

CCWG-Accountability WorkStream 2

Update to ccNSO
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ICANN 59
28 June 2017

Sub-group progress

Transparency

Guidelines for Good Faith...

SO/AC Accountability

Human Rights

Staff Accountability

Diversity

Ombuds Office

Review of the CEP



















Jurisdiction

Subgroups Progress Update

Progress:  52%

Reporting Period:

JUNE 17

Topic	Meetings this month	Progress	Status	Updates	Focus / Concerns / Risks
Transparency	1	 70% (+ 0 %)		<ul style="list-style-type: none"> Public consultation closed on 10 Apr 17. 13 comments posted. Analyzing public comments received. 	<ul style="list-style-type: none"> The sub-group has lost one of its two co-rapporteurs. On-going discussions w/ICANN Org on comments posted by ICANN Org.
Guidelines for Good Faith...	0	 70% (+ 0 %)		<ul style="list-style-type: none"> Public consultation closed on 24 Apr 17. 5 comments posted. Analyzing public comments received. 	<ul style="list-style-type: none"> Subgroup is looking to meet with ASO to address their comments.
SO/AC Accountability	0	 70% (+ 0 %)		<ul style="list-style-type: none"> Public consultation closed on 26 May. 10 comments posted. Staff produced an initial summary of comments received. 	
Human Rights	0	 70% (+ 10 %)		<ul style="list-style-type: none"> Draft Framework of Interpretation for Human Rights was posted for public comments. Public consultation closed on 16 Jun 17. 	
Staff Accountability	3	 50% (+20 %)		<ul style="list-style-type: none"> Subgroup produced draft recommendations. 	<ul style="list-style-type: none"> Presentation of recommendations to CCWG-Plenary (1st reading) at ICANN 59 face-to-face meeting.
Diversity	3	 50% (+ 15 %)		<ul style="list-style-type: none"> 7 responses to questionnaire received from SO / ACs. Subgroup produced draft recommendations. Presentation of recommendations to CCWG-Plenary (1st reading) at ICANN 59 face-to-face meeting. 	
Ombuds Office	2	 30% (+ 5 %)		<ul style="list-style-type: none"> External evaluator produced its evaluation report. Subgroup reviewed report and provided feedback and inputs. 	<ul style="list-style-type: none"> Presentation of External Evaluation report to CCWG-Plenary at ICANN 59 face-to-face meeting.
Review of the CEP	2	 30% (+ 5 %)		<ul style="list-style-type: none"> Compiled analysis of interviews conducted. Developed a brief document for presentation at ICANN 59 to get feedback and directions from the Plenary. 	
Jurisdiction	3	 25% (+ 5 %)		<ul style="list-style-type: none"> Working on completing review and evaluation of questionnaire responses. Working on completing the analysis of ICANN's current & past litigations. 	<ul style="list-style-type: none"> Continued discussions on the topic of jurisdiction of incorporation. Decision taken by CCWG co-chairs for subgroup to take Californian jurisdiction as a baseline for all its recommendations.

Plenary Reviews and Public Comment Periods Schedule

	CCWG Plenary 1 st reading	CCWG Plenary 2 nd reading	Public Comments
Jurisdiction (Questionnaire)	✓ 12/14/16	✓ 01/11/17	✓ 02/09/17 – 04/17/17 (closed)
Transparency	✓ 01/11/17	✓ (02/08/17)	✓ 02/21/17 – 04/10/17 (closed)
Good Faith Conduct	✓ (02/08/17)	✓ (02/22/17)	✓ 03/07/17 – 04/24/17 (closed)
SO/AC Accountability	✓ 03/10/17	✓ 03/29/17	✓ 04/14/17 – 05/26/17 (closed)
Diversity (Questionnaire)	✓ 03/10/17	✓ 03/29/17	✓ 04/21/17 – 06/01/17 (closed)
Human Rights	✓ 04/12/17	✓ 04/26/17	05/05/17 – 06/16/17 (open)
Staff Accountability	ICANN 59 (tbc)	TBD	TBD
Diversity	ICANN 59 (tbc)	TBD	TBD
Jurisdiction	TBD	TBD	TBD
Review of the CEP	TBD	TBD	TBD
Ombudsman	TBD	TBD	TBD

IRP – Implementation Oversight Team (IOT)

- ⦿ Completed a public consultation on the draft supplementary rules earlier this year
- ⦿ Is currently updating the supplementary rules in light of the comments received – the new draft should be published for public comment at the end of the summer 2017
- ⦿ Assisting SOs/ACs establishing a Standing Panel
- ⦿ Timelines not yet clear

SO / AC Accountability

- ⊙ Initial recommendations published for public consultation which closed 26 May with 10 comments - these brought up a number of issues including:
 - General concern about expanding ATRT's already sizable scope
 - Concern about volunteer bandwidth to address reporting recommendations
 - Concerns regarding the transparency steps outlined (public open meetings, recording meetings, publishing minutes, public mailing lists)
 - Mixed responses overall, and general lack of support for a mandatory or formal Accountability Round Table
 - If not the IRP, what other mechanism should be considered or created?

- ⊙ Should resume work after ICANN59 to address the results of the public consultation.

- ⦿ Initial recommendations published for public consultation which closed 24 April with few comments:
 - Most comments supportive but some concerns from ASO relative to its unique nature
- ⦿ Subgroup is meeting with ASO during ICANN 59 to see how it can address their concerns
- ⦿ Should resume work after ICANN59

Human Rights

- ⦿ Initial recommendations published for public consultation which closed 16 June with 12 comments (no initial analysis yet)
- ⦿ At the Board's direction ICANN organization is completing an initial impact assessment to provide input to the Community on potential impacts and efforts that may result from the adoption of the FOI
- ⦿ Should resume work after ICANN59 to address the results of the public consultation

Jurisdiction

- ⦿ Questionnaire seeking concrete examples of jurisdiction issues was closed in early May with approximately 20 responses many of which were from governments. Some of the issues raised:
 - OFAC
 - Geographic and other reserved indicators (WINE).
 - Privacy concerns
- ⦿ Co-Chairs have advised the sub-group that they have concluded that there could never be consensus in the group on any recommendations to change the location of incorporation or to seek full immunity. This does not rule out the group considering any jurisdiction related issues or addressing partial immunity as a potential solution if there are no other viable alternatives
- ⦿ Should resume work after ICANN59 once the plenary has considered the Co-Chair conclusion

- ⊙ The sub-group is working to finalize an initial set of recommendations to present to the plenary this summer, with the intent to go through 2 Public Comment periods before finalizing its recommendations:
 - The subgroup has agreed to not focus on specific implementation recommendations (e.g. the creation of a diversity office), but rather on clearly identifying requirements in its recommendations (which may include Diversity responsibilities for the office of the Ombuds)
- ⊙ Should resume work after ICANN59

Ombudsman

- ⊙ External evaluation of the office of the Ombuds completed in early June and was presented at the face to face meeting at ICANN 59. The report concludes that:
 - the Ombuds function is valued and provides an essential ‘safety valve’ for fairness
 - it does not however meet all expectations, with a number feeling that it does not have enough power or independence
 - there is no single ‘model’ that can be readily applied to the ICANN ombuds function and that to deliver confidence in fairness and to meet the range of expectations, it will need to adopt a multi-faceted approach
 - the current ombuds function is close to what is needed, but could use some re-configuring and strengthening
- ⊙ Subgroup can now start to work on producing its recommendations which will need to consider Inter-dependencies with other subgroups (in particular Transparency and Diversity subgroups in terms of the role of the Ombudsman in these two areas).

Transparency

- ⊙ The sub-group has lost one of its co-rapporteurs Chris Wilson who was a major contributor to the document
- ⊙ Initial recommendations published for public consultation which closed 10 April with 12 comments - these brought up a number of issues including:
 - DIDP Recommendation 11- disclosure of “trade secrets and commercial and financial information not publicly disclosed by ICANN” and "confidential business information and/or internal policies and procedures"
 - DIDP Recommendation 15 – Limiting ICANN’s use of attorney client privilege
 - Implementation requirements
- ⊙ Given a number of significant concerns were raised by ICANN org. discussions are ongoing with ICANN Legal regarding how these could be addressed

Staff Accountability

- ⦿ Initial recommendations published for consideration by the CCWG-Accountability-WS2 plenary. These include:
 - ICANN should publish a detailed ICANN organizational chart of all employees.
 - ICANN should create a four-member panel composed of the Ombudsman, the Complaints Officer, a representative chosen by the Empowered Community and a Board member – to work on any issues of staff accountability that emerge
 - Clearly define all services provided by ICANN to contracted parties and the service level target for each service
 - ICANN Organization should enhance current community evaluation related to staff performance

Cooperative Engagement Process

- ⦿ Compiled analysis of 11 interviews conducted including with some persons who have participated in CEP
- ⦿ Developed a brief document for presentation at the WS2 face to face meeting describing key issues and proposed considerations for solutions which include:
 - Neutral Third Party (use of)
 - Not allowing lawyers
 - Timelines
 - Transparency
 - Discovery

WS2 FY17 Statement of Activity

Reporting Period: January 2017 YTD – Ten months
(July 1, 2016 – April 30, 2017)

Amounts in USD Thousands (000s)	April 2017 YTD - Ten months July 1, 2016 - April 30, 2017							YTD Committed Expense	Subtotal YTD Actual plus Committed	% Spend To-Date	2017 Budget Remaining
	Staff	Travel & Meetings	Telecom & Language Support	Legal Services	US Gov't Affairs (Lobbying)	Other Professional Services	Total				
Cross Community Working Group Support											
IRP Phase 2	\$ -	\$ -	\$ -	\$ 126	\$ -	\$ -	\$ 126	\$ -	\$ 126	24%	\$ 393
Accountability WS2	-	89	-	-	-	-	89	-	89	5%	1,811
Total Costs - Cross Community Working Group Support	-	89	-	126	-	-	215	-	215	9%	2,204
ICANN Support											
IRP Phase 2	-	-	-	26	-	-	26		26	6%	374
Accountability WS2	598	26	55	46	-	308	1,034		1,034	88%	148
Transition Implementation	716	22	9	1,561	-	729	3,037		3,037	83%	609
General Project Activities	546	8	-	-	255	51	859		859	74%	305
Total Costs - ICANN Support	1,860	56	64	1,633	255	1,088	4,956	-	4,956	78%	1,436
Total IANA Transition Project											
IRP Phase 2	-	-	-	152	-	-	152		152	17%	767
Accountability WS2	598	115	55	46	-	308	1,123		1,123	36%	1,959
Transition Implementation	716	22	9	1,561	-	729	3,037		3,037	83%	609
General Project Activities	546	8	-	-	255	51	859		859	74%	305
Total Costs - IANA Transition Project	\$ 1,860	\$ 144	\$ 64	\$ 1,759	\$ 255	\$ 1,088	\$ 5,171	\$ -	\$ 5,171	59%	\$ 3,639
Total Budget by Cost Category	\$ 2,708	\$ 552	\$ 830	\$ 3,330	\$ 250	\$ 1,140	\$ 8,810				
% Spend To-Date vs. Budget by Cost Category	69%	26%	8%	53%	102%	95%	59%				

F2F Meeting

(ICANN59):

of airfares funded: 7
of hotel nights: 28
per diems: 28

of participants: xx
• on-site: xx
• remote: xx

Notes:

- Total spend after 10 months represents 59% of annual budget as compared to a year-to-date budget of 83%..
- Community Support represents 9% of the budget due to delays in WS2 activities. Spend year to date represents legal analyses supporting the IRP work and community travel expenses for the CCWG meeting at ICANN meetings.
- ICANN Support represented 78% of the annual spend after 10 months, with a majority of the spend related to the Transition implementation work for the NTIA contract expiration.

WS2 Extension - Status & Budget

The CCWG-Accountability-WS2 has requested that its Chartering Organizations approve an extension of activities for Fiscal Year 18 (ending at then end of June 2018). Which was approved by the ICANN Board at ICANN 59.

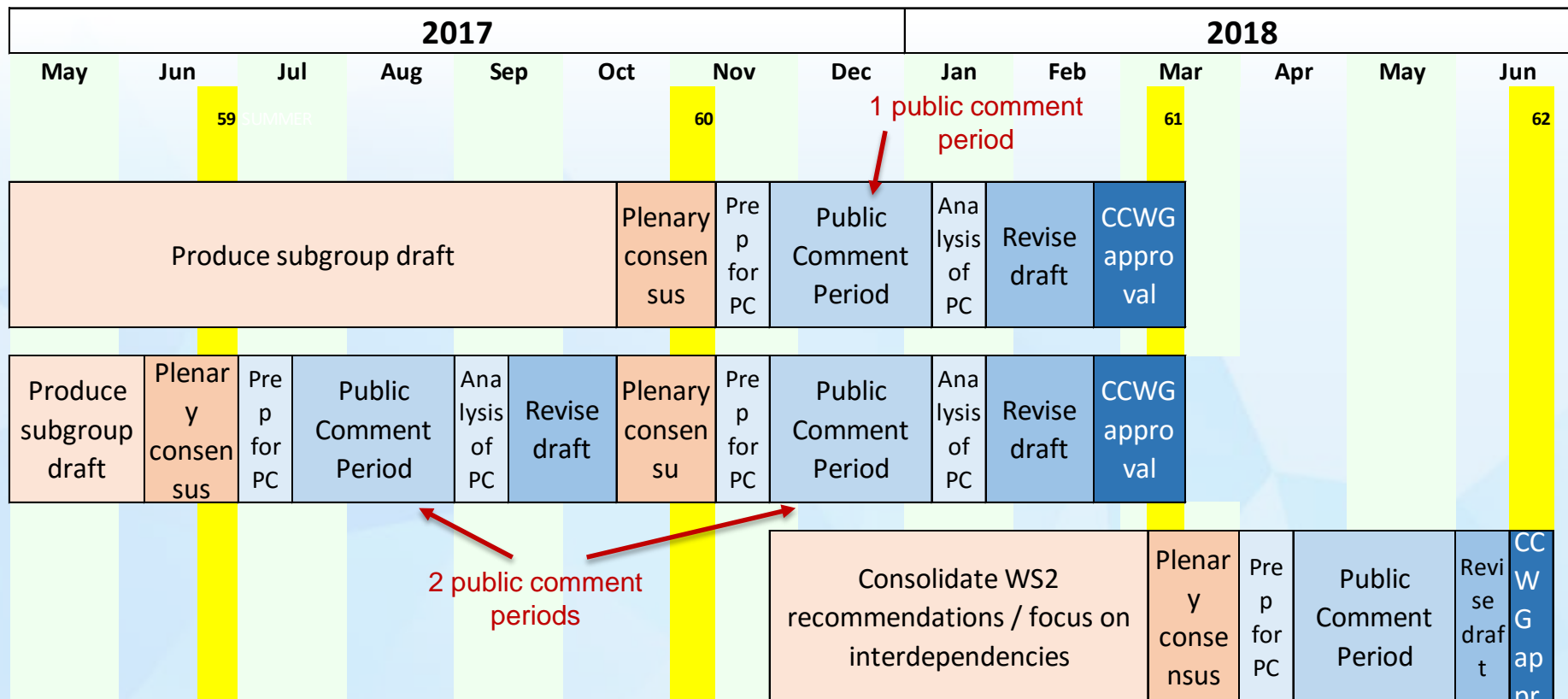
WS2 FY18 Budget

Amounts in USD Thousands (000s)	FY18 BUDGET						
	Staff	Travel & Meetings	Telecom & Language Support	Legal Services	Lobbying	Other Professional Services	FY18 Budget
Cross Community Working Group Support							
IRP Phase 2				\$ 88			\$ 88
Accountability WS2	-	100	-	263		200	\$ 563
Total Costs - Cross Community Working Group	-	100	-	350	-	200	650
ICANN Support							
IRP Phase 2				88			\$ 88
Accountability WS2	937	60	450	263		650	\$ 2,360
Total Costs - ICANN Support	937	60	450	350	-	650	2,447
Total IANA Transition Project							
IRP Phase 2	-	-	-	175	-	-	\$ 175
Accountability WS2	937	160	450	525	-	850	\$ 2,922
Total Costs - IANA Transition Project	937	160	450	700	-	850	3,097

Main assumptions:

- Monthly activity (calls, ie telecom + captioning/transcription) will remain similar to the level of activity observed in the first trimester of 2017 (January through March).
- Live captioning during the calls, and official transcriptions within 3 business days.
- No live interpretation.
- Translation of one final report similar in size to WS1 report (ie 400 pages) in 6 languages. This translation will NOT need to be rushed.

WS2 Revised timeline

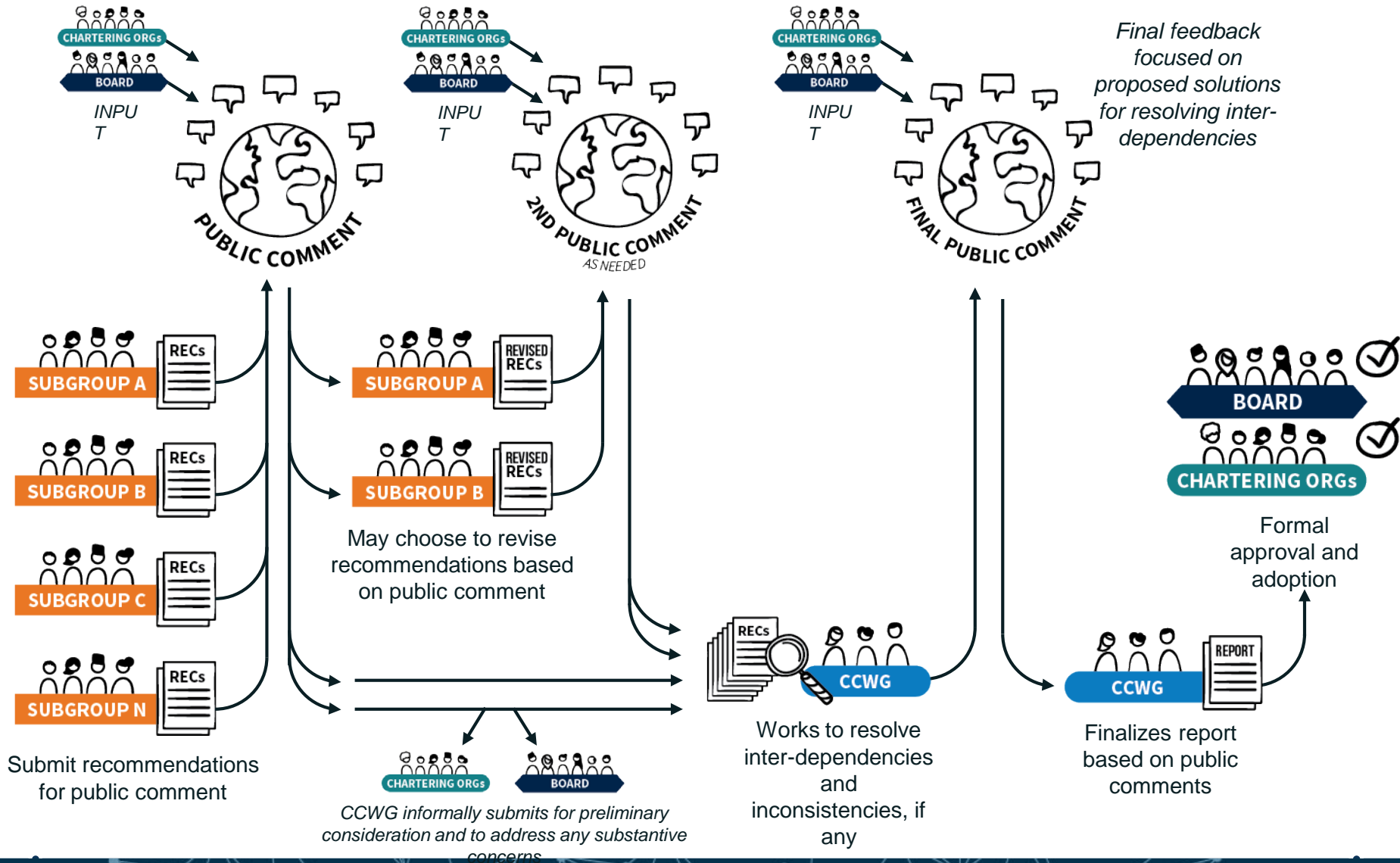


- Target is to finish the work within the FY18 timeframe
- ICANN 61 (March 18) is the drop deadline for subgroups to complete their work
- ICANN 60 (Nov 17) is the drop deadline for subgroups to finalize their 1st draft
- Rec's drafted by ICANN 59 (Jun 16) allow for 2 public comment periods
- Public comment period must run over the summer to be ready for a plenary discussion of a revised draft by ICANN 60

Process for finalizing Work Stream 2 (WS2) recommendations

The CCWG-Accountability has approved and published the process for finalizing its Work Stream 2 (WS2) recommendations. The refined process should provide the Community, Chartering Organizations and ICANN Board with multiple opportunities to provide inputs during the development of the recommendations, and also to expedite the conclusion of the CCWG-Accountability's work once all sub-groups have completed their work.

Approval Process



CCWG-Accountability-WS2 Wiki

<https://community.icann.org/display/WEIA/WS2+-+Enhancing+ICANN+Accountability+Home>

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