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## Enhancing ICANN Accountability – Work Stream 2 (WS2) Recommendations 8.1.1, 8.1.2, 8.1.3, 8.1.4, 8.1.5, 8.1.5, 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, 8.1.17, 8.1.18, 8.1.19, 8.1.20, 8.1.21 - Implementation Documentation

Enhancing ICANN Accountability – Work Stream 2 Final Report  
<https://www.icann.org/en/system/files/files/ccwg-acct-ws2-final-24jun18-en.pdf>

See <https://www.icann.org/resources/work-stream-2-implementation-en> for more information on Work Stream 2 implementation.

### **WS2 – Transparency I Improving ICANN’s Documentary Information Disclosure Policy – Recommendations 8.1.1, 8.1.2, 8.1.3, 8.1.4, 8.1.5, 8.1.5, 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, 8.1.17, 8.1.18, 8.1.19, 8.1.20, 8.1.21**

#### Recommendation 8.1.1

The caveat that the DIDP applies only to “operational activities” should be deleted.

#### Recommendation 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.

#### Recommendation 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.

#### Recommendation 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.

#### Recommendation 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.

#### Recommendation 8.1.6

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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.

#### Recommendation 8.1.7

The phrase “to the extent feasible, to reasonable requests” should be deleted from the provision on Responding to Information Requests.

#### Recommendation 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.

#### Recommendation 8.1.9

The exception for information “that relates in any way to the security and stability of the Internet, including the operation of the L Root or any changes, modifications, or additions to the root zone” should be amended so that it only applies to information whose disclosure would be harmful to the security and stability of the Internet, including the operation of the L Root or any changes, modifications, or additions to the root zone.

#### Recommendation 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.

#### Recommendation 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 stakeholders who have those interests.”

#### Recommendation 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.

#### Recommendation 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.

#### Recommendation 8.1.14

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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.”

#### Recommendation 8.1.15

ICANN should consider future processes to expand transparency at ICANN Legal, including through clarification of how attorney-client privilege is invoked.

#### Recommendation 8.1.17

The DIDP should include a severability clause, whereby in cases where information under request includes material subject to an exception to disclosure, rather than refusing the request outright, the information should still be disclosed with the sensitive aspects severed, or redacted, if this is possible.

#### Recommendation 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.

#### Recommendation 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.

#### Recommendation 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.

#### Recommendation 8.1.21

ICANN should commit to reviewing the DIDP every five years.

### Final Implementation Report

The recommendations focused on updating the Documentary Information Disclosure Policy (DIDP) with specific modifications, as well as procedural enhancements, and are intended to ensure that information contained in documents concerning ICANN's operational activities, and within ICANN's control, is made available to the public unless there is a compelling reason for confidentiality.

To fulfill the WS2 recommendations, ICANN org developed a revised DIDP to address the recommendations. ICANN org also updated the process document for responding to DIDP requests (DIDP Response Process Document) to align with the proposed revisions to the

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DIDP. The proposed revisions to the DIDP were put out for [public comment](#). The call for comment yielded seven comments (see the [report](#)).

ICANN org then considered the community feedback received, and, where appropriate, made further revisions to the DIDP in furtherance of some received public comments. ICANN org noted that many of the public comments received had already been addressed within the proposed revised DIDP that was posted for public comment.

In addition to the revised DIDP itself, ICANN org also [consulted the community](#) on the Board-approved recommendation from the WS2 to potentially expand the role of the ICANN Office of the Ombudsman or the Complaints Office in relation to the DIDP. The community inputs on that topic did not present clear support for such expansion. In addition, ICANN org noted that under the current DIDP, a requestor already has the option of asking the Ombudsman (see ICANN Bylaws, Article 5) or the Complaints Office to review the DIDP response. As such, ICANN org determined that a revision to the DIDP is not necessary for a party to avail itself of these mechanisms, as these mechanisms are already available to all requestors. Nevertheless, language was added to the DIDP to specifically highlight the availability of the Office of the Ombudsman if a requestor is not satisfied with a DIDP response.

The ICANN Board's Accountability Mechanisms Committee (BAMC) had multiple meetings to discuss the revisions to the DIDP. The revised DIDP was then considered and approved by the Board on 21 January 2023 (see [Resolution 2023.01.21.03](#)). The revised DIDP is published at <https://www.icann.org/resources/pages/didp-2023-01-24-en>. The revised DIDP Response Process Document is published at <https://www.icann.org/en/system/files/files/revised-didp-response-process-2023-21jan23-en.pdf>.

## Rationale

The revisions made to the DIDP to address WS2 recommendations were submitted for public comment to secure broader community alignment.

## Timeline

Expected implementation date: August 2022

Final implementation date: January 2023

## Milestones

21 October 2021: Public comment period on proposed Revisions to the ICANN Documentary Information Disclosure Policy.

2 December 2022: [BAMC discussion](#) on revised DIDP.

13 December 2022: BAMC [approved a recommendation](#) to the Board to approve the revised DIDP.

21 January 2023: Board approval of the revised DIDP.