

<p>TF Name</p>	<p>Task Force C - Accountability & Transparency requirements – assignment #6 (PDP 3.0 – SOI)</p>
<p>Assignment (short description)</p>	<p><i>Short description of the TF assignment(s)</i></p> <p>The Task Force is expected to review the existing Statement of Interest (SOI) requirements (see chapter 6 of the GNSO Operating Procedures) on the basis of the questions and guidance outlined below and make recommendations to the CCOICI on what changes, if any, should be made to the existing SOI requirements, instructions and/or template. As part of this process, the Task Force is expected to solicit input from the ICANN community on the current use and experience with SOIs as well as suggestions for possible improvements at an early stage of the process.</p>
<p>Background information / links</p>	<p><i>Background information and links to relevant documents to the TF assignment(s)</i></p> <ul style="list-style-type: none"> ● Chapter 6 of the GNSO Operating Procedures covers the Statement of Interest (see Annex A to this document). This chapter was developed by the GNSO Operations Work Team in June 2010 following the Board's endorsement of GNSO operations-related recommendations outlined in the 3 February 2008 Report of the Board Governance Committee GNSO Review Working Group on GNSO Improvements (BGC WG Report). Those recommendations included (but were not limited to): <ul style="list-style-type: none"> ○ Develop "Statement of Interest" and "Declaration of Interest" forms. ● The BGC WG Report noted that “People who take part in the GNSO Council, and GNSO policy development in particular, often do so because they have an interest in the outcome. These interests can be based on principles or financial gain (either directly in the sense that the person conducts business which could be affected by GNSO policy decisions or indirectly as a representative of a group that could be affected). The traditional concept of conflict of interest test may be difficult to apply in some of these circumstances. Rather than a conflict of interest policy (which might preclude an individual from taking part in a policy process because they stand to gain from the outcome – which is exactly the reason why most participants in the GNSO policy development process do take part), what is needed is a

“Statement of Interest” approach that allows the interests of participants to be declared publicly.

- Following the adoption by the GNSO Council of the SOI procedures, an online template form was developed to facilitate completion and storing of SOIs (see <https://community.icann.org/x/cYLg>).
- As part of the [PDP 3.0 discussions](#), a number of items were identified that might benefit from further work in the future (but not within the current scope of PDP 3.0 implementation), including:
 - Statement of Interest (SOI) Review: Consider whether SOI needs to be enhanced for more effective disclosure of potential conflicts
- From the Council resolution of Feb 2020: “The GNSO Council confirms that none but one (1) “Parking Lot” item (Statement of Interest Review) identified by the PDP 3.0 Small Team should be moved forward until the GNSO Council has the opportunity to evaluate the PDP 3.0 implementation effectiveness.

Staff observations:

- Concerns have been raised in the past about the usefulness and effectiveness of the SOI in highlighting potential conflicts of interest. As noted, it is not an issue to have an interest in the potential outcome of a policy development process, as long as this is publicly declared and known to other participants.
- For example, some have noted that:
 - For confidentiality reasons, certain information such as clients who may be paying for a consultant or lawyer’s participation may not be declared;
 - Lack of enforcement and/or verification reduces the value of having SOIs;
 - Regular updating is required to make sure SOIs remain relevant.
- At the same time, the recent shift to a representative model may have made the SOI less relevant as members participating in policy development efforts do so on behalf of their respective groups, whose interests are well known, and not as individuals.

	<ul style="list-style-type: none"> ● The SOI template is being used and referenced across the ICANN organization so any changes could have a wider impact than just the GNSO. Over 1100 SOIs are currently available on the GNSO wiki (see https://community.icann.org/x/cYLg).
<p>Assignment Questions to be addressed by the Task Force & additional guidance</p>	<p>The Task Force is expected to address, at a minimum, the following questions:</p> <ol style="list-style-type: none"> 1. Is the original objective of the SOI, as stated in the BGC WG Report, still valid? If not, why not and what should the current objective be? 2. Based on the response to question 1), is the requested information to be provided as part of the SOI still fit for purpose? If not, why not, and what would need to be changed to make it fit for purpose? 3. Are there any further measures that should be considered from an enforcement / escalation perspective, in addition or instead of those already included in the requirements? 4. Based on the responses to question 1) and 2), what updates, if any, would need to be made to the GNSO Operating Procedures? 5. Based on the responses to 4), are there any updates that need to be made to the SOI wiki page and template, also considering from a privacy perspective whether the current set up provides sufficient safeguards (only those that are logged into the wiki are able to view SOI information). <p>As part of its deliberations, the TF should also consider how the SOI is used across the GNSO as well as outside of the GNSO as proposed changes could have a broader impact. The TF could also consider whether there is value in having different types of SOIs, for example, one that is specific to the GNSO and policy development, and others that may serve other purposes. However, how the SOI is used outside of the GNSO is not within scope for the TF, although it will help inform the potential broader impact any potential changes to the SOI may have.</p> <p>As part of its deliberations, the TF may also explore how SOIs or comparable approaches are used in other organizations to see if possible best practices can be identified and/or lessons learned.</p>

<p>Membership composition</p>	<p><i>Detail membership composition (see default in section 3). Provide rationale if changes are made to default composition.</i></p> <p>This Task Force will have:</p> <ul style="list-style-type: none"> ● a maximum of 2 representatives from each Constituency or Stakeholder Group¹ and up to 2 alternates ● 1 Council Committee liaison (ex-officio) <p>Appointing SG/Cs are encouraged to appoint representatives that have specific knowledge and experience with the SOI. Members that are appointed to a Task Force are expected to serve for the duration of the effort and are expected to have relevant knowledge and/or expertise in relation to the Task Force assignment.</p>
<p>Decision-making methodology</p>	<p><i>Detail decision making methodology (see default in section 3). Provide rationale if changes are made to default composition.</i></p> <p>The Task Force should aim to make recommendations by full consensus. However, in those cases where this is not possible, consensus designations must factor in the Council’s make up and voting thresholds. For example, when assessing the level of support, the chair should factor in the support across stakeholder groups instead of counting the number of individuals in support or against. Where full consensus is not achieved, the report/recommendations to the GNSO Committee and/or GNSO Council should clearly outline the efforts that were undertaken to try and achieve full consensus and the reasons for why this was not achieved.</p>
<p>Timeline expectations</p>	<p><i>Indicate expected timing of completion of assignment.</i></p>

¹ For clarity, a Stakeholder Group may decide to assign representatives at the Stakeholder Group level OR the constituency level, if applicable, but not both.

	Although the TF will set its own work plan and schedule, it is expected that the timeframe for completing this assignment may take between 9-12 months.
Consultation expectations	<p><i>Indicate if consultations and/or public comment is expected to be conducted by TF.</i></p> <p>As part of this process, the Task Force is expected to solicit input from the ICANN community on the current use and experience with SOIs as well as suggestions for possible improvements at an early stage of the process. Also, if the TF recommends any changes to the GNSO Operating Procedures, these will need to go out for public comment before the GNSO Council can consider these for adoption.</p>

ANNEX A - Chapter 6.0: Statements of Interest

6.1 Definitions

Generic Names Supporting Organization (GNSO) Group:

- a. the GNSO Council, or
- b. a work team, working group, committee or other such policy development body formed by and under the supervision of the GNSO Council.

Relevant Party: An individual who participates as a member of a GNSO Group.

Statement of Interest: A written statement made by a Relevant Party that provides a declaration of interests that may affect the Relevant Party's judgment, on any matters to be considered by the GNSO Group.

Material Interest: A material interest is an important interest and is generally, but not always, financial in nature. However, in the legal sense, the interest needs to be substantial or of consequence.

6.2 Policy

6.2.1 Purpose

The purpose of this policy is to set forth responsibilities and procedures pertaining to the content, creation, timely update, accuracy, completeness, and compliance of Statements of Interest as defined in [Section 6.1](#).

6.2.2 Compliance

Each Relevant Party is responsible for ensuring that he or she complies with this policy. Failure to comply with these procedures is covered in [Section 6.5](#).

This policy is administered by ICANN Staff. Administration includes informing new members of groups of the policies, posting all Statements of Interest, and following up on any requests from the Chairs of GNSO Groups pertaining to this procedure.

6.2.3 Exemptions

Full time ICANN Staff members are exempt from the individual responsibility of completing a Statement of Interest by virtue of ICANN posting a global Statement of Interest confirming that all employees and individuals who have an exclusive contract with ICANN are representing the interests of ICANN, and no others, at all times. The exemption does not extend to Staff who do not have an exclusive contract with ICANN.

6.3 Statement of Interest Procedures

6.3.1 Timeliness

Relevant Parties are required to provide to the GNSO Secretariat a Statement of Interest, updated not less frequently than once a year or whenever there is a material change, setting forth those specified interests, relationships, arrangements, and affiliations that may affect the judgments of Relevant Parties in the conduct of their participation within the GNSO. A completed Statement of Interest, updated at least annually, is a precondition for Relevant Parties to participate in a GNSO Group.

At the beginning of each meeting the Chair of the GNSO Group shall ask all Relevant Parties whether they have updates to their Statements of Interest.

6.3.2 Electronic Form and Publication

To ensure consistency, ICANN Staff shall develop, maintain, and provide to Relevant Parties an electronic Statement of Interest form including procedures and instructions pertaining to its completion online. ICANN Staff shall make available an alternative arrangement (e.g., email) in the event that a Relevant Party does not have the necessary Internet access or capability to complete the form online. ICANN Staff shall post the completed Statements of Interest in the relevant section of the GNSO web site prior to Relevant Parties undertaking any activity.

6.3.3 Content

Relevant Parties shall complete all six sections of the Statement of Interest form as specified below:

1. Please identify your current employer(s) and position(s).
2. Please identify your declared country of primary residence (which may be the country to which you pay taxes).
3. Please identify the type(s) of work performed at #1 above.
4. Please list any financial relationship beyond *de minimus* stock ownership you may have with any company that to your knowledge has a financial relationship or contract with ICANN.
5. Do you believe you are participating in the GNSO policy process as a representative of any individual or entity, whether paid or unpaid? Please answer “yes” or “no.” If the answer is “yes,” please provide the name of the represented individual or entity. If professional ethical obligations prevent you from disclosing this information, please so state.
6. Please identify any other relevant arrangements, interests, or benefits as requested in the following two questions:
 - i. Do you have any type of material interest in ICANN GNSO policy development processes and outcomes? Please answer “yes” or “no.” If the answer is “yes,” please describe the material interest in ICANN GNSO policy development processes and outcomes.
 - ii. Are there any arrangements/agreements between you and any other group, constituency or person(s) regarding your participation as a work team member? Please answer “yes” or “no.” If the answer is “yes,” please describe the arrangements/agreements and the name of the group, constituency, or person(s).

6.3.4 Timing of Updates and Recordation

A Relevant Party shall provide any changes/and or updates to his or her Statement of Interest within ten business days of any material change in any information appearing in the statement of interest form. Such changes shall also be recorded in the minutes of the meeting at which the Relevant Party advises of such change and should be posted as soon as possible.

6.4 Completeness and Accuracy

6.4.1 Completeness

ICANN Staff shall review each Relevant Party's Statement of Interest to ensure completeness. If ICANN Staff has reason to believe that a Relevant Party's documentation is not complete, ICANN Staff shall notify the Relevant Party and request that the omitted or missing information be provided or, if there are extenuating circumstances, explanation as to why the document is incomplete. If the matter cannot be satisfactorily resolved with the Relevant Party after a reasonable period, Staff shall raise the matter with the applicable Chair pursuant to [Paragraph 5.4.3](#).

6.4.2 Accuracy

Concerns raised by ICANN Staff or a member of the ICANN community about the accuracy of a Relevant Party's Statement of Interest, including whether an interest that may affect the Relevant Party's judgment with respect to a pending matter has been disclosed, shall be brought to the attention of the applicable Chair and handled pursuant to [Paragraph 5.4.3](#).

6.4.3 Appeal Process

If concerns about the completeness and/or accuracy of a Statement of Interest persist after reasonable attempts are made to resolve them with the Relevant Party, the matter shall be brought to the attention of the applicable Chair and handled according to decision-making methodology and appeal process as prescribed in the GNSO Working Group Guidelines ([ANNEX 1](#), Sections 3.6 and 3.7). At each step of the appeal process, every effort should be made to resolve the completeness and/or accuracy concerns by working cooperatively with the Relevant Party.

6.5 Failure to Comply

6.5.1 Requirement to Participate

A Statement of Interest form must be submitted by each Relevant Party in accordance with these procedures. If a Relevant Party fails to provide a Statement of Interest once a year or whenever there is a material change, the Chair may temporarily suspend that Relevant Party's participation until the Statement of Interest is provided. Participation shall not be suspended if a Statement of Interest is subject to the Appeals process of [Paragraph 5.4.3](#) until a final determination is made under that process.

6.5.2 Suspension

Pursuant to the appeal provisions referenced in [Paragraph 5.4.3](#), if it is determined that a Relevant Party has not complied with these procedures, the GNSO Council Chair, in consultation with the Vice-Chairs, may suspend that Relevant Party's participation in a GNSO group until the failure to comply has been remedied. The ICANN General Counsel and GNSO Council will be notified when such actions are taken as a matter of protocol and the decision to take this step will be recorded in the GNSO Council minutes. If the failure to comply pertains to a Chair, the applicable Vice-Chairs shall act pending completion of the appeal process. If the failure to comply pertains to the GNSO Council Chair, the Vice-Chairs shall act after consulting with the ICANN Vice President - Policy Development.