, the peer review process and procedures. For example, the principal investigator may believe that he or she has a conflict of interest with a member of the review panel that was not known to the program at the time of the review. Appeals based on substantive disagreement with the peer review evaluation will not be considered. In such cases, applicants may resubmit applications in a subsequent grant cycle.