<u>**Issues for Consideration Regarding Establishment of Standing Panel for the Independent Review Process (IRP)**</u>
25 September 2018

<u>Qualifications for Standing Panelists for IRP</u>

The ICANN Bylaws set some basic requirements for IRP panelists: "There shall be an omnibus standing panel of at least seven members (the "**Standing Panel**") each of whom shall possess significant relevant legal expertise in one or more of the following areas**: international law, corporate governance, judicial systems, alternative dispute resolution and/or arbitration**."

Prior to issuing a call for potential panelists, are there specific qualifications that should be included? If so, what are they? Should it be a mandatory requirement to serve on the panel, or is it a "nice to have"? Are there any items that you believe should disqualify a candidate from serving on the IRP Standing Panel? Should the Supporting Organizations (SOs) and Advisory Committees (ACs) have a formal opportunity to recommend qualifications prior to the release of a call for statements of interest from applicants?

Note that the Bylaws also require that "Upon request of an IRP Panel, the IRP Panel shall have access to independent skilled technical experts."

Some examples of qualifications could be: participated as counsel in a certain number of international disputes; served as a neutral in a certain number of international disputes; have a certain number of years of experience; participation in a certain type of case/dispute, etc.

<u>Identifying a Slate of Well-Qualified Panelists</u>

The Bylaws require that ICANN's SOs and ACs work with the ICANN organization and the Board to conduct an initial review and vetting of applicants to serve on the Standing Panel. During initial conversations on the selection process, some members of the ICANN community have raised concerns as to whether the broader community has the appropriate experience and skill for this selection work, and have suggested the possibility that ICANN instead contract with experts to perform this vetting process. The panel selection process will be repeating, likely every two to three years, based on the staggered terms for the panel.

Some of the suggestions include:
- Retaining an external recruitment firm to assist in recruitment and vetting, as well as recommending the final slate from the well-qualified applicants.
- Appointing one or two noted and respected jurists to perform vetting and recommendation of final slate.
- Creating a Nominating Committee-like structure to perform the evaluation and recommendation of final slate.

Do you agree that the community should rely on expertise to help vet and recommend a final slate for the standing panel? Do you prefer any of the suggested solutions? Do you have other recommendations?

Direct Community Selection
Do you agree that using experts to propose a slate is preferable to SOs and ACs trying to reach agreement on a slate? If you'd prefer to see SOs and ACs perform this slating work directly, what process do you see them following, and how long do you think it would take to reach consensus on a proposed slate?

Interviewing Candidates
Should representatives of SOs and ACs have a role in interviewing candidates? If yes, how do you see that working? Should they help identify interview questions? Should a group of people participate in the actual interviews?

If experts are appointed to perform the vetting and slating roles, would the community support having these experts run the interview process?

Board Approval of Panel Slate – Further Questions

After there is a slate of well-qualified applicants, the Board must confirm the panel. The Bylaws say that the confirmation should not be "unreasonably withheld." If the Board has questions that might impact its confirmation, to whom should those questions be addressed? If experts are used to develop the slate, should the experts, the SOs and ACs, or some combination thereof be part of that conversation?

Future Selections
Do you prefer that the process being designed today be reviewed for effectiveness after the first slating is completed, prior to making it standard operating procedure for future selection rounds?