



# CCWG – Accountability

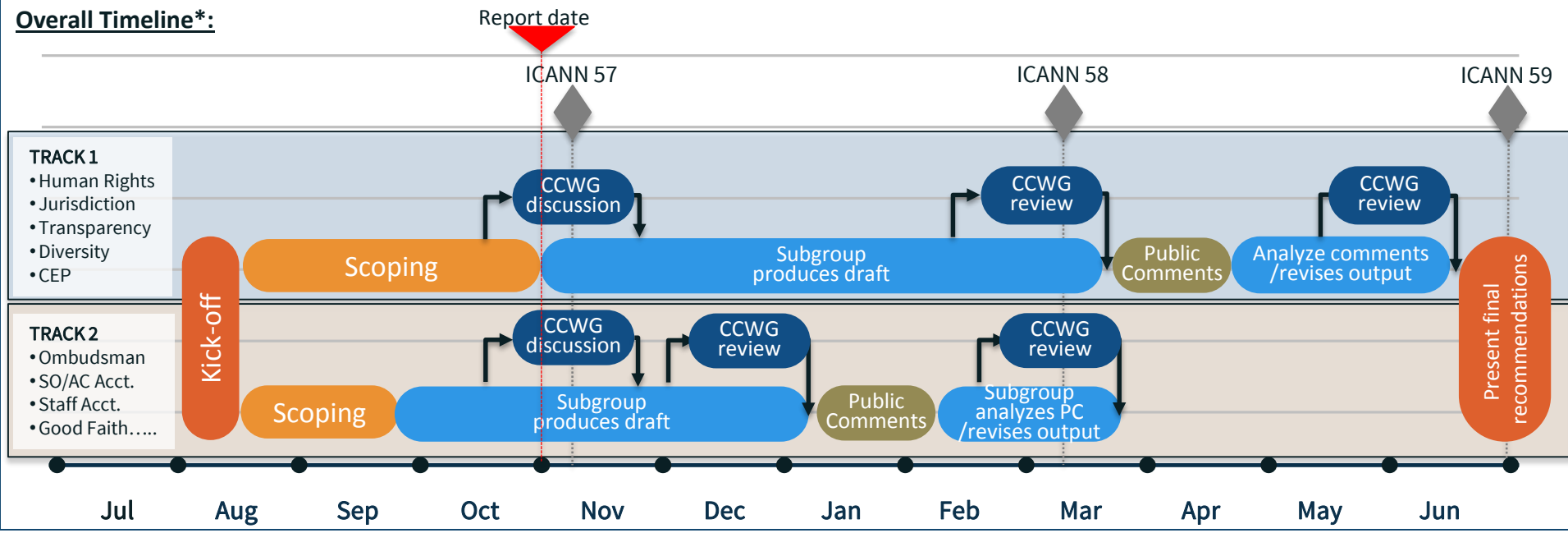
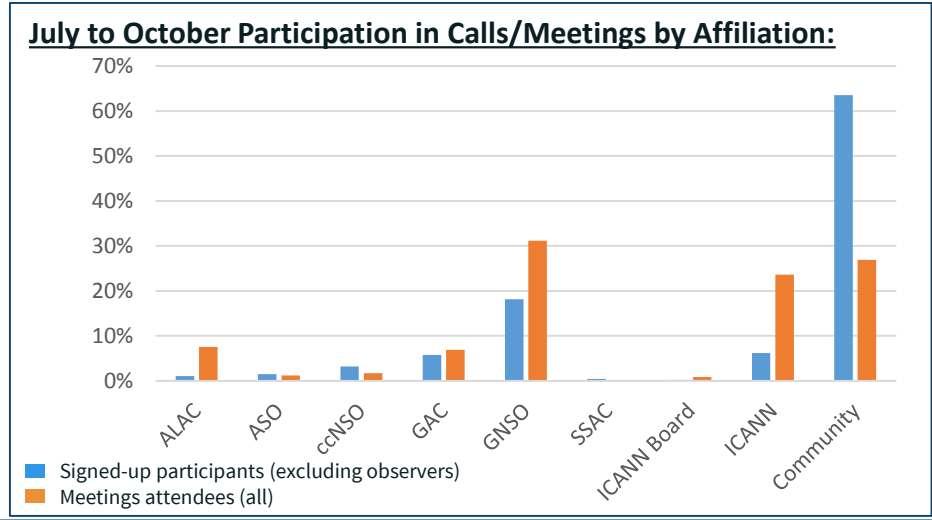
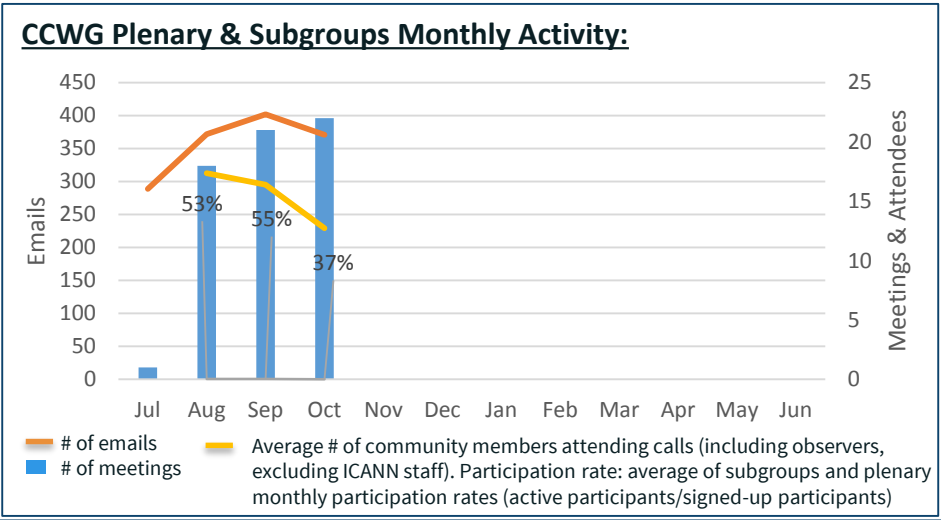
## Workstream 2 – Activity Dashboard

### October 2016

# WS2 overall report

# WS2 Monthly Activity Update









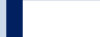









Reporting Period:  
**OCTOBER 16**



# Subgroups Progress Update

Progress:  22%

Reporting Period:  
**OCTOBER 16**

Topic	# of Meetings held this month	Progress	Status	Updates	Focus / Concerns / Risks
Diversity	3	 10% (+ - %)		<ul style="list-style-type: none"> <li>▪ Been reviewing a strawman document prepared by the co-rapporteurs in an effort to define the scope.</li> <li>▪ Questions raised by rapporteurs are being discussed within the group.</li> </ul>	
Human Rights	4	 25% (+ - %)		Documented the historical context. Analyzed the UN Guiding Principles for Business and HRs. Developed a draft structure for the FOI-HR. Formed drafting team.	<ul style="list-style-type: none"> <li>▪ Focus on the definition of:               <ul style="list-style-type: none"> <li>○ 'respecting human rights'</li> <li>○ 'applicable law'</li> </ul> </li> </ul>
Jurisdiction	4	 15% (+ - %)		<ul style="list-style-type: none"> <li>▪ Discussed ICANN's incorporation and headquarters location jurisdiction</li> <li>▪ Defining and examining ICANN's Multiple Layers of Jurisdiction</li> </ul>	<ul style="list-style-type: none"> <li>▪ Clarify what the "gap analysis" referred to in Annex 12 is.</li> <li>▪ Balance focus/scope with multiplicity of potential topics relating to "jurisdiction".</li> </ul>
SO/AC Accountability	3	 35% (+ - %)		<p>The following documents have been prepared and distributed:</p> <ul style="list-style-type: none"> <li>▪ <a href="#">Proposed 'Questions for AC/SOs'</a></li> <li>▪ <a href="#">SOAC-ACC-Progress Report Oct'16</a></li> </ul>	<ul style="list-style-type: none"> <li>▪ Track 2: divergence of views among participants on the matter of Mutual Accountability will be addressed after other aspects of our work plan are more complete.</li> </ul>
Staff Accountability	1	 20% (+ - %)		<ul style="list-style-type: none"> <li>▪ Collated lists of information required</li> <li>▪ In early stages of gathering information</li> </ul>	<ul style="list-style-type: none"> <li>▪ Set of questions sent to staff about staff accountability mechanisms</li> </ul>
Transparency	1	 40% (+ - %)		<ul style="list-style-type: none"> <li>▪ Developed a draft Report, including Rec's.</li> <li>▪ Report presented to the subgroup on Oct 21 and circulated to the CCWG for first reading on Oct 25.</li> </ul>	<ul style="list-style-type: none"> <li>▪ All Recommendations are still being discussed.</li> <li>▪ Require significant more examination of ICANN's proactive disclosure policies.</li> </ul>
Ombudsman	3	 15% (+ - %)		<ul style="list-style-type: none"> <li>▪ Report for Hyderabad</li> </ul>	<ul style="list-style-type: none"> <li>▪ Coordination with other sub-groups (Transp., Staff Account., H.Rights, Div., SO/AC Account.)</li> <li>▪ ICANN Staff Complains Officer vs IOO</li> </ul>
Review of the CEP	1	 10% (+ - %)		Two sub-units formed, Bylaws and CEP Rules and procedures, with Anna Loup (Bylaws) and Farzaneh Badii (Rules) volunteering to assist the Rapporteur in scoping these areas of inquiry.	<ul style="list-style-type: none"> <li>▪ Bolster the subgroup's expertise</li> <li>▪ Relationship between the IRP and CEP</li> <li>▪ Creation of CEP Rules</li> </ul>
Good Faith Conduct	2	 20% (+ - %)		<ul style="list-style-type: none"> <li>▪ Differentiated between removal of Nom Com and SO/AC appointees to Board</li> <li>▪ Draft guidelines distributed to plenary for initial reaction</li> <li>▪ Request for legal support submitted to secretariat</li> </ul>	<ul style="list-style-type: none"> <li>▪ Challenges around use of the word "cause" in the ICANN context</li> <li>▪ Is process fair/reasonable if expectations cannot be expressed beyond "do no harm"?</li> </ul>

# WS2 Budget Update

Reporting Period:  
JULY - SEPTEMBER 16

Amounts in USD Thousands (000s)	ACTUALS JULY 1 2016 - SEPTEMBER 30 2016							YTD Committed Expense	Subtotal YTD Actual plus Committed	% Spend To-Date	2017 Budget Remaining	2017 Total Budget	% Budget To-Date
	Staff	Travel & Meetings	Telecom & Language Support	Legal Services	US Gov't Affairs (Lobbying)	Other Professional Services	Total						
<b>Cross Community Working Group Support</b>													
IRP Phase 2	\$ -	\$ -	\$ -	\$ 118	\$ -	\$ -	\$ 118	\$ -	\$ 118	23%	\$ 401	\$ 519	25%
Accountability WS2	-	0	-	-	-	-	0	-	0	0%	1,900	1,900	25%
<b>Total Costs - Cross Community Working Group Support</b>	-	0	-	118	-	-	118	-	118	5%	2,301	2,419	25%
<b>Total IANA Transition Project</b>													
IRP Phase 2	-	-	-	129	-	-	129		129	14%	790	919	25%
Accountability WS2	103	3	-	-	-	40	146		146	5%	2,935	3,081	25%
Transition Implementation	364	9	8	1,315	-	486	2,183		2,183	60%	1,463	3,646	25%
General Project Activities	217	-	-	-	260	-	478		478	41%	686	1,164	25%
<b>Total Costs - IANA Transition Project</b>	<b>\$ 684</b>	<b>\$ 12</b>	<b>\$ 8</b>	<b>\$ 1,445</b>	<b>\$ 260</b>	<b>\$ 526</b>	<b>\$ 2,936</b>	<b>\$ -</b>	<b>\$ 2,936</b>	<b>33%</b>	<b>\$ 5,874</b>	<b>\$ 8,810</b>	<b>25%</b>

Requests for funds:	Assigned to *	Status **	Notes
Good Faith subgroup requests to have a review by a legal expert with substantial experience in California nonprofit governance, once the draft guidelines are completed	Legal Committee	Pending validation	anticipate maybe 8-10 hours of very experienced, independent attorney time at a maximum

(\* Assigned to: Icann Legal / External Lawyer

(\*\*) Status: pending validation, refused, approved, awaiting delivery, delivered.

## F2F Meetings:

# of travel slots funded by Chartering Org:  
# of participants on-site:  
# of remote participants:

**Notes:** Total spend after 3 months represents 33% of annual budget, resulting from:

- Minimal spend on community-led activities, concentrated on the legal analyses supporting the IRP work. Additional community activities consisted mainly of WS2 sub-group conference calls.
- 44% of annual spend after 3 months for the ICANN organization-led activities, with a majority of the spend related to the intense Transition implementation work until the NTIA contract expiration on 1/10/16. Such Transition implementation activities are now largely completed, and expenses are expected to be minimal in this area.
- The rest of the spend correspond to staff support across WS2, communications and management.
- Further analysis of Language Services and telecommunications expenses will likely lead to later adjustments.

# Subgroups Reports

## Description / Scope:

With reference to recent discussion the group is looking at diversity mechanisms that enhance accountability within ICANN (Leadership, staff and community).

**Rapporteurs:** Fiona Asonga, Rafik Dammak

**# of signed-up Active Participants:** 36

**# of signed-up Observers:** 44

## Useful links:

Wiki: <https://community.icann.org/display/WEIA/Diversity>

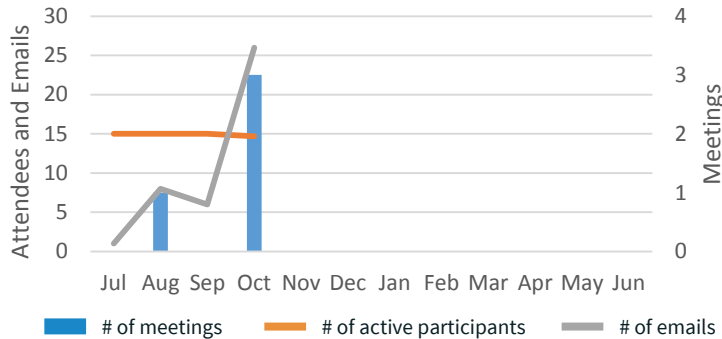
Mailing List archive: <https://mm.icann.org/mailman/listinfo/ws2-diversity>

Meetings schedule: [WS2-Master Call Schedule](#)

## Activity:

Total # of meetings:	4
Total # of emails:	41
Average participation rate*:	41%

(\* Participation rate = (# of active participants in a call) / (# of signed-up participants)



## Work Plan:

Task	Month	Status
Start work	Aug	✓
Document questions to answer	Sep	
Document work to do	Oct	
Produce draft for subgroup	Nov-Jan	
Produce draft for CCWG	Feb	
Produce draft for PC	March	
Public Comment	Apr	
Revise draft	May	
CCWG approval	Jun	

## Updates:

- The diversity group has over the last 3 weeks been reviewing a strawman document prepared by the co-rapporteurs in an effort to define the scope.
- Questions raised by rapporteurs are being discuss within the group

## Upcoming Activities:

- Workgroup conclusion on definition, scope and key elements of diversity around which questions need to be prepared for further discussion with the full CCWG

## Open Items:

## Description / Scope:

Develop a framework of interpretation for human rights bylaw, (“FOI-HR”), which was adopted in Work Stream 1. (Bylaws Section 1.2(b)(viii) )

**Rapporteurs:** Niels ten Oever, Nigel Roberts

**# of signed-up Active Participants:** 68

**# of signed-up Observers:** 55

## Useful links:

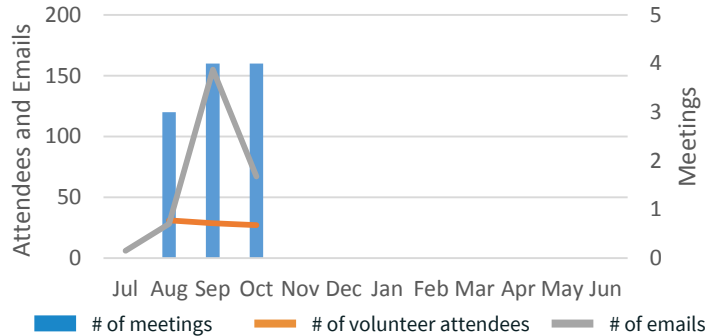
Wiki: <https://community.icann.org/display/WEIA/Human+Rights>

Mailing List archive: <http://mm.icann.org/pipermail/ws2-hr>

Meetings schedule: [WS2-Master Call Schedule](#)

## Activity:

Total # of meetings:	11
Total # of emails:	256
Average participation rate:	43%



## Work Plan:

Start work	Aug	✓
Document questions to answer	Sep	✓
Document work to do	Oct	✓
Produce draft for subgroup	Nov-Jan	
Produce draft for CCWG	Feb	
Produce draft for PC	March	
Public Comment	Apr	
Revise draft	May	
CCWG approval	Jun	

## Updates:

- ✓ Documented the historical context of the discussions on ICANNs human rights bylaw.
- ✓ Analyzed the UN Guiding Principles for Business and Human Rights.
- ✓ Developed a draft structure for the FOI-HR.
- ✓ Formed an FOI-HR drafting team.

## Upcoming Activities:

- Drafting Team develops an iterative draft FOI-HR that is being discussed with all participants during weekly calls (Tuesdays 19:00 UTC)
- Reach consensus on individual parts of the draft FOI-HR

## Open Items:

- The current discussion in the subgroup focuses on the definition of:
  - 'respecting human rights'
  - 'applicable law'



## Description / Scope: (Based on Annex 12)

Main issues relate to influence of ICANN’s existing jurisdiction on the actual operation of policies and accountability mechanisms, primarily disputes involving ICANN, i.e., “choice of law” and “venue”, but not necessarily the place of ICANN incorporation. This focus should include:

- Confirming and assessing the gap analysis, clarifying all concerns regarding the multi-layer jurisdiction issue.
- Identifying potential alternatives and benchmarking their ability to match all CCWG-Accountability requirements using the current framework.

**Rapporteurs:** Greg Shatan, Vinay Kesari

**# of signed-up Active Participants:** 61

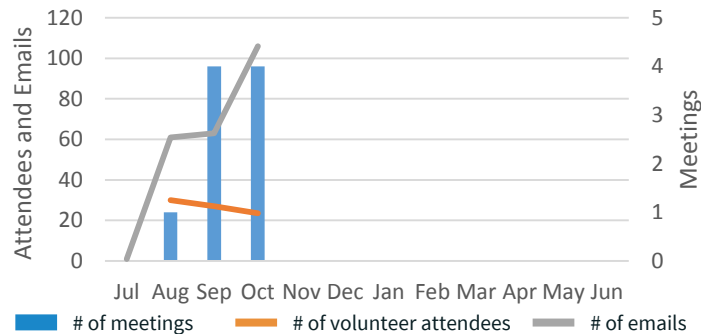
**# of signed-up Observers:** 42

## Useful links:

Wiki: <https://community.icann.org/display/WEIA/Jurisdiction>  
 Mailing List archive: <http://mm.icann.org/pipermail/ws2-jurisdiction/>  
 Meetings schedule: [WS2-Master Call Schedule](#)

## Activity:

Total # of meetings:	9
Total # of emails:	231
Average participation rate:	42%



## Work Plan:

Start work	Aug	✓
Document questions to answer	Sep	✓
Document work to do	Oct	✓
Produce draft for subgroup	Nov-Jan	
Produce draft for CCWG	Feb	
Produce draft for PC	March	
Public Comment	Apr	
Revise draft	May	
CCWG approval	Jun	

## Updates:

- Discussed “confirming and assessing the gap analysis”
- Discussed ICANN’s incorporation and headquarters location jurisdiction
- Defining and examining ICANN’s Multiple Layers of Jurisdiction
- Discussing “The influence of ICANN’s existing jurisdictions relating to resolution of disputes (i.e., “Choice of Law” and “Venue”) on the actual operation of policies and accountability mechanisms.”

## Upcoming Activities:

- Continue to work on document defining and examining ICANN’s Multiple Layers of Jurisdiction, including effects
- Continue to work on “The influence of ICANN’s existing jurisdictions relating to resolution of disputes (i.e., “Choice of Law” and “Venue”) on the actual operation of policies and accountability mechanisms,” looking for issues that might arise from these jurisdictions.

## Open Items:

- Need to clarify what the “gap analysis” referred to in Annex 12 is.
- Need to determine what advice may be needed from ICANN legal, outside counsel or other experts
- Need to better define questions to answer and work to be done
- Concern: balance focus/scope with multiplicity of potential topics relating to “jurisdiction”

**Description / Scope:** Survey, Analyze, Assess and Recommend any Improvements to ICANN's Support Organizations and Advisory Committee Accountability; Who are they Accountable to and What are the Accountable For.

Track 1: Effectiveness  
Track 2: Mutual Accountability Round-Table  
Track 3: Propose a detailed working plan on enhancing SO and AC accountability as part of WS2  
Track 4: Assess whether the IRP would also be applicable to SO and AC activities.

**Rapporteurs:** Cheryl Langdon-Orr, Farzaneh Badii, Steve DelBianco

**# of signed-up Active Participants:** 40

**# of signed-up Observers:** 38

**Useful links:**

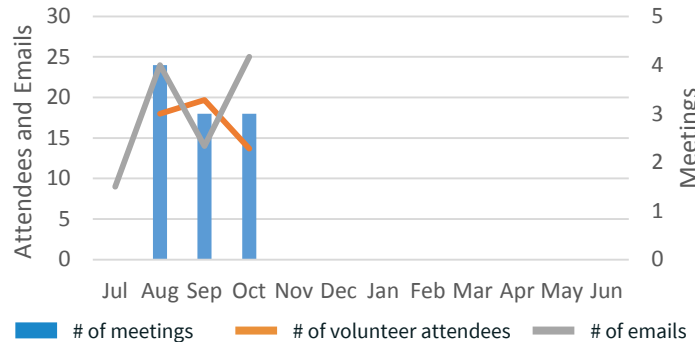
Wiki: <https://community.icann.org/x/IBWOAw>

Mailing List archive: [http://mm.icann.org/pipermail/ws2-so\\_ac/](http://mm.icann.org/pipermail/ws2-so_ac/)

Meetings schedule: [WS2-Master Call Schedule](#)

**Activity:**

Total # of meetings:	10
Total # of emails:	72
Average participation rate:	47%



**Work Plan:**

Start work	Aug	✓
Document questions to answer	Mid-Sep	✓
Document work to do	Sep	✓
Produce draft for subgroup	Oct	✓
Produce draft for CCWG	Nov	
Produce draft for PC	Dec	
Public Comment	Jan	
Revise draft	Feb	
CCWG approval	March	

**Updates:**

- In preparation for update/review of activities at ICANN 57 the following documents have been prepared and Distributed:
- [Proposed 'Questions for AC/SOs'](#)
- [SOAC-ACC-Progress Report Oct'16](#)

**Upcoming Activities:**

- Finalized questions to be forwarded to the chairs of SO/ACs as a part of action to be taken under Track 3.
- The group as its next step of work will soon take up necessary actions on track 4, to discuss whether SO/ACs should be subjected to IRP.

**Open Items:**

- Track 2, the group has briefly discussed the matter of Mutual Accountability (and to a lesser extent the proposal of a Mutual Accountability Round-table or other construct) but it has not come to any conclusion yet due to divergence of views among participants. This work will be addressed after other aspects of our work plan are more complete.

# Staff Accountability

Reporting Period:  
OCTOBER 16

Progress:  20%

Status: On-track

## Description / Scope: Annex 12 from CCWG report & ATRT 9.3, 9.4

- Describe the role of ICANN staff vis-à-vis the ICANN Board and the ICANN community.
- Consider a Code of Conduct, transparency criteria, training, and KPIs to be followed by staff in relation to their interactions with all stakeholders.
- Establish regular independent (internal and community) surveys and audits to track progress and identify areas that need improvement, and establish appropriate processes to escalate issues.

## Rapporteurs: Avri Doria, Jordan Carter

# of signed-up Active Participants: 23

# of signed-up Observers: 18

## Useful links:

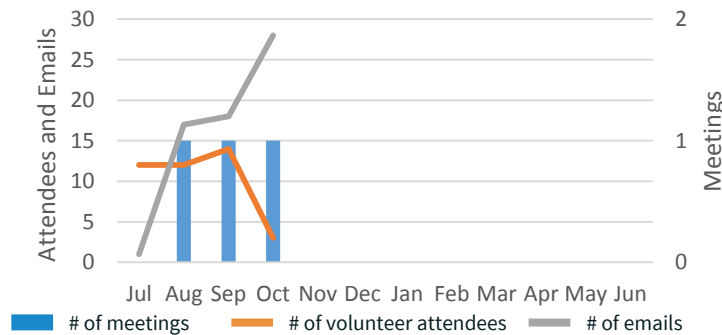
Wiki: <https://community.icann.org/x/mhWOAw>

Mailing List archive: [http://mm.icann.org/pipermail/ws2-staff\\_acct/](http://mm.icann.org/pipermail/ws2-staff_acct/)

Meetings schedule: [WS2-Master Call Schedule](#)

## Activity:

Total # of meetings:	3
Total # of emails:	64
Average participation rate:	46%



## Work Plan:

Start work	Aug	✓
Document questions to answer	Mid-Sep	✓
Document work to do	Sep	✓
Produce draft for subgroup	Oct	
Produce draft for CCWG	Nov	
Produce draft for PC	Dec	
Public Comment	Jan	
Revise draft	Feb	
CCWG approval	March	

## Updates:

- Collated lists of information required
- In early stages of gathering information
- Detailed report: [https://docs.google.com/document/d/1e-YsDmDg8lYB0Fn3oq4yUDhe8WOzgKTIg9YgVx88d\\_w/edit?usp=sharing](https://docs.google.com/document/d/1e-YsDmDg8lYB0Fn3oq4yUDhe8WOzgKTIg9YgVx88d_w/edit?usp=sharing)

## Upcoming Activities:

- Consult with staff to the extent allowed
- Continue to search for information to the extent that it can be found
- Wait for staff responses to questions
- Wait for results of conversation with CEO

## Open Items:

- Set of questions sent to staff about staff accountability mechanisms: <https://docs.google.com/document/d/1QvsZC-oEDd0L0D1faBd4b3VXjEAav7jHz0wnQyi5jBZk/edit?usp=sharing>

## Description / Scope:

Our research focuses on the following three areas:

1. Enhancements to ICANN's existing Documentary Information Disclosure Policy (DIDP).
2. Proactive Disclosure Policies (including interactions with governments and Board deliberations).
3. Improvements to the existing whistleblower policy.

**Rapporteurs:** Chris Wilson, Michael Karanicolas

**# of signed-up Active Participants:** 32

**# of signed-up Observers:** 29

## Useful links:

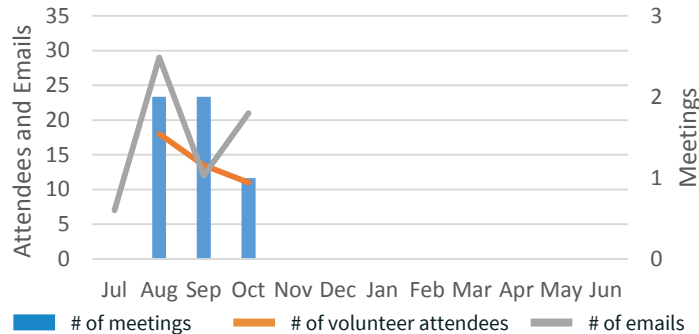
Wiki: <https://community.icann.org/x/mBWOAw>

Mailing List archive: <http://mm.icann.org/pipermail/ws2-transparency/>

Meetings schedule: [WS2-Master Call Schedule](#)

## Activity:

Total # of meetings:	5
Total # of emails:	69
Average participation rate:	44%



## Work Plan:

Start work	Aug	✓
Document questions to answer	Sep	✓
Document work to do	Oct	✓
Produce draft for subgroup	Nov-Jan	✓
Produce draft for CCWG	Feb	✓
Produce draft for PC	March	
Public Comment	Apr	
Revise draft	May	
CCWG approval	Jun	

## Updates:

- The subgroup began by soliciting general areas for investigation. Participants then provided specific improvements they wanted to see.
- Based on this, volunteers developed a draft Report, including Rec's. The Report was presented to the subgroup on Oct 21 and, after some modifications, circulated to the CCWG for first reading on Oct 25.

## Upcoming Activities:

- We have identified a few areas that require further research and examination, and plan to add those into our draft Report.
- We also look forward to further feedback from the CCWG on our draft, and will refine our Recommendations further through the face to face meetings in Hyderabad.

## Open Items:

- All Recommendations are still being discussed.
- We require significant more examination of ICANN's proactive disclosure policies.
- What rules should apply to non-disclosure agreements?
- Who should have access to the whistleblowers' hotline?
- Does the review/IRP mechanism provide a sufficient remedy against refusals?

## Description / Scope:

Evaluate the current Ombudsman charter and operations against industry best practices and recommend any changes necessary to ensure that the ICANN Ombuds Office (IOO) has the tools, independence, and authority needed to be an effective voice for ICANN stakeholders.

**Rapporteurs:** Sebastien Bachollet

**# of signed-up Active Participants:** 21

**# of signed-up Observers:** 20

## Useful links:

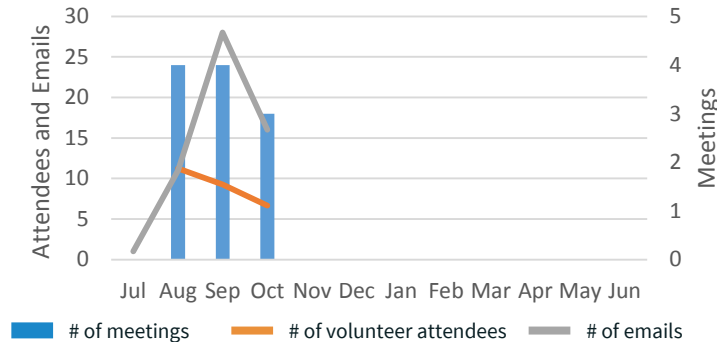
Wiki: <https://community.icann.org/x/lhWOAw>

Mailing List archive: <http://mm.icann.org/pipermail/ws2-ombudsman/>

Meetings schedule: [WS2-Master Call Schedule](#)

## Activity:

Total # of meetings:	11
Total # of emails:	56
Average participation rate:	45%



## Work Plan:

Start work	Aug	✓
Document questions to answer	Mid-Sep	
Document work to do	Sep	
Produce draft for subgroup	Oct	
Produce draft for CCWG	Nov	
Produce draft for PC	Dec	
Public Comment	Jan	
Revise draft	Feb	
CCWG approval	March	

## Updates:

- Report for Hyderabad

## Upcoming Activities:

- The sub-group will
- commission an external evaluation of the IOO (See ATRT2 dependency) against industry best practices
  - consider the topic of the independence of the IOO
  - consider the impact of the new accountability model for ICANN, with respect to the role and oversight of the IOO

## Open Items:

- Coordination with other sub-groups
- Transparency
  - Staff Accountability
  - Human Rights
  - Diversity
  - Accountability SO/AC
  - ICANN Staff Complains Officer vs IOO

# Review of the CEP

Reporting Period:  
OCTOBER 16

Progress:  10%

Status: On-track

## Description / Scope:

The CEP is a voluntary process available prior to the filing of a request for Independent Review. This subgroup is charged with reviewing Bylaws provisions relating to the CEP and with constructing the CEP Rules, per ICANN Bylaws §4.3(e)(i).

**Rapporteurs:** Edward Morris

**# of signed-up Active Participants:** 16

**# of signed-up Observers:** 12

## Useful links:

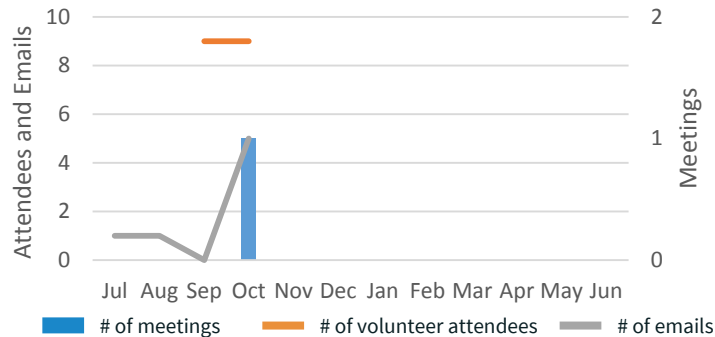
Wiki: <https://community.icann.org/x/nBWOAw>

Mailing List archive: <http://mm.icann.org/pipermail/ws2-cep/>

Meetings schedule: [WS2-Master Call Schedule](#)

## Activity:

Total # of meetings:	1
Total # of emails:	7
Average participation rate:	56%



## Work Plan:

Task	Start	Status
Start work	Oct	✓
Document questions to answer	Oct	
Document work to do	Oct	
Produce draft for subgroup	Nov-Jan	
Produce draft for CCWG	Feb	
Produce draft for PC	March	
Public Comment	Apr	
Revise draft	May	
CCWG approval	Jun	

## Updates:

- Two sub-units formed, Bylaws and CEP Rules and procedures, with Anna Loup (Bylaws) and Farzaneh Badii (Rules) volunteering to assist the Rapporteur in scoping these areas of inquiry.

## Upcoming Activities:

- Outreach to practitioners to bolster the subgroups expertise, working with ICANN Legal to identify community members experienced with the CEP.
- Liaising with IRP Oversight Implementation Team to clarify relationship between the IRP and CEP, particularly regarding the Conciliation aspect of the IRP.

## Open Items:

- Creation of CEP Rules.

# Good Faith Conduct

Reporting Period:  
OCTOBER 16

Progress:  20%

Status: On-track

**Description / Scope:** Decisional Participants of the Empowered Community (EC) have the right to appoint and remove individual Directors. In the event that a Decisional Participant endeavors to remove an individual board member, his actions are indemnified provided the Decisional Participant has acted in “good faith”. The purpose of this subteam is to draft guidelines for conduct that would be considered good faith actions on the part of the Decisional Participants in order for the indemnification to apply.

**Rapporteurs:** Lori Schulman

**# of signed-up Active Participants:** 10

**# of signed-up Observers:** 18

**Useful links:**

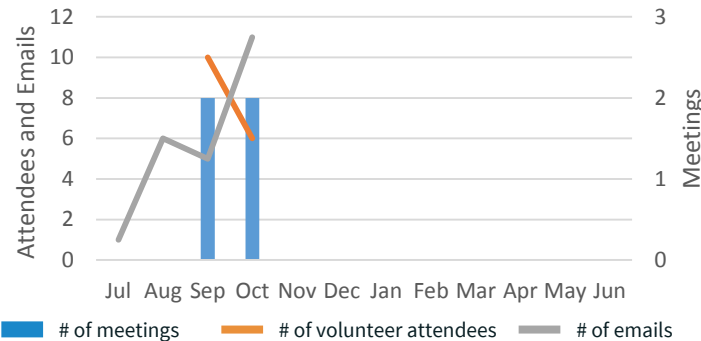
Wiki: <https://community.icann.org/x/nhWOAw>

Mailing List archive: <http://mm.icann.org/pipermail/ws2-guidelines/>

Meetings schedule: [WS2-Master Call Schedule](#)

## Activity:

Total # of meetings:	4
Total # of emails:	23
Average participation rate:	67%



## Work Plan:

Start work	Aug	✓
Document questions to answer	Mid-Sep	✓
Document work to do	Sep	✓
Produce draft for subgroup	Oct	
Produce draft for CCWG	Nov	
Produce draft for PC	Dec	
Public Comment	Jan	
Revise draft	Feb	
CCWG approval	March	

## Updates:

- Defined parameters for guidelines
- Discussed the issue of “cause” and drafting challenges around use of the word in the ICANN context
- Differentiated between removal of Nom Com and SO/AC appointees to Board
- Draft guidelines distributed to plenary for initial reaction
- Request for legal support submitted to secretariat

## Upcoming Activities:

- Answer open questions on draft guidelines based on feedback from plenary
- Revise draft guidelines and create final “first draft” for subgroup consensus
- Begin draft report which includes draft guidelines

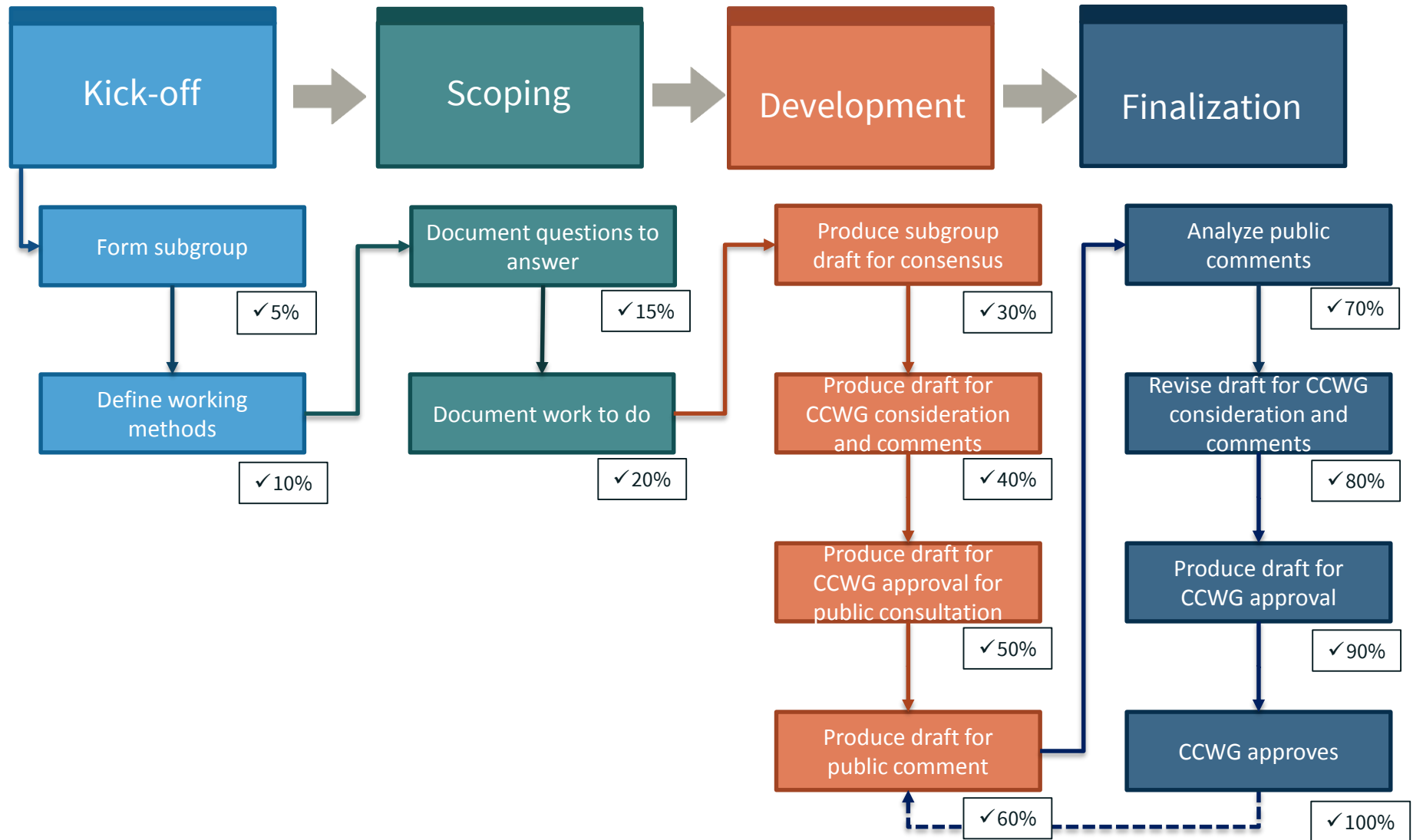
## Open Items:

- Further discussion regarding how to work around the drafting problems regarding use of the word “cause” to document a process
- Analyze response from legal committee
- Resolve issue regarding of whether creating expectations of standards for board conduct that may trigger a removal may also be creating an inadvertent list of “causes” contrary to WS1 report
- Is process fair/reasonable if expectations cannot be expressed beyond “do no harm”?

# Appendix



# Measurement of Progress



# Reporting Schedule

- Report updated monthly.
- 25<sup>th</sup> of the month (M): subgroups rapporteurs provide their monthly update.
- 25<sup>th</sup> + 5 business days: PCST provides draft financial statement of activity to CCWG co-chairs for previous period (M-1).
- End of month: staff updates report with all statistical data of the month (M)
- 25<sup>th</sup> + 10 business days: dashboard including activity of month (M), and financial information of month (M-1) is published at the beginning of the next month (M+1).