The ALAC thanks ICANN for putting forward the DIDP for public comment and takes this opportunity to provide its comments.

Bearing in mind the interests of the Internet end users and the importance of transparency as a prerequisite for trust, the ALAC would like to comment on two main points

1. The Mechanism under which requestors may seek review of ICANN’s DIDP responses
2. DIDP Conditions for nondisclosure
3. **The Mechanism under which requestors may seek review of ICANN’s DIDP responses**

In order to make the communication between ICANN and the public more powerful and to demonstrate that public requests matters, there needs to be a clear and credible mechanism through which requestors seek review of ICANN’s DIDP responses. Therefore, the ALAC supports the proposal of having the ombudsman take on this role. Should the Ombudsman or the ICANN Complaints Officer be designated as a potential recourse against an unsatisfactory DIDP response, this must be noted in the policy itself, and in the DIDP response.

**Responses to related questions:**

**Question:** Whether there is unique value that the Ombuds can add through the proposed role or function?

**Answer:** While the ombudsman recommendation might not be binding, the value he adds to this role is credible support to the community through which they can feel that they have been treated fairly.

**Question:** Whether the proposed reporting/accountability arrangements may compromise [the Ombuds’ perceived independence?

**Answer:** The complaints office could be tasked with monitoring and evaluation procedures, while the ombuds focuses on just the requests for review.

**Question:** Whether the proposed Ombuds input may be seen as a “short-cut” or substituting for full stakeholder consultation?

**Answer:** An alternative to the proposed Ombuds role in reviewing the requests for reviews would be to establish a committee from all stakeholders that could look into the requests.

1. **New DIDP Conditions for nondisclosure**

The new paragraph reads: *“Materials, including but not limited to, trade secrets, commercial and financial information, confidential business information, and internal policies and procedures, the disclosure of which could materially harm ICANN’s financial or business interests or the commercial interests of its stakeholders who have those interests. Where the disclosure of documentary information depends upon prior approval from a third party, ICANN org will contact the third party to determine whether they would consent to the disclosure in accordance with the DIDP Response Process.”*

This first sentence of this new paragraph basically gives ICANN the right to refuse any and all requests. It may be reasonable to reject requests for truly confidential information and certainly releasing information held by ICANN under non-disclosure agreements. But rejecting a request purely because it includes commercial or financial information, or documents an internal policy is patently ridiculous and makes a mockery of this policy. Similarly, information legitimately held by ICANN related to its stakeholders, which was not obtained under non-disclosure conditions, should not be withheld. It may be awkward for ICANN to release material that could cause harm, but the DIDP exists to ensure that ICANN is transparent and it should not be allowed to cover up errors or poor judgement on ICANN’s behalf.

The ALAC stresses the importance of information disclosure in establishing the trust and ensuring that ICANN can serve the global public interest as the steward of the Internet unique identifiers.

The ALAC finds that the conditions set forth for non-disclosure allow information to be held for no credible reason, which undermines the main purpose of the DIDP in facilitating transparency and access to information. We are of the view that all legally releasable information that takes into consideration all stakeholders and their values and expectations should be available to the public either through the website or through the DIDP policy.

As such, we do not agree with non-disclosure conditions that limit disclosure such as

Information requests: (i) which are not reasonable; (ii) which are excessive or overly burdensome; (iii) complying with which is not feasible; or (iv) are made with an abusive or vexatious purpose or by a vexatious or querulous

Finally, the ALAC stresses on the importance of information disclosure in establishing the trust and cementing the support of end users to ICANN as the coordinator of the Internet unique identifiers.